

Attorney-General and Other Legislation 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* (HR Act), 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 *Attorney-General and Other Legislation Amendment Regulation 2024* (Amendment Regulation) made under the *Attorney-General Act 1999* and the *Trust Accounts Act 1973*.

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

Overview of the Subordinate Legislation

Amendments to the *Attorney-General Regulation 2021*

The *Justice and Other Legislation Amendment Act 2023* (Amendment Act), which received assent on 20 September 2023, amends section 7(1)(g) of the *Attorney-General Act 1999* (Act) to provide that the Attorney-General may grant fiats to enable entities to continue, as well as start, proceedings in the Attorney-General's name to enforce charitable and public trusts and enforce and protect public rights.

Under section 9A of the Act, an application for the Attorney-General's fiat under section 7(1)(g) must be made to the Attorney-General in the way prescribed under a regulation. The *Attorney-General Regulation 2021* prescribes the information and documents which must accompany an application for the Attorney-General's fiat under section 9A of the Act.

The Amendment Regulation amends the *Attorney-General Regulation 2021* to prescribe the requirements for an application for the Attorney-General's fiat to apply to proceedings that have already started.

Amendments to the *Trust Accounts Regulation 1999*

The *Trust Accounts Act 1973* regulates the operation of trust accounts by public accountants and funeral benefit businesses. Under the *Trust Accounts Act 1973*, trustees must: make an annual declaration of moneys held in a trust account to the supervising entity; appoint an auditor for the trust account; submit an annual audit report; and lodge financial security.

Part 32 of the Amendment Act amends the *Trusts Accounts Act 1973* to remove public accountants from the scope of the Act, limiting its application to funeral benefit businesses.

Consequential amendments to the *Trust Accounts Regulation 1999* are required to complement the amendments made by the Amendment Act.

The Amendment Regulation amends the *Trust Accounts Regulation 1999* to:

- omit sections no longer required following the removal of public accountants from the scope of the *Trust Accounts Act 1973* and the earlier removal of solicitors in 2007; and
- facilitate the continued application of sections relating to security lodged under the *Trust Accounts Act 1973* during the transitional period.

Human Rights Issues

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

I have considered each of the rights protected by part 2 of the HR Act. In my opinion, the Amendment Regulation does not engage or limit human rights.

Conclusion

I consider that the Amendment Regulation is compatible with the HR Act because it does not limit human rights.

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

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