

Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022

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 Mick de Brenni, Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement make this human rights certificate with respect to the Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022 (Amendment Regulation) made under the:

- *Architects Act 2002*
- *Building Act 1975*
- *Building Industry Fairness (Security of Payment) Act 2017*
- *Electricity Act 1994*
- *Gas Supply Act 2003*
- *Plumbing and Drainage Act 2018*
- *Professional Engineers Act 2002*
- *Queensland Building and Construction Commission Act 1991*

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

The Department of Energy and Public Works (DEPW) administers Acts which provide for the prescription of fees and charges.

The Amendment Regulation implements fee units within the portfolio of the Minister for Energy, Renewables and Hydrogen, Minister for Public Works and Procurement. The way fees and charges will be expressed will be converted from dollar amounts to an amount of fee units. Fees and charges prescribed under the regulations will then be calculated by reference to the value of a fee unit prescribed under the *Acts Interpretation Act 1954*. The fee unit model will be implemented in the following regulations:

- *Architects Regulation 2019*
- *Building Industry Fairness (Security of Payment) Regulation 2018*
- *Building Regulation 2021*
- *Electricity Regulation 2006*
- *Gas Supply Regulation 2007*
- *Plumbing and Drainage Regulation 2019*
- *Professional Engineers Regulation 2019*
- *Queensland Building and Construction Commission Regulation 2018*

Adjudication application fees under the *Building Industry Fairness (Security of Payment) Regulation 2018* (BIF Regulation) are charged based on the amount of the payment claim for a

progress payment. The fees increase incrementally based on certain thresholds of progress payment values. The highest category of fee is a percentage of the progress payment amount, up to a maximum value. These progress payment thresholds and percentage are also required to be increased annually by the Government Indexation Rate to ensure they remain proportional to the progress payment value and are not eroded over time. The automated fee unit conversion approach cannot be applied to the progress payment thresholds and percentage as they are not in themselves a fee. Rather, they provide the mechanism for the calculation of the applicable fee. The Amendment Regulation therefore amends the BIF Regulation to increase the progress payment thresholds and percentage to reflect the applicable indexation.

The *Gas Supply Regulation 2007* contains a formula that is used to calculate the annual distribution fee payable by distribution authorities. The formula contains a multiplier figure that is not expressed as a dollar amount so is therefore not suitable to be converted to a fee unit value. It is therefore proposed to increase that figure in accordance with the Government Indexation Rate through the Amendment Regulation.

Human Rights Issues

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

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

Conclusion

I consider that the Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022 is compatible with the *Human Rights Act 2019* because it does not limit human rights / it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

MICK DE BRENNI MP
MINISTER FOR ENERGY, RENEWABLES AND HYDROGEN
AND MINISTER FOR PUBLIC WORKS AND PROCURMENT