

Proclamation – Health and Other Legislation Amendment Act 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 Shannon Fentiman MP, Minister for Health, Mental Health and Ambulance Services and Minister for Women provide this human rights certificate with respect to the Proclamation – *Health and Other Legislation Amendment Act 2023*.

In my opinion, the Proclamation, 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

This Proclamation fixes two dates for commencement for provisions of the *Health and Other Legislation Amendment Act 2023* (Amendment Act) that did not commence on Royal Assent. The overall purpose of the amendments commenced by this Proclamation is to improve the operation of health portfolio and related legislation and support the provision of health services in Queensland.

This Proclamation fixes 15 November 2023 as the date of commencement for parts 4, 6, 7 and 8 of the Amendment Act. These divisions amend the following Acts:

- the *Mental Health Act 2016* to:
 - remove the requirement that adults entitled to waive the right to representation before the Mental Health Review Tribunal must do so in writing; and
 - restrict the provision of records or transcripts of Mental Health Review Tribunal proceedings to appropriate parties;
- the *Radiation Safety Act 1999* to:
 - make operational and technical amendments to ensure a person does not receive greater than a specified dose of ionising radiation; and
 - stipulate when a regulation may prescribe particular radioactive materials as exempt from the requirements in the Radiation Safety Act;
- the *Recording of Evidence Act 1962* to establish a statutory framework for recording prescribed tribunal proceedings and providing access to copies of records and transcriptions of those proceedings;
- the *Transplantation and Anatomy Act 1979* to:
 - ensure that consent processes for donation of tissue after death are consistent between public and private hospitals (by amending the definition of private hospital); and

- remove the requirement for the Minister to approve supply of human tissue products that are already regulated through the Therapeutic Goods Administration's Special Access Scheme.

This Proclamation also fixes 1 May 2024 as the date of commencement for provisions of part 2 of the Amendment Act. These provisions will amend the *Hospital and Health Boards Act 2011* to:

- insert a requirement for Hospital and Health Boards and Hospital and Health Services to proactively consider staff wellbeing; and
- clarify that healthcare security officers must not direct a person to leave Hospital and Health Services land, or part of the land, if the person requires emergency medical treatment.

Human Rights Issues

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

The Amendment Act engages and limits human rights. The statement of compatibility that accompanied the Amendment Act details how the provisions of that Act are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom under section 13 of the Human Rights Act.

The Proclamation itself does not engage any human rights. There are no human rights limited by the Proclamation commencing the amendments in parts 2, 4, 6, 7 and 8 later than other provisions of the Amendment Act.

Conclusion

I consider that the Proclamation – *Health and Other Legislation Amendment Act 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

SHANNON FENTIMAN MP
MINISTER FOR HEALTH, MENTAL HEALTH AND
AMBULANCE SERVICES AND
MINISTER FOR WOMEN