

Proclamation – Health and Other Legislation Amendment Act 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 Yvette D’Ath MP, Minister for Health and Ambulance Services and Leader of the House provide this human rights certificate with respect to the Proclamation – *Health and Other Legislation Amendment Act 2022*.

In my opinion, the Proclamation, 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

This Proclamation fixes two dates for commencement for provisions of the *Health and Other Legislation Amendment Act 2022* (Amendment Act) that did not commence on Royal Assent. The overall purpose of the amendments commenced by this Proclamation is to improve the operation of health portfolio legislation and support the provision of health services in Queensland.

This Proclamation fixes 1 July 2022 as the date of commencement for part 3, divisions 1-3, 5 and 6 of the Amendment Act. These divisions amend the following Acts:

- the *Ambulance Service Act 1991*, to ensure the framework for managing confidential information is robust, clear and aligns with the *Hospital and Health Boards Act 2011*;
- the Hospital and Health Boards Act, to enable additional categories of allied health professionals to access The Viewer to achieve better health outcomes for patients, and allow designated persons and prescribed health professionals to disclose confidential information to a person performing functions under the *Mental Health Act 2016*;
- the Mental Health Act, to
 - clarify how the Mental Health Court can proceed if there is a dispute of facts on which an expert has based their opinion;
 - improve the process for approving electroconvulsive therapy by providing additional protections and ensuring patients’ views, wishes and preferences are taken into account to the greatest extent practicable;
 - ensure the provisions about apprehension and transfer of absent patients are effective and align with least restrictive practice;
 - clarify the requirements for the interstate transfer of patients who have been placed under a forensic or treatment support order;
 - promote a stronger rights-based approach for decisions about patient transfers between services;

- allow the Mental Health Review Tribunal (MHRT) to approve requests for international transfers of patients who have been placed under a forensic or treatment support order;
 - strengthen the confidentiality provisions to ensure the obligations for all people performing functions under the Mental Health Act are clear and consistent;
 - extend the duty of confidentiality to experts engaged to provide reports to the Mental Health Court or MHRT;
 - improve support for victims of unlawful acts; and
 - make other minor amendments to improve the operation of the Mental Health Act;
- the *Radiation Safety Act 1999*, to remove the requirement to prescribe by regulation the identity verification documents required for particular applications, and allow the chief executive to determine the identity documents required for any applications that are prescribed by regulation; and
 - the *Transplantation and Anatomy Act 1979*, to exclude human milk from the definition of *tissue*, to ensure sick and pre-term infants can be efficiently provided donated human milk to prevent or treat serious health conditions.

This Proclamation also fixes 1 July 2022 as the date of commencement for provisions of schedule 1, part 2 of the Amendment Act that amend the Ambulance Service Act, Mental Health Act and Radiation Safety Act. These amendments improve the operation of the Acts through minor changes to wording, updates to section references and changes to editor's notes.

This Proclamation fixes 15 September 2022 as the date of commencement for all remaining provisions of the Amendment Act. These amendments relate to the *Public Health (Infection Control for Personal Appearance Services) Act 2003*. Part 3, division 4 of the Amendment Act amends the Public Health (Infection Control for Personal Appearance Services) Act, to extend the timeframe for renewal of higher risk personal appearance services business licences, and allow applications for restoration of licences. Schedule 2, part 2 of the Amendment Act makes minor amendments to editor's notes.

Human Rights Issues

Human rights relevant to the subordinate legislation (part 2, divisions 2 and 3 of the *Human Rights Act 2019*)

The Amendment Act engages and limits human rights. The statement of compatibility that accompanied the Amendment Act details how the provisions of that Act are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom under section 13 of the Human Rights Act.

The Proclamation itself does not engage any human rights. There are no human rights limited by the Proclamation commencing the amendments to the Public Health (Infection Control for Personal Appearance Services) Act later than the other provisions of the Amendment Act.

Conclusion

I consider that the Proclamation – *Health and Other Legislation Amendment Act 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

YVETTE D'ATH MP
MINISTER FOR HEALTH and AMBULANCE SERVICES
and LEADER OF THE HOUSE

© The State of Queensland 2022