

Integrity 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, the Honourable Steven Miles MP, Premier provide this human rights certificate with respect to the *Integrity Regulation 2024*.

In my opinion, the *Integrity 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 *Integrity Regulation 2011* (expiring regulation) is made under the *Integrity Act 2009* and is scheduled to expire on 31 August 2024 in accordance with section 54 of the *Statutory Instruments Act 1992*. A sunset review was undertaken and confirmed the effectiveness of, and ongoing need for, the expiring regulation.

The expiring regulation has four sections, with the first two sections being preliminary matters relating to the short title and the commencement of the expiring regulation. Section 3 of the expiring regulation prescribes persons or a person within a class of persons to be captured as a ‘designated person’ to request and receive integrity and ethics advice from the Queensland Integrity Commissioner. Section 4 of the expiring regulation prescribes additional entities that are assisted by public funds in order to identify additional public sector officers to whom the lobbying framework in the Integrity Act applies.

Prior to December 2023, the number of designated persons able to access the Queensland Integrity Commissioner’s advice was estimated to capture more than 10,000 people. Amendments to the Integrity Act, which took effect on 13 December 2023, amended the definition of ‘designated person’ in section 12 of the Act to narrow its scope, while retaining an option to prescribe by regulation, a person or a person within a class of persons as a designated person (s12(1)(g)).

The above amendment resulted in the exclusion of some roles from the definition that the Queensland Integrity Commissioner subsequently considered should continue to be captured as designated persons. For some, this was merely a consequence of the excluded role being established by an Act other than the *Public Sector Act 2022*, which caused a lack of parity within organisations.

In December 2023, amendments to the expiring regulation addressed this issue and prescribed additional persons or persons within a class of persons.

The Integrity Act provides a framework for lobbying of government representatives and former government representatives. The meaning of ‘government representative’ is defined to include the Premier, a Minister and an Assistant Minister; a councillor; staff members of a Minister or Assistant Minister; and a ‘public sector officer’.

A ‘public sector officer’ is defined to include a person who is an officer or employee of a ‘public sector entity’ under the Public Sector Act, other government and local government entities, including the parliamentary service and Government owned corporations, and an entity prescribed by regulation that is assisted by public funds.

A broad definition of ‘public service entity’ in the Public Sector Act was introduced in 2022. This has resulted in section 4 of the expiring regulation being redundant as Hospital and Health Services established under section 17 of the *Hospital and Health Boards Act 2011* are now captured as public sector entities by virtue of being a public sector entity under section 8 of the Public Sector Act. Therefore, they do not need to be prescribed separately in order for the Integrity Act to apply to them.

The *Integrity Regulation 2024* repeals and replaces the expiring regulation. As the list of designated persons prescribed in the expiring regulation is current and appropriate, the *Integrity Regulation 2024* continues to prescribe those persons to enable them to request and receive integrity and ethics advice from the Queensland Integrity Commissioner. However, the provision in the existing regulation to prescribe Hospital and Health Services as public sector entities has been removed.

Human Rights Issues

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

Section 3 of the *Integrity Regulation 2024* prescribes a number of senior public officials in government departments and entities as designated persons for the purposes of section 12(1)(g) of the Integrity Act who can seek the advice of the Queensland Integrity Commissioner. Given the regulation expands the list of persons who can seek the advice of the Queensland Integrity Commissioner under section 12 of the Integrity Act, it does not limit any human rights and rather, enables the ability to request advice, promoting freedom of expression in section 21 of the *Human Rights Act 2019*, which includes a right to seek and receive information of all kinds.

In replacing the expiring regulation, the *Integrity Regulation 2024* has omitted a section that prescribes Hospital and Health Services for the purpose of identifying a public sector officer in the lobbying framework of the Integrity Act. The omission is policy neutral, as Hospital and Health Services are now captured under a broader definition of ‘public sector entity’ in the Integrity Act. No human rights are engaged by this change between the expiring regulation and the new regulation.

Conclusion

I consider that the *Integrity Regulation 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

THE HON STEVEN MILES MP
PREMIER

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