

Environmental Protection (Composting Facilities) 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, Leanne Linard, Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation provide this human rights certificate with respect to the *Environmental Protection (Composting Facilities) Amendment Regulation 2024* made under the *Environmental Protection Act 1994*.

In my opinion, the *Environmental Protection (Composting Facilities) Amendment Regulation 2024*, 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

The objective of the *Environmental Protection (Composting Facilities) Amendment Regulation 2024* (Amendment Regulation) is to amend the *Environmental Protection Regulation 2019* (EP Regulation) to address odour issues relating to composting facilities which are near residential premises.

For new facilities, the amendments will provide greater clarity on the application of current best practice guidelines and policies by prescribing them in regulation. The amendments will also provide a more certain regulatory lever to amend environmental authorities so that composting facilities near residential areas that process odorous feedstock can be required to use in-vessel or enclosed systems.

It will also ensure that waste transporters authorised under other jurisdictions but transporting waste into Queensland are subject to the same environmental standards as transporters authorised under Queensland legislation.

Human Rights Issues

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

The *Human Rights Act 2019* (HR Act) is designed to ensure that a human rights framework is integrated into policy development to improve government decision-making. In my opinion, the human rights under the HR Act that are relevant to the Amendment Regulation are:

- Property rights (section 24 of the HR Act)
- Protection of families and children (section 26 of the HR Act)
- Right to education (section 36 of the HR Act).

As outlined below, I am of the view that the Amendment Regulation positively engages with each of these human rights. The Amendment Regulation supports a human rights culture by implementing shared attitudes, values and behaviours that protect the rights of all Queenslanders.

The Amendment Regulation specifies the plant and equipment required for composting facilities accepting odorous feedstock within four kilometres of residential areas, primarily to provide positive measures to protect life. People living near composting facilities have reported that many illness symptoms are experienced due to the odour from these facilities such as nausea, vomiting, and loss of sleep. This is a significant effect on a person's health and the Amendment Regulation seeks to protect people from these impacts.

The HR Act only applies to individuals and expressly provides that a corporation does not have human rights. As such, the human rights consideration for this Amendment Regulation are only applied to individuals.

Property rights

Under section 24 of the HR Act, a person has the right to own property and to not be arbitrarily deprived of that property. The purpose of the Amendment Regulation is to address odour issues experienced in people's homes as well as public places. The Queensland Government has received reports of people not being able to enjoy their homes both inside and outside due to the odour from composting facilities. Many state that they have had to implement tools within their homes such as air purifiers just to feel well and report not being able to use their backyards at all. By implementing the requirement to enclose or provide in-vessel composting in facilities within four kilometres of residential areas, the Amendment Regulation positively engages with section 24 property rights by supporting the creation of an environment where people can enjoy the homes that they live in and own.

New trigger to amend Environmental Authorities

Property can be broadly interpreted and includes real and personal property, including contractual rights, leases, shares, patents, and debts. Through this interpretation, it is possible that an environmental authority could be considered to be a property right. Although the majority of environmental authorities for composting facilities are held by corporations, some are held by individuals and therefore the application of section 24 to these authorities must be considered.

This Bill engages this human right through providing a new ground for the environmental regulator to amend an environmental authority by issuing a Notice of Proposed Amendment (NOPA) if the facility is within four kilometres of a residential area and receiving odorous feedstock. This could allow the environmental regulator to require the facility to use in-vessel or enclosed processing.

Although this is a new ground, the amendment does not broaden the administrative power to issue a NOPA. Further, the process for amending an environmental authority (including the NOPA process) is subject to review and appeal rights which provide the power to amend the environmental authority with appropriate checks and balances. Therefore, the new ground to amend environmental authorities prescribed in the Amendment Regulation engages with section 24 property rights, but does not limit them.

Protection of families and children

The HR Act states that families are entitled to be protected by the society and the State. Under section 26, children have the right to the protection that is needed and is in the best interest of the child. By implementation of the Amendment Regulation, the rights of the child are protected and upheld by the State. The best interests of children are to have free enjoyment of their homes and not be subject to odours that make them unwell. The Amendment Regulation will protect children's vulnerability through consideration of the long-term health effects brought on by odour impacts.

Right to education

Under section 36 of the HR Act, every child has a right to primary and secondary education appropriate to their needs. The right to education encompasses key elements of availability, accessibility, acceptability, and adequacy. The communities around composting facilities report education institutions not being able to use outside areas due to odour impacts. The importance of play and physical activity in the school curriculum is well documented. The Amendment Regulation will support children's right to a rounded education with outside play by prescribing stronger regulatory standards for composting facilities around residential areas and therefore the relevant local schools.

Conclusion

I consider that the *Environmental Protection (Composting Facilities) Amendment Regulation 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

LEANNE LINARD
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF
MINISTER FOR SCIENCE AND INNOVATION

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