

# Youth Justice (Access by Accredited Media Entities) 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, Di Farmer, Minister for Education and Minister for Youth Justice provide this human rights certificate with respect to the *Youth Justice (Access by Accredited Media Entities) Amendment Regulation 2024* (the Amendment Regulation) made under the *Youth Justice Act 1992*.

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*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The Amendment Regulation will allow confidential information to be provided to accredited media entities as necessary to enable those entities to identify when and where particular Childrens Court criminal proceedings are to be heard, to facilitate media entities' ability to observe and report on those proceedings. A number of safeguards are included.

## Human Rights Issues

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

These amendments may limit the following rights:

- right to privacy and reputation (section 25);
- right of children to protection in their best interests (section 26(2)); and
- right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation (section 32(3)).

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

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

##### *The right to privacy and reputation (section 25)*

The scope of the right to privacy is very broad. It protects personal information and data collection.

This protection is limited to interference that is unlawful or arbitrary. Unlawful interference means it cannot take place except in cases envisaged by law. An arbitrary interference refers to conduct that is capricious, unpredictable or unjust, as well as interferences that are unreasonable and not proportionate to the legitimate purpose that is sought.

*Right of children to protection in their best interests (section 26(2) and the right to an age-appropriate procedure that promotes the child's rehabilitation (section 32(3))*

These rights reflect that children are more vulnerable because of their age and are entitled to special protections. The concept of the best interests of the child is informed by the United Nations Convention on the Rights of the Child (UNCRC), of which article 40(1) provides that a child defendant is 'to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others.'

Article 40(2)(b)(vii) of the UNCRC further provides that child defendants are to have their privacy respected at all stages of the proceedings. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) state that this guarantee is 'in order to avoid harm being caused to them by undue publicity or by the process of labelling'. The Beijing Rules further state that, 'In principle, no information that may lead to the identification of a juvenile offender shall be published.'

(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

Media may be present in court to observe Childrens Court criminal proceedings, pursuant to section 20 of the *Childrens Court Act 1992*. The purpose of the limitation is to enable accredited media entities to know where and when particular proceedings are to be heard, so they can attend and report on proceedings, enhancing the openness and transparency of the youth justice system, and promoting informed scrutiny.

This purpose is 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 provision of confidential information to the extent necessary to notify an accredited media entity of the time and place of a particular Childrens Court criminal proceeding is integral to achieving the purpose of enabling accredited media entities to attend and report on the proceeding.

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

In practice, media already have publicly available Queensland Police Service file numbers (QP numbers) relating to proceedings, and disclosures under the amendment will detail the time and place for proceedings by QP number. This will be sufficient to achieve the purpose, and subject to information technology limitations (see below), no further disclosure (for example, children's names) will be permitted by the provision.

The limitation is itself limited, and does not extend to disclosing or publishing any confidential information to the public. The information will not identify any child, and is only confidential in the hands of media representatives who can enter the courtroom, as it is then 'likely to lead to the identification of the child' (see the definitions of 'confidential information' in section 284 and 'identifying information' in schedule 4 of the *Youth Justice Act 1992*).

The Amendment Regulation will permit the disclosure of information that is reasonably necessary, given the limitations of information technology (IT) systems available. This is because the existing system is designed to produce court lists and it is not currently possible to separate information about charges, hearing type, court file number, and the initial of the child's surname from QP numbers without a manual process, which would not be practicable on a daily basis. In these circumstances, the provision will allow disclosure of this additional information, but still no directly identifying information such as names. Should IT capability improve in future, so that the additional information can be removed without manual intervention, the effect will be that the scope of permissible disclosure automatically contracts to exclude the additional information.

The amendments include a number of safeguards, including that information will only be provided to accredited media as defined in the Supreme Court's media accreditation policy, and that on-disclosure will be prohibited.

There is no less restrictive way to achieve the purpose.

(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

There is a strong public interest in ensuring that media can attend particular proceedings to accurately and fairly report on youth justice matters. There is also a strong public interest in maximising the rehabilitation prospects of children in the youth justice system.

The Amendment Regulation will permit disclosure only to the extent necessary to communicate the time and place of court proceedings. The ability to link proceedings to QP numbers means this can be achieved without the disclosure of any information such as names, addresses, or dates of birth.

Intentional or reckless on-disclosure will be a criminal offence, and could result in an exclusion order for the proceeding, or even the media entity's accreditation being rescinded. If there were on-disclosure, the worst outcome would be that someone could attend the courthouse when the proceeding is to be heard; they would not be able to enter the courtroom.

The limitation is therefore minimal, and outweighed by the benefits of an open and transparent youth justice system.

Overall, any limitations on the rights of children are reasonable and demonstrably justifiable under section 13 of the *Human Rights Act 2019*.

## **Conclusion**

I consider that the *Youth Justice (Access by Accredited Media Entities) 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.

**DI FARMER MP**  
MINISTER FOR EDUCATION and  
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