

Queensland Building and Construction Commission (Rectification of Building Work) 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*, I, the Honourable Mick de Brenni MP, Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement provide this human rights certificate with respect to the *Queensland Building and Construction Commission (Rectification of Building Work) Amendment Regulation 2021* (Amendment Regulation) made under the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

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 prescribes the timeframe that must be stated in a direction to rectify defective or incomplete building work.

Section 116 of the QBCC Act provides for the making of regulations under the QBCC Act.

Section 72 of the QBCC Act is a key compliance and enforcement mechanism that enables the regulator, the Queensland Building and Construction Commission (QBCC), to direct a person, whether licensed or unlicensed, to rectify defective or incomplete building works within the period stated in the direction.

From 1 October 1999, section 72 of the QBCC Act required a minimum period of 28 days to be stated in the Direction to Rectify (DtR), unless the QBCC was satisfied there was a significant hazard, or a substantial loss might otherwise be incurred.

In 2017, section 72 of the QBCC Act was amended to provide that a regulation may prescribe the period that must be stated in the DtR as the period within which the recipient is to rectify the work. This amendment automatically commenced on 11 November 2019.

The minimum 28-day timeframe is well understood within the building and construction industry. QBCC has generally continued with its long-established practice of providing 35 days for a person to rectify building work, from the day the direction is issued. This is to allow for a minimum 28-day period for the work to be completed, while accounting for the postage and receipt of directions. To provide greater clarity and formalise this existing timeframe, the Amendment Regulation prescribes that a period of 35 days must be stated in a DtR. There is no change in terms of the operational approach taken with respect to this timeframe, and a

person given a direction to rectify or remedy will continue to have the ability, under section 72B of the QBCC Act, to apply to QBCC for an extension of the period of compliance with the direction.

Human Rights Issues

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

There are no human rights affected or engaged by the Amendment Regulation.

Conclusion

I consider that the *Queensland Building and Construction Commission (Rectification of Building Work) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

MICK DE BRENNI MP
MINISTER FOR ENERGY, RENEWABLES AND HYDROGEN
MINISTER FOR PUBLIC WORKS AND PROCUREMENT

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