

Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023

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, Di Farmer, Minister for Employment and Small Business, Minister for Training and Skills Development and Minister for Youth Justice provide this human rights certificate with respect to the *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023* (the Amendment Regulation) made under the *Youth Justice Act 1992*.

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

Section 52AA of the *Youth Justice Act 1992* (YJ Act) provides that courts may order an electronic monitoring device as a condition of bail for a child aged at least 15 years, in certain circumstances.

The YJ Act provides that a court must be in a geographical area prescribed by regulation (section 52AA(1)(d)), and the child must live in a geographical area prescribed by regulation (section 52AA(e)).

The *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2021* prescribed areas in and around Townsville, north Brisbane, Moreton, Logan and Gold Coast as residential geographical areas for the purpose of electronic monitoring, and prescribed commensurate areas for courts.

This Amendment Regulation prescribes residence and court geographical areas for three additional locations: Cairns, Toowoomba and Mount Isa.

Human Rights Issues

Human rights issues considered during development of the Youth Justice and Other Legislation Amendment Bill 2021 and the Strengthening Community Safety Bill 2023 (the Bills)

Human rights issues relating to the imposition of a monitoring device condition were considered in detail during development of the Bills.

This included assessment of the potential impact of geographic limitation of the monitoring device condition provisions, which the head of power expressly contemplates.

It was determined that although the law will apply differently in different places, this will not limit the right to equality and non-discrimination in section 15 of the *Human Rights Act 2019*, because residency in a particular area is not a ground of discrimination.¹

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

In my opinion, there are no other human rights relevant to the prescription of additional geographical areas of courts that may impose a monitoring device condition or additional geographical areas of residence of children who may be subject to such a condition.

Conclusion

I consider that the *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

DI FARMER MP
MINISTER FOR EMPLOYMENT AND SMALL BUSINESS
MINISTER FOR TRAINING AND SKILLS DEVELOPMENT and
MINISTER FOR YOUTH JUSTICE

© The State of Queensland 2023

¹ *Magee v United Kingdom* (2000) 31 EHRR 822, [50]; *R v Turpin* [1989] 1 SCR 1296, 1332-3; *Siemens v Manitoba (Attorney General)* [2003] 1 SCR 6, 32-3 [48].