

Legal Profession (Interest on Fidelity Fund Claims) 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, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Legal Profession (Interest on Fidelity Fund Claims) Amendment Regulation 2023* (the Amendment Regulation) made under the *Legal Profession Act 2007* (the Act).

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

The Legal Practitioners' Fidelity Guarantee Fund (Fund) is administered by the Queensland Law Society (QLS) in accordance with part 3.6 of the Act. The Fund was established to provide a source of compensation for persons who have lost trust money or property due to a dishonest default by a law practice.

Section 384 of the Act provides that, in deciding the amount of pecuniary loss resulting from a default of a law practice, the QLS is to add interest on the amount payable unless special circumstances exist. Interest is to be calculated from the date the claim was made to the date the QLS allows the claim at the rate prescribed under a regulation. To the extent a regulation does not provide for a rate of interest, interest is to be calculated at the rate of 5% per year.

The Amendment Regulation amends the *Legal Profession Regulation 2017* to prescribe the 'bank bill yield rate' as the rate at which interest is to be calculated on amounts payable from the Fund. The bank bill yield rate is defined as the monthly average yield of three-month bank accepted bills published by the Reserve Bank of Australia for the month of May in the financial year immediately preceding the financial year in which the claim is made. The rate is fixed as at the date of the claim and applies prospectively so that claims already made but not yet decided will continue to accrue interest at the rate of 5% per year.

The purpose of the Amendment Regulation is to provide fairer compensation to persons claiming against the Fund by ensuring they receive interest on their claim at a rate which more accurately reflects commercial rates available in the marketplace at the time the claim is made.

Human Rights Issues

The Amendment Regulation does not affect or engage any human right.

Conclusion

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because it does not affect or engage any human right.

YVETTE D'ATH MP
ATTORNEY-GENERAL AND MINISTER FOR JUSTICE
MINISTER FOR THE PREVENTION OF DOMESTIC
AND FAMILY VIOLENCE

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