

# Proclamation – Justice 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* (the HR Act), I, 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 Proclamation made under the *Justice and Other Legislation Amendment Act 2023* (the JOLA Act).

In my opinion, the proclamation 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 proclamation commences the provisions of the JOLA Act that provide for the better recognition of the destruction of the life of unborn children as a result of offences committed in relation to a pregnant person. The provisions commenced by the proclamation:

- enable an indictment for an offence committed in relation to a pregnant person that allegedly resulted in destroying the life of the person’s unborn child to state the name of the unborn child, or a description of the unborn child;
- require the court, in determining the appropriate sentence for an offender or child convicted of a relevant serious offence committed in relation to a pregnant person that resulted in destroying the life of the unborn child, to treat the destruction of the unborn child’s life as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case;
- expand the definition of victim for the purpose of the Charter of victims’ rights, how prescribed persons deal with victims under the *Victims of Crime Assistance Act 2009*, and victim impact statements under the *Penalties and Sentences Act 1992*; and
- expand eligibility for funeral expense assistance to include the funeral of an unborn child of a primary victim of an act of violence if, as a direct result of the act of violence, the life of the unborn child is destroyed.

### Human Rights Issues

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

I have considered each of the rights protected by part 2 of the HR Act. In my opinion, the proclamation does not engage or limit human rights.

## **Conclusion**

I consider that the proclamation is compatible with the HR Act because it does not limit human rights.

**YVETTE D'ATH MP**  
Attorney-General and Minister for Justice and  
Minister for the Prevention of Domestic and Family Violence

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