

Residential Tenancies and Rooming Accommodation 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 Leeanne Enoch MP, Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts, provide this human rights certificate with respect to the *Residential Tenancies and Rooming Accommodation Amendment Regulation 2022* (Amendment Regulation) made under the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act).

In my opinion, the Amendment Regulation 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 Amendment Regulation amends the standard terms of tenancy and rooming accommodation agreements set out in the following schedules of the *Residential Tenancies and Rooming Accommodation Regulation 2009* (RTRA Regulation) to reflect changes made to the RTRA Act under the *Housing Legislation Amendment Act 2021* (HLA Act):

- Schedule 1 (General tenancy agreements)
- Schedule 2 (Moveable dwelling agreements)
- Schedule 3 (State tenancy agreements)
- Schedule 3A (Community housing provider tenancy agreements)
- Schedule 4 (Rooming accommodation agreements)

The standard terms of those agreements reflect provisions in the RTRA Act. As a consequence of the changes to the RTRA Act made by the HLA Act, it is necessary to amend those standard terms to ensure that they reflect the amended provisions of the RTRA Act.

The HLA Act amends the RTRA Act to implement changes to Queensland's rental laws that progress Stage 1 rental law reforms with the following commencement schedule:

- **from assent:** protections for renters experiencing domestic and family violence allowing them to end their interest in a tenancy quickly with limited liability for end of lease costs.
- **by proclamation:** reforms around ending tenancies fairly including removal of 'without grounds' and introducing new grounds to end a tenancy; introducing a framework to encourage more pet-friendly rental accommodation including reasonable grounds for refusal and deemed approval; and strengthened repair and maintenance obligations to support minimum housing standards for rental properties.
- **future prescribed minimum housing standards:** rental properties will be required to comply with prescribed minimum housing standards for safety, security and functionality for new tenancies entered from **1 September 2023** and for all tenancies from **1 September 2024**.

Human Rights Issues

Human rights relevant to the Amendment Regulation (Part 2, Divisions 2 and 3 of the *Human Rights Act 2019*)

The Amendment Regulation amends the standard terms in schedules 1 to 4 of the RTRA Regulation to reflect the amendments made under the HLA Act. A full consideration of the human right impacts of the HLA Act amendments to the RTRA Act is set out in my Statement of Compatibility in respect of the *Housing Legislation Amendment Bill 2021* (HLA Bill).

The human rights relevant to the amendments under the Amendment Regulation were found to be as follows:

- Freedom of movement (section 19)
- Freedom of expression (section 21)
- Property rights (section 24)
- Privacy and reputation (section 25)

For the reasons outlined in my Statement of Compatibility for the HLA Bill, I considered the Bill to be compatible with each of these human rights. That is, where the HLA Bill limited a human right, I considered the limit to be reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019*.

The Amendment Regulation makes changes to the standard terms in the RTRA Regulation to ensure that they restate relevant provisions from the RTRA Act, as amended by the HLA Act. I consider that amendments to the standard terms that may limit human rights are reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019* for the same reasons as set out in my Statement of Compatibility for the HLA Bill.

In relation to the property rights, I note that the human right under section 24(2) of the *Human Rights Act 2019* is limited where a person is unlawfully or arbitrarily deprived of the person's property. In the human rights context, 'arbitrary' mean capricious, unpredictable, unjust and unreasonable in the sense of not being proportionate to a legitimate policy objective.

The changes to the standard terms do not arbitrarily deprive a person of their property. The changes adjust the respective rights and obligations of lessors/providers and tenants/residents in respect of rental property in a way that is proportionate to the legitimate policy objective of supporting individuals and families to access safe and secure rental accommodation.

Conclusion

I consider that the Amendment Regulation is compatible with human rights under the *Human Rights Act 2019* because 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.

THE HONOURABLE LEEANNE ENOCH MP
MINISTER FOR COMMUNITIES AND HOUSING
MINISTER FOR DIGITAL ECONOMY
MINISTER FOR THE ARTS

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