

# Water and Other Legislation 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, Glenn Butcher MP, Minister for Regional Development and Manufacturing and Minister for Water provide this human rights certificate with respect to the *Water and Other Legislation Amendment Regulation 2024* (Amendment Regulation) made under Chapter 2, Part 3A and section 1014 of the *Water Act 2000* (Water 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* (HR Act). I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The objective of the Amendment Regulation is to amend the *Water Regulation 2016* to:

- Insert a new Part 11 to specify measurement requirements that apply for taking water under the Water Act. This includes:
  - Requirements for using measuring devices including attaching, certifying and maintaining measurement devices, taking water under a relevant authorisation, ongoing certification requirements;
  - Requirements for providing information about the water being taken;
  - Requirements for faulty measurement devices including identifying, notifying and rectifying faults and chief executive powers to give notice of suspected faulty measurement devices;
  - Alternative requirements if the measurement device is faulty;
  - Record keeping requirements; and
  - Definition of who is a duly qualified person for performing functions under the new part, details regarding the appointment of a duly qualified person, their performance functions and actions the chief executive may take if a duly qualified person does not perform these functions properly.
- Insert a new part 16, division 5 (transitional provisions) regarding existing validation inspections and how measurements requirements apply to certain entitlements.
- Insert a new schedule 11 to identify water authorisations to which measurement requirements apply.
- Consequential amendments to add and remove definitions and contemporise terminology.
- Consequential amendments to the *State Penalties Enforcement Regulation 2014* to repeal existing infringement notice offences and insert new infringement notice offences.

## Human Rights Issues

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

The proposed legislation engages the following human rights under the HR Act:

- Property rights (section 24 of the HR Act)—in relation to new measurement requirements for taking water under specific water authorisations under the Water Act.

### Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

#### Property rights

##### (a) the nature of the right

Section 24 of the HR Act provides that the right to own property alone or in association with others must not be arbitrarily deprived. Property includes all real and personal property interests recognised under the general law and may include statutory rights. The Water Act provides a framework for the sustainable management of Queensland's water resources by establishing a system for the planning, allocation and use of water. Under this framework the State may issue water entitlements to authorise a person to take water. A water entitlement is considered property for the purposes of the HR Act and granted in a way that is not free of obligations. These obligations may include the requirement to measure the volume of water taken. In this context, this may be considered as a restriction on a person's ability to use or enjoy their property or part of their property.

##### (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

The measurement requirements specified in the Amendment Regulation through the new Part 11 will apply to surface water and underground water entitlements that are subject to limits on the volume that may be taken. With the entitlement to take water also comes obligations to then report water take under the entitlement. A significant number of these entitlements already have measurement requirements applied to them as 'metered entitlements' under the Water Act, such as maintaining a meter and providing meter read data to the government. For example, existing holders of entitlements to take water are currently required to provide information about how much water they take under these entitlements. Similarly, with the proposed amendment to require telemetry devices on water meters, the requirement builds on existing responsibilities to supply meter reads either once or twice a year.

The Amendment Regulation will ensure that Queensland's strengthened non-urban water measurement policy can be implemented to achieve its objectives and is consistent with a free and democratic society based on human dignity, equality and freedom. These proposed amendments will also ensure that the Government meets its commitment under the Murray-Darling Basin Compliance Compact to ensure that measurement of take in the QMDB is more accurately measured by 2025.

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

The installation of telemetry devices on non-urban water meters allows for near real-time transmission of meter read information. Higher frequency meter read information will benefit DRDMW, water users and the environment and telemetry is widely used across the state to gather information from rain gauges, soil moisture probes, and to operate pumps. The addition of telemetry to water meters will benefit water users by allowing them to better manage self-compliance with their water entitlements, make better on-farm water management decisions about water use and give them confidence they are getting their share of the resource as specified on their water entitlements. Water entitlement holders who have telemetry would not need to provide manual meter reads to DRDMW.

For DRDMW, telemetry significantly enhances water management and compliance activities outcomes. It allows DRDMW to monitor compliance more effectively and act early where compliance issues arise or where a risk is identified. This information will improve the data used for water planning and management decisions, leading to increased confidence that water is being managed in a sustainable way, which also benefits the environment. Improved frequency of meter read data will also improve the information about available water which could be traded through water markets, which also benefits water users when they wish to buy or sell water.

The Amendment Regulation supports the outcomes to be achieved for the strengthened measurement of non-urban water in Queensland and will support the Queensland Government to meet its MDB Compliance Compact commitments.

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

There are no less restrictive means available to ensure the accurate measurement of water taken under a water entitlement.

These measurement requirements directly relate to the management and protection of the property right (right to access water) and do not represent a restriction to a person's ability to use and enjoy their property. Similar measurement requirements are an existing feature of Queensland's water management framework and are considered reasonable and necessary in the context of ensuring all water users can access their fair share of the water (property right).

(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

The proposed amendments are considered a reasonable and balanced approach to strengthening the measurement of non-urban water take across Queensland.

Knowing how much water is being taken is essential for effective water resource management. It is critical that the take of water is accurately measured so that take from water resources is sustainable, and to ensure all water users receive their fair share in accordance with entitlement conditions and legislative requirements. Accurate and timely measuring, recording, and reporting of water taken also provides transparency and assurance that water is being managed sustainably for the benefit of all Queenslanders.

## Conclusion

I consider that the *Water and Other Legislation 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 dignity, equality and freedom.

**Honourable Glenn Butcher MP**  
MINISTER FOR REGIONAL DEVELOPMENT AND MANUFACTURING AND  
MINISTER FOR WATER

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