

Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020

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 Craig Crawford, Minister for Fire and Emergency Services and Minister for Aboriginal and Torres Strait Islander Partnerships, provide this human rights certificate with respect to the *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020* made under the *COVID-19 Emergency Response Act 2020* (the COVID-19 Act) and the *Family Responsibilities Commission Act 2008* (the FRC Act).

In my opinion, the *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020*, 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 *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020* (the Regulation) modifies the FRC Act pursuant to the main purposes of the COVID-19 Act, namely to facilitate the continuance of public administration and protecting the health, safety and welfare of people affected by the COVID-19 emergency in the communities of Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge.

The Regulation allows conferences to be conducted and lawfully binding decisions made by the family responsibilities commissioner (or deputy commissioner) and one local commissioner for the relevant community, thereby enabling the Family Responsibilities Commission (FRC) to continue to hold conferences and make decisions during the COVID-19 emergency.

The Regulation enables the Family Responsibilities Board (FRB) (an important governance body) to meet using communication technology, removing the requirement to meet in person at least once a year, which may not be possible due to COVID-19 travel restrictions and social distancing requirements.

The Regulation will expire on 31 December 2020.

Human Rights Issues

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

The human rights under the *Human Rights Act 2019* that are relevant to the Regulation are as follows:

- Right to life (section 16)
- Right to privacy and reputation (section 25)
- Right to protection of families and children (section 26)
- Right to an education (section 36).

For the reasons outlined below, the Regulation is compatible with each of these human rights. It does not limit any right to life, privacy and reputation, protection of families and children or an education. Rather, it protects and promotes these rights.

Right to life, privacy and reputation, protection of families and children, and an education (sections 16, 25, 26 and 36 of the *Human Rights Act 2019*)

Section 16 of the *Human Rights Act 2019* provides for the right to life, imposing substantive and procedural obligations on the State to take appropriate steps and adopt positive measures to protect life. Section 25 provides that a person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 26 provides for the right to protection of families and children, entitling families to protection by both the State and society. Section 36 provides that every child has the right to have access to primary and secondary education appropriate to the child's needs.

The FRC promotes these rights by receiving notices for school attendance and school enrolment, child safety and welfare, court convictions, domestic and family violence and housing tenancy breaches. On receiving these notices, the FRC conferences with community members who are welfare recipients to encourage them to improve behaviour, refer them to community support services and where necessary, order that a portion of their welfare payments be income managed.

The Regulation is compatible with human rights in sections 16, 25, 26 and 36 of the *Human Rights Act 2019* as the right to life, privacy and reputation, protection of families and children and an education are promoted and strengthened by ensuring the FRC continues to operate in the COVID-19 emergency, including that conferences are held and decisions are made, and the FRB continues to meet.

The FRC is required to deal with current clients who are already on orders and case plans and must also be in a position to conference on further notices received from notifying agencies. The FRC is concerned to ensure it is in a position to meet obligations to the children and vulnerable people who are in crisis in Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge. This concern is particularly heightened with the increase of welfare payments within community and the potential increase in domestic and family violence, ongoing concerns of child safety and the general additional pressures being placed on families who have restricted movement between households in the communities. It is therefore essential that the FRC continues to provide support and guidance to the Welfare Reform communities and protect families and children.

The Regulation will facilitate the continuance of public administration and protect the health, safety and welfare of people in the communities of Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge by:

- reducing the number of people required to hold conferences and make decisions from two local commissioners to one local commissioner, thereby enabling the FRC to continue to hold conferences and make decisions during the COVID-19 emergency, and
- enabling the meeting of the FRB (an important governance body) using communication technology, removing the requirement to meet in person once a year, which may not be possible due to COVID-19 travel restrictions and social distancing requirements.

This will assist in ensuring that the FRC can continue to operate, thereby promoting human rights, until the Regulation expiry on 31 December 2020.

Conclusion

I consider that the *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit a human right.

CRAIG CRAWFORD
MINISTER FOR FIRE AND EMERGENCY SERVICES
MINISTER FOR ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS