

# Corrective Services Amendment Regulation 2021

## 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* (HRA), I, Mark Ryan, Minister for Police and Corrective Services and Minister for Fire and Emergency Services provide this human rights certificate with respect to the *Corrective Services Amendment Regulation 2021* (the Regulation) made under the *Corrective Services Act 2006* (the CSA).

In my opinion, the Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HRA. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The CSA provides that the purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

In 2020, the *Corrective Services and Other Legislation Amendment Act 2020* (the Amendment Act) received assent on 21 July 2020. The Amendment Act made a number of amendments to the CSA to respond to the immediate risks identified in the Crime and Corruption Commission's *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland's prisons* (Taskforce Flaxton), support the Government's implementation of recommendations from the Queensland Parole System Review (QPSR), and improve operational efficiencies for Queensland Corrective Services's (QCS) and the Parole Board Queensland (the Board).

The purpose of the Regulation is to support and reflect amendments made to the CSA by the Amendment Act as well as amend the privileged mail list and remove redundant references to engaged service providers.

The Regulation expands the list of persons for the purposes of privileged mail, including to add organisations and legislative functions that have been established or commenced in Queensland since the *Corrective Services Regulation 2017* (CSR) was remade. The CSA outlines QCS's responsibilities in relation to prisoner's mail, including the authority to open, search and sensor a prisoner's ordinary or privileged mail. The CSA also prescribes the confidentiality of privileged mail as it is an essential protection of prisoner's rights, enabling confidential communication with people outside of the correctional environment.

The Regulation removes references to engaged service providers to whom particular Acts apply. With the transition of Queensland's two privately run prisons to public operations, there will be no engaged service providers required to be prescribed under section 273 of the CSA.

The Regulation removes references to officers of the secretariat needing to be prescribed by regulation in line with amendments made by the Amendment Act.

The Regulation prescribes an apparatus for use in a scanning search as an ion scanning device. The Amendment Act amended the definition of a scanning search to authorise QCS to conduct a search of a person by electronic or other means that may require the person to be touched by an apparatus, to be prescribed in regulation, or by another person.

## Human Rights Issues

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

In my opinion, the human rights relevant to the Regulation are recognition and equality before the law (section 15) and the right to privacy and reputation (section 25).

The Regulation does not limit any rights protected under the HRA. Rather, it protects and promotes recognition and equality before the law and privacy and reputation.

**Recognition and equality before the law** (HRA, section 15): the right to recognition and equality before the law, including recognition as a person, the right to enjoy the person's human rights, equal protection before the law, and equal protection from discrimination.

The Regulation expands the list of persons for the purposes of *privileged mail* to ensure that prisoners have access to confidential communication with people and organisations outside of the correctional environment. This supports a prisoner's right to equality before the law and equal and effective protection from discrimination.

**Right to privacy and reputation** (HRA, section 25): the right to privacy has a broad scope, with a focus is on preserving personal autonomy and dignity. The right to privacy protects the individual against interference with their physical and mental integrity, freedom of thought and conscience, legal personality, sexuality, family and home, and individual identity.

The Regulation engages the right to privacy by prescribing ion scanning devices as an apparatus that may come into contact with a person during a scanning search. Ion scanning devices are non-invasive, quick and cause minimal embarrassment. The ability for QCS to use an ion scanning device as part of a scanning search may alleviate the need for further invasive searches.

The expansion of the list of persons for the purposes of *privileged mail* to include a reference to the Queensland Human Rights Commission (as established under the *Human Rights Act 2019*), the National Disability Insurance Agency, Commissioner of the National Disability Insurance Scheme Quality and Safeguards Commission and a Commissioner of a Commission or Royal Commission supports a prisoner's right to privacy by providing for confidential communications with relevant entities.

## Conclusion

I consider that the Regulation is compatible with the HRA because it raises human rights issues but does not limit human rights.

**THE HONOURABLE MARK RYAN MP**  
Minister for Police and Corrective Services and  
Minister for Fire and Emergency Services

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