

Guardianship and Administration 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, 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 *Guardianship and Administration Regulation 2022* made under section 252 of the *Guardianship and Administration Act 2000*.

In my opinion, the 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

Under the *Statutory Instruments Act 1992* (SI Act) subordinate legislation expires on 1 September after the 10th anniversary of its making or such extended period as is permitted under the Act. The *Guardianship and Administration Regulation 2012* (the current Regulation) is due to expire on 1 September 2020.

The current Regulation supports the *Guardianship and Administration Act 2000* (the GAA Act) by prescribing laws from other Australian jurisdictions and New Zealand (NZ) as recognised provisions, which enables orders made under those laws to be recognised in Queensland and treated as if they were an order of the Queensland Civil and Administrative Tribunal (QCAT), provided the orders are “similar to” orders that may be made under the GAA Act or the *Powers of Attorney Act 1998* (POA Act) (GAA Act, section 167).

Section 167 of the GAA Act prescribes laws from other Australian jurisdictions and NZ as *recognised provisions*, which enables orders made under those laws to be recognised in Queensland and treated as if they were an order of QCAT, provided the orders are able to be made under the GAA Act or the POA Act.

The current Regulation prescribes the laws in each state and territory and NZ relevant to equivalent guardianship and administration orders and orders relating to POAs and EPAs. By prescribing these particular laws, Queensland allows for a scheme for recognition of most orders relevant to the appointment of guardians and administrators.

The *Guardianship and Administration Regulation 2022* (the remade Regulation) will continue to prescribe recognised provisions from other Australian jurisdictions and NZ to enable orders similar to guardianship and administration orders made under those laws to be recognised in Queensland.

The Regulation recognises the following prescribed laws:

- a) *Aged and Infirm Persons' Property Act 1940* (SA);

- b) *Guardianship Act 1987* (NSW);
- c) repealed *Guardianship and Administration Act 1986* (Vic);
- d) *Guardianship and Administration Act 1990* (WA);
- e) *Guardianship and Administration Act 1993* (SA);
- f) *Guardianship and Administration Act 1995* (Tas);
- g) *Guardianship and Administration Act 2019* (Vic);
- h) *Guardianship and Management of Property Act 1991* (ACT);
- i) *Guardianship of Adults Act 2016* (NT);
- j) *NSW Trustee and Guardian Act 2009* (NSW);
- k) *Protection of Personal and Property Rights Act 1988* (New Zealand);
- l) *Public Trustee and Guardian Act 1985* (ACT).

Human Rights Issues

The Regulation does not affect or engage a human right.

Conclusion

I consider that the *Guardianship and Administration Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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

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