

# Building Industry Fairness (Security of Payment) 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* (HR Act), I, the Honourable Mick De Brenni MP, Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement provide this human rights certificate for the *Building Industry Fairness (Security of Payment) Amendment Regulation 2023* (Amendment Regulation) made under the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. 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 the BIF Act, which provides for the prescription of fees and charges, including for adjudication applications.

From 1 July 2022, all fees that are required to be increased annually by the Government Indexation Rate must be expressed as a number of fee units, rather than a dollar amount. The value of a fee unit is expressed in the *Acts Interpretation (Fee Unit) Regulation 2022* and is amended annually, with the practical effect that fees are increased automatically without having to amend every piece of legislation individually.

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 for the calculation of the applicable fee. Therefore, the progress payments in the BIF Regulation are required to be increased annually by the Government Indexation Rate which is 3.4 per cent this year. This reflects existing agreed practice with Queensland Treasury.

## Human Rights Issues

### Human rights relevant to the subordinate legislation (Part 2, Division 2, and 3 HR Act)

The Amendment Regulation does not limit or otherwise affect human rights protected under Part 2, Division 2, HR Act.

## Conclusion

I consider that the *Building Industry Fairness (Security of Payment) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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

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