

# Agents Financial Administration 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 *Agents Financial Administration Amendment Regulation 2021* made under the *Agents Financial Administration Act 2014*.

In my opinion, the *Agents Financial Administration Amendment Regulation 2021*, 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 *Agents Financial Administration Amendment Regulation 2021* (Amendment Regulation) arises out of the Residential Tenancies Authority's (RTA) digital transformation project, which aims to achieve operational efficiencies and improve services for the residential rental sector, including through online products designed to replace manual, paper-based processes. The *Residential Tenancies and Rooming Accommodation Act 2008* requires property agents to pay rental bonds to the RTA within 10 days of receiving the bond. As part of the digital transformation project, it is proposed to enable property agents to lodge multiple rental bonds with the RTA as part of a single transaction, using the bill payment platform, BPAY.

The *Agents Financial Administration Act 2014* (AFA Act) aims to protect consumers from financial loss in their dealings with agents operating under an 'Agents Act'. 'Agents Act' encompasses:

- the *Property Occupations Act 2014* (PO Act), which provides an occupational licensing framework for real estate agents, real estate salespeople, real property auctioneers and resident letting agents (collectively referred to as property agents);
- the *Debt Collectors (Field Agents and Collection Agents) Act 2014* (DC Act), which provides an occupational licensing framework for debt collectors and subagents; and
- the *Motor Dealers and Chattel Auctioneers Act 2014* (MDCA Act), which provides an occupational licensing framework for motor dealers and chattel auctioneers and motor salespersons.

The AFA Act regulates the establishment, management, and audit of agents' trust accounts.

Section 153 of the AFA Act provides that the Governor in Council may make regulations about ways in which amounts may be paid from a trust account, the keeping of records and the keeping of receipts and evidence of expenditure.

The *Agents Financial Administration Regulation 2014* (AFA Regulation) prescribes ways in which amounts may be paid from a trust account and for the keeping of records, including the form in which records are to be kept. The AFA Act and AFA Regulation support the consumer protection provisions of the 'Agents Acts'.

The record keeping requirements of the AFA Regulation relating to payments from agents' trust accounts will likely not cater for payments using bill payment platforms, such as BPAY, given the information that is required to be recorded does not align with the information generated via such platforms.

Accordingly, the key policy objective of the Amendment Regulation is to modify trust account record keeping requirements for agents to cater for payments from trust accounts which are made using bill payment platforms, such as BPAY, to ensure the details that need to be recorded align with the details that are provided when using these platforms. It does this by providing for alternative record-keeping requirements in relation to trust account payments made via bill payment platforms, which are equivalent to the requirements imposed for more traditional payment methods such as cheque and direct electronic funds transfer.

The Amendment Regulation will accommodate payments using a range of current and future electronic payment platforms and is not intended to be limited only to BPAY.

The Amendment Regulation will apply to agents regulated under an 'Agents Act', in order to provide more payment options for agents where the payment is being made from their trust account, including but not limited to, rental bond payment options for property agents.

The Amendment Regulation will also make minor editorial and unrelated corrections to section 9 of the AFA Regulation (in relation to a trust account receipt form).

## **Human Rights Issues**

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

The Amendment Regulation makes technical amendments, which are a red-tape reduction initiative, aimed at modernising the regulatory framework in response to existing and emerging bill payment platforms.

The Amendment Regulation will provide clarity about record keeping requirements of agents when making payments from trust accounts using bill payment platforms, such as BPAY.

The Amendment Regulation also makes minor editorial corrections.

No human rights have been identified as being engaged by the Amendment Regulation.

## Conclusion

I consider that the *Agents Financial Administration Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**THE HONOURABLE SHANNON FENTIMAN MP**  
ATTORNEY-GENERAL AND MINISTER FOR JUSTICE  
MINISTER FOR WOMEN  
MINISTER FOR THE PREVENTION OF DOMESTIC AND FAMILY VIOLENCE

© The State of Queensland 2021