

Exhibited Animals (Fees) Amendment Regulation 2024

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, Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, provide this human rights certificate with respect to the *Exhibited Animals (Fees) Amendment Regulation 2024* (Amendment Regulation) made under the *Exhibited Animals Act 2015* (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* (the HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Act provides for exhibiting and dealing with exhibited animals and ensure that the relevant risks and relevant adverse effects associated with exhibiting and dealing with exhibited animals are prevented or minimised.

The *Exhibited Animals Regulation 2016* (the Regulation) made under the Act commenced on 1 July 2016 and includes provisions dealing with the granting, renewal, restoration, transfer and amendment of exhibition licences, interstate exhibitors permits, accreditations, temporary licences and monitoring and compliance functions associated with inspection services.

On its commencement the Regulation also included fees associated with these licensing functions and inspection services. However, a disallowance motion to the Regulation was tabled in Parliament on 17 June 2016 and subsequently passed on 17 August 2016, resulting in the disallowance of the Regulation's fees.

As a consequence of the successful disallowance motion, no fees for any of the functions and services provided for under the Act have been charged since 17 August 2016. It is estimated since August 2016 the Queensland Government has fully subsidised over \$500,000 to the industry in the provision of administrative services, licensing, monitoring and compliance functions.

The Amendment Regulation introduces fees in relation to these previously unfunded services and functions and will recover the government's costs for service delivery to the exhibited animals industry into the future.

Human Rights Issues

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

In my opinion, the human rights protected under the HR Act that are relevant to the Amendment Regulation are:

- Property rights (section 24 of the HR Act)

Consideration of reasonable limitations on human rights (section 13 HR Act)

(a) the nature of the right

Property rights entitle all persons to have the right to own property alone or in association with others and that a person must not be arbitrarily deprived of the person's property. Section 24 of the HR Act should be interpreted liberally and beneficially to encompass economic interests in a broad sense, including money.

The imposition of fees upon persons who exhibit and deal with animals will directly impact upon some people's ability to meet the costs of exhibiting animals or will limit their exhibited animal business as it affects their business finances. The right to property will be limited by the Amendment Regulation because it results in the deprivation of property in the form of money which will now be required to pay for services and functions for which fees were not previously charged.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Introducing fees for exhibited animals relating to the provision of licensing, monitoring and compliance functions under the Act, recognises the need for government to recover costs associated with providing these services to the exhibited animals industry.

The introduction of exhibited animal fees will ensure that the Government's functions are adequately resourced to address, prevent or minimise the relevant risks and relevant adverse effects that the exhibition of and dealing with particular animals, pose to the community and the environment. The fees will also ensure that government is properly funded to ensure adequate standards of animal welfare of exhibited animals are maintained by industry which is a community expectation.

The provision of these services in a fiscally responsible way is therefore a proper purpose consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The imposition of fees on the exhibited animals industry will directly advance the purpose of the limitation particularly as the exhibited animals industry has not up until this point, been paying any fees for the provision of government services. Imposing fees on the exhibited animals industry will ensure that government's functions for this industry can continue to be adequately resourced into the future rather than the provision of services being compromised through a lack of direct funding from industry.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive ways to achieve the purpose of the amendment regulation. Government has been subsidising this industry in the provision of its services since the Act commenced.

Imposing lesser fees on industry would not satisfy the purpose as the functions of Government would not be adequately funded to ensure the objectives of risk prevention, minimisation and animal welfare are established and maintained. Any reduction in fees to industry would compromise the extent and effectiveness of government's services.

There are safeguards in the fees which are being charged as they are scaled in recognition of different sized entities and different types of animals which may be exhibited. Fees are charged appropriately relative to the degree of resources required to assess applications, inspect facilities and undertake compliance functions.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

On balance, the importance of government services being provided in a fiscally responsible way to the exhibited animals industry, outweighs the impacts on participants in this industry through the deprivation of property in the form of money.

(f) any other relevant factors

There are no other factors considered relevant.

Conclusion

I consider that the Exhibited Animals (Fees) Amendment Regulation 2024 is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Mark Furner MP
Minister for Agricultural Industry Development and Fisheries and Minister for Rural
Communities

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