

Housing 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, Meaghan Scanlon MP, Minister for Housing provide this human rights certificate with respect to the *Housing Amendment Regulation 2023* made under the *Housing Act 2003*.

In my opinion, the *Housing Amendment Regulation 2023* (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

Queensland's housing system is experiencing significant pressures as a result of sustained net increased interstate migration, materials and skills shortages in the construction industry, changes in the property market arising from pandemic-era economic policies, demographic trends, and the impact of weather events. Housing supply has not kept up with increased demand and the number of properties available in the private rental market has reduced, impacting availability and affordability.

The Queensland Government has endorsed significant investment to support housing outcomes to ensure there is sufficient social and affordable housing to meet current and future needs, including the Housing Investment Fund program and the Build to Rent pilot project.

The Housing Investment Fund provides subsidies, one-off capital grants and other support to encourage developers, builders, registered community housing providers, tenancy managers, institutional investors and superannuation funds to partner to develop, finance and operate additional social and affordable housing supply in Queensland.

The Queensland Government is partnering with the development sector to deliver affordable rental housing through new Build to Rent developments. These are usually large-scale residential properties specifically designed, built and managed for long-term rental. Under the Build to Rent pilot projects, a targeted Government rental subsidy will be provided to deliver affordable rental housing within the three approved Brisbane-based sites.

Section 22 of the *Housing Act 2003* provides that the chief executive may only give funding to deliver a 'social housing service' (which can include affordable housing) to a 'registered provider' or an 'exempt provider'.

The Housing Investment Fund program and Build to Rent pilot project involve entry by the State into funding arrangements with private sector proponents for delivery and operation of social and affordable housing projects. Some of these proponents are neither 'registered providers' nor 'exempt providers'.

The registration requirements in the *Housing Act 2003* implement the National Regulatory System for Community Housing, which was introduced in accordance with the Inter-Government Agreement for a National Regulatory System for Community Housing Providers (Intergovernmental Agreement). The Intergovernmental Agreement does not stipulate that only registered providers may be funded. This intent is reflected in section 22 of the *Housing Act 2003*, which allows funding to be given to both registered providers and exempt providers.

A person or entity may be prescribed as an exempt provider in accordance with the definition of ‘exempt provider’ in schedule 4 of the *Housing Act 2003*. The definition of ‘exempt provider’ refers to the provider being prescribed as eligible to receive funding to provide either a ‘particular social housing service’ or ‘any social housing service’ in Queensland.

To respond to the housing crisis and increase housing supply, it is necessary to subsidise or fund not only registered community housing providers but also other types of entities, including developers, builders, tenancy managers, institutional investors and superannuation funds. The requirements for registration applicable to community housing providers are not appropriate for these types of entities.

To ensure delivery certainty under these programs, amendments to the *Housing Regulation 2015* are required to allow non-registered providers to participate in government funded social and affordable housing programs. The housing provided under the Housing Investment Fund and Build to Rent pilot project would still constitute a social housing service as defined in the *Housing Act 2003* and these providers would constitute ‘a funded provider that provides a social housing service’.

The Amendment Regulation will make such providers ‘exempt providers’ for the Housing Investment Fund and Build to Rent pilot project and specify which prescribed requirements do not apply to these providers and the requirements applying specifically to Build to Rent pilot project and Housing Investment Fund providers.

Human Rights Issues

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

The following human rights are relevant to the Amendment Regulation:

- Property rights (section 24 of the *Human Rights Act 2019*)
- Privacy and reputation rights (section 25 of the *Human Rights Act 2019*).

Property rights

Under section 24 of the *Human Rights Act 2019*, all persons have the right to own property alone or in association with others, and a person must not be arbitrarily deprived of the person’s property. Property rights may be engaged by the Amendment Regulation as it relates to properties funded under the Housing Investment Fund program or Build to Rent pilot project, however those rights are not limited by the Amendment Regulation and no person is being arbitrarily deprived of their property.

Privacy and reputation rights

Under section 25 of the *Human Rights Act 2019*, a person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have the person's reputation unlawfully attacked.

Privacy and reputation rights may be engaged by the Amendment Regulation, particularly in relation to information privacy of clients, establishment and implementation of eligibility, allocations and rent policies, and provision of information about housing services. The Amendment Regulation seeks to protect these human rights by ensuring that the Housing Investment Fund providers and Build to Rent pilot project providers:

- comply with information privacy principles in the *Information Privacy Act 2009*, chapter 2, parts 1 and 3 as if the provider were the department
- have eligibility, allocations and rent policies, and implement them consistently and fairly, in accordance with the funding agreement
- provide non-identifying information about a client of the funded provider if requested by the chief executive.

No human rights will be limited by the Amendment Regulation.

Conclusion

I consider that the *Housing Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit, restrict or interfere with, human rights.

MEAGHAN SCANLON MP
MINISTER FOR HOUSING

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