

Queensland Future Fund (Titles Registry) (Transitional) 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 Cameron Dick MP, Treasurer and Minister for Investment provide this human rights certificate with respect to the *Queensland Future Fund (Titles Registry) (Transitional) Regulation 2021* (transitional regulation) made under the *Queensland Future Fund (Titles Registry) Act 2021* (Act).

In my opinion, the transitional regulation for the Act, 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 Act received the Royal assent on 2 June 2021, at which time chapter 1, parts 1 and 4; chapter 1, part 18, division 1, heading; sections 141 and 143; and schedule 2 of the Act commenced.

Chapter 1 of the Act addresses specific matters linked to the transfer of the assets, liabilities and operations of the Titles Registry (Registry) to a newly incorporated State-owned company, Queensland Titles Registry Pty Ltd ACN 648 568 101, which will be contributed to the Queensland Future (Debt Retirement) Fund.

The fee provisions relating to the Registry were intended to continue to apply until 30 June 2021 and new ‘titles registry fees’ (as set out in schedule 1), which the operator may decide, collect and keep, were to apply on 1 July 2021. However, due to operational and funding lead-time requirements, a Proclamation will fix 18 June 2021 at 11.59p.m. as the commencement day for provisions of the Act that are not in force and not otherwise commenced under section 2(2) to (4) or the Proclamation.

This earlier commencement will repeal Registry fees prescribed under various regulations, which would have otherwise continued to apply until 30 June 2021, and the operator would be unable to collect and keep those fees under section 11 of the Act because they are not ‘titles registry fees’ as defined under section 12(4) of the Act.

The transitional regulation will therefore enable:

- existing Registry fees to apply from commencement until the end of 30 June 2021; and
- the operator to collect and keep those fees for the period as titles registry fees.

The transitional regulation will commence on 18 June 2021 at 11.59p.m. and expire one year after commencement.

Human Rights Issues

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

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property. The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom. The right includes the protection from the deprivation of property. The term ‘deprived’ is not defined by the *Human Rights Act 2019*, however deprivation in this sense is considered to include the substantial restriction on a person’s use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use his or her property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it).

Property is likely to include all real and personal property interests recognised under general law (for example, interests in land, contractual rights, money and shares) and may include some statutory rights (especially if the right includes traditional aspects of property rights, such as to use, transfer, dispose and exclude).

The right to property may be said to be limited by prescribing fees for the transitional period between commencement and 30 June 2021. However, it is considered that the limitation is justified as the fees being prescribed are not an increase in the fees that were already applying, and would have continued to apply, for the 2020–21 financial year but for the earlier commencement of the Act. The transitional regulation merely continues the existing fees to ensure that titles registry services continue to be appropriately resourced. On balance, the continuation of Registry fees for the transitional period outweighs any limitation on the right to property by ensuring that titles registry services continue to be provided in a fiscally responsible way.

Conclusion

I consider that the transitional regulation is compatible with the *Human Rights Act 2019* because to the extent that it does limit, restrict or interfere with a human right, that limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE CAMERON DICK MP
TREASURER
MINISTER FOR INVESTMENT