

Evidence (Intermediaries) 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* (HR Act), 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 *Evidence (Intermediaries) Amendment Regulation 2021* (the Amendment Regulation) made under the *Evidence Act 1977* (as amended by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020*).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act.

Overview of the Subordinate Legislation

The purpose of the Amendment Regulation is to prescribe, commencing on 5 July 2021, Brisbane and Cairns as the places in which the Queensland Intermediary Scheme (QIS) pilot will operate.

The *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* contains provisions for the use of intermediaries to assist certain prosecution witnesses, including children under 16 years, with communication needs to give their best evidence.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 of the HR Act)

The following human rights are relevant to the Amendment Regulation:

- Freedom of expression;
- Protection of families and children; and
- Cultural rights – generally.

Freedom of expression

The freedom of expression in section 21 of the HR Act protects the right to seek, receive and impart information and ideas. The Amendment Regulation promotes the freedom of expression by providing communication support to eligible prosecution witnesses in the prescribed locations, which assist eligible witnesses to provide their best evidence in a court setting.

Protection of families and children

The protection of families and children in section 26 of the HR Act extends to institutional protection of the family and the implementation of positive measures for protection of children by the State. The Amendment Regulation promotes this right through the provision of an intermediary for those under 16 giving evidence in child sexual offence prosecutions held in Queensland Courts in Cairns and Brisbane which assists children to give better evidence.

Cultural rights – generally

Section 27 of the HR Act protects the cultural rights of all persons with a particular cultural, religious, racial or linguistic background. The Amendment Regulation promotes this right for eligible prosecution witnesses, as while an intermediary differs to an interpreter (who assists with language differences), the provision of an intermediary acknowledges communication differences due to cultural, religious, racial, or linguistic backgrounds. It promotes cultural rights to communicate in accordance with cultural norms and still be understood within the judicial system.

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

As the Amendment Regulation does not limit any human rights, it is therefore not necessary to consider section 13 of the *Human Rights Act 2019*.

Conclusion

I consider that the *Evidence (Intermediaries) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

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