

Civil Proceedings 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 Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Civil Proceedings Regulation 2024* (Regulation) made under section 107 of the *Civil Proceedings Act 2011*.

In my opinion, the 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 *Court Funds Act 1973* provides for the custody and investment of money paid into the Supreme, District and Magistrates Courts, and for the security and management of money, securities and effects of suitors in those courts. In particular, the *Court Funds Act 1973* requires amounts paid to a court to the credit of a cause, matter or an account relating to a proceeding to be paid into the court suitors fund.

On 1 September 2024, the *Justice and Other Legislation Amendment Act 2023* (JOLA Act) will replace the *Court Funds Act 1973* with a new, modernised court funds legislative framework under the *Civil Proceedings Act 2011*.

A new regulation is required to replace the *Court Funds Regulation 2009*, which is due to expire on 31 August 2024, and to support the operation of the new court funds legislative framework under the *Civil Proceedings Act 2011*.

The Regulation updates the provisions of the *Court Funds Regulation 2009* to reflect modern court funds management practices, and includes new provisions to:

- clarify that an order requiring money or securities in court to be paid, delivered or transferred to a person, includes any interest that has accrued on the money or securities, unless the court otherwise orders;
- enable the chief executive to use excess interest which has accumulated in the court suitors fund to make good any deficiency in the fund arising from an administrative error or in another way, or to pay an expense incurred in administering the fund; and
- replace the requirement to advertise inactive accounts in the gazette and a newspaper with a requirement to publish a notice on the Queensland Courts website.

The Regulation commences on 1 September 2024 concurrently with the relevant JOLA Act amendments mentioned above.

Human Rights Issues

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

The Regulation engages property rights (section 24 of the *Human Rights Act 2019*) by prescribing how money and securities are paid into court, managed and invested, and paid out of court.

Section 24 of the *Human Rights Act 2019* provides that all persons 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. Property includes all types of real and personal property, including contractual rights, leases, shares, patents and debts.

While the majority of the Regulation simply updates the provisions of the *Court Funds Regulation 2009* to reflect modern court funds management practices, certain new provisions in the Regulation promote property rights by, for example, ensuring interest on amounts or securities paid into court is paid in all cases, and reducing the costs associated with the notification of inactive accounts.

Section 11 of the Regulation clarifies that an order requiring money or securities in court to be paid, delivered or transferred to a person, includes any interest that has accrued on the money or securities, unless the court orders otherwise. This promotes property rights by ensuring interest on amounts or securities paid into court is paid to a person in all cases, regardless of whether the payment of interest is expressly stated in the order.

Section 26 of the Regulation replaces the requirement to advertise inactive accounts in the gazette and a newspaper with a requirement to publish a notice on the Queensland Courts website. Previously there were significant costs associated with advertising lists of inactive accounts, which were debited to those accounts in proportion to their value. As no costs are currently incurred for publishing notices on the Queensland Courts website, the new provision promotes property rights by maximising the amount of funds available to potential claimants.

The Regulation does not restrict or limit any human rights.

Conclusion

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

YVETTE D'ATH MP
Attorney-General and Minister for Justice
Minister for the Prevention of Domestic and Family Violence

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