

Evidence and Other Legislation Amendment Regulation 2025

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 Deb Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity, provide this human rights certificate with respect to the *Evidence and Other Legislation Amendment Regulation 2025* (Amendment Regulation) made under the *Evidence Act 1977* (Evidence Act) and *Supreme Court of Queensland Act 1991*.

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

The Amendment Regulation amends the *Evidence Regulation 2017* to:

- prescribe the Childrens Court in Brisbane, Townsville, Caboolture, Cleveland and Redcliffe as places where the sexual offence expert evidence panel (the panel) may be engaged in relation to a relevant proceeding under section 103ZZGA of the Evidence Act; and
- prescribe notice requirements for a party seeking to adduce tendency evidence or coincidence evidence in a relevant criminal proceeding.

The Amendment Regulation also amends the *Uniform Civil Procedure (Fees) Regulation 2019* (UCPR (Fees)) to exempt a person filing an application for a complainant privacy order under Division 4 of the Evidence Act, and to correct an incorrect filing fee as a result of a previous typographical error.

Prescribing the Childrens Court in Brisbane, Townsville, Caboolture, Cleveland and Redcliffe as places where the panel may be engaged

The court, in a relevant proceeding, may engage a member of the panel to give evidence on the nature of sexual offences and the factors that might affect the behaviour of an alleged victim of a sexual offence if the court considers there is a good reason to call an expert.

A ‘relevant proceeding’ is defined in section 103ZZGA of the Evidence Act as a criminal proceeding relating wholly or partly to a sexual offence and held before a court at a place prescribed by regulation.

Section 4C of the *Evidence Regulation 2017* (the Evidence Regulation) currently prescribes the Brisbane and Townsville Supreme and District Court as places for the definition of a ‘relevant proceeding’ under section 103ZZGA of the Evidence Act. It also prescribes Brisbane, Caboolture, Cleveland, Redcliffe and Townsville Magistrates Courts as places for the purposes of section 103ZZGA of the Evidence Act.

The Amendment Regulation prescribes the Childrens Court, in existing locations where the panel may be engaged by a court in a ‘relevant proceeding’ (being Brisbane, Caboolture, Cleveland, Redcliffe and Townsville), as prescribed places. This allows for the court to engage a member of the panel to give expert evidence in proceedings relating wholly or partly to a sexual offence before the Childrens Court.

Prescribing notice requirements for a party seeking to adduce tendency evidence or coincidence evidence

The admissibility of tendency evidence and coincidence evidence is codified within Part 7A of the Evidence Act. Sections 129AD(1)(a) and 129AF(1)(a) of the Evidence Act require a party seeking to adduce tendency evidence or coincidence evidence to give reasonable notice of their intention to adduce that evidence. Section 129AG of the Evidence Act provides that notice must be given in accordance with any requirement prescribed by regulation.

The Amendment Regulation prescribes the content of the notice to be given. These requirements are modelled on the notice requirements in New South Wales, which the Women’s Safety and Justice Taskforce recommended as the model for Queensland.

Exempting payment of filing fees for applications for a complainant privacy orders

Section 103ZZZE of the Evidence Act provides that a person with a sufficient interest may apply to a court for a complainant privacy order. Complainant privacy orders restrict or prohibit the publication of identifying information about a complainant of a sexual offence who is deceased.

An application for a complainant privacy order may be heard in a court’s criminal or civil jurisdiction, depending on the method of filing. While no fees apply to an application for a complainant privacy order made in the court’s criminal jurisdiction, the UCPR (Fees) will apply to applications made in the court’s civil jurisdiction, requiring payment of a filing fee for complainant privacy orders.

The Amendment Regulation amends the UCPR (Fees) to provide that no payment is required for a person filing an application for a complainant privacy order.

Human Rights Issues

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

The Amendment Regulation does not limit human rights.

The Amendment Regulation ensures that the court may engage a member from the panel to give evidence where there is good reason to do so in proceedings relating wholly or partly to a sexual offence before the Childrens Court. This promotes the rights of parties to equal protection before the law (section 15) as it gives parties in relevant proceedings before the Childrens Court the same access to expert evidence afforded to relevant proceedings in the Supreme, District and Magistrate Courts.

The Amendment Regulation also promotes the rights of accused persons in criminal proceedings (section 32) as it clarifies procedural requirements for the admissibility of tendency evidence and coincidence evidence. Given the nature of this evidence, it is important that the thresholds to adducing this evidence are clear and specific. The Amendment Regulation achieves this, promoting consistency in practice and minimising delay in proceedings.

The right to equal protection before the law (section 15) is similarly promoted by the amendments introduced to exempt payment of filing fees for complainant privacy orders. The Amendment Regulation will ensure equal access to complainant privacy orders across the criminal and civil jurisdiction and will ensure that monetary constraints do not limit applicants from the protections afforded by complainant privacy orders.

Conclusion

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

Deb Frecklington MP
Attorney-General and Minister for Justice and Minister for Integrity

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