

# Domestic and Family Violence Protection 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* (Human Rights Act), I, Amanda Camm, Minister for Families, Seniors and Disability Services and Minister for Child Safety and the Prevention of Domestic and Family Violence provide this human rights certificate with respect to the *Domestic and Family Violence Protection and Other Legislation Amendment Regulation 2025* (Amendment Regulation) made under the *Childrens Court Act 1992*, the *Disability Services Act 2006*, the *Domestic and Family Violence Protection Act 2012* (DFVP Act), the *Evidence Act 1977*, the *Explosives Act 1999*, the *Magistrates Court Act 1921*, the *Police Service Administration Act 1990*, and the *Residential Tenancies and Rooming Accommodation Act 2008*.

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

## Overview of the Subordinate Legislation

The objective of the Amendment Regulation is primarily to support the operation of provisions in the DFVP Act, as inserted by the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2025* (the Amendment Act). The Amendment Act was passed by the Legislative Assembly on 28 August 2025 and received royal assent on 4 September 2025.

Among other matters, the Amendment Act amends the DFVP Act, and the *Evidence Act 1977* to:

- establish a framework for police protection directions (PPDs) to improve efficiencies for police responding to domestic and family violence (DFV) and reduce the operational impacts of the current DFV legislative framework;
- support a Global Positioning System (electronic monitoring) pilot for high-risk DFV perpetrators (the pilot), by enabling prescribed courts to impose a monitoring device condition on a respondent in certain circumstances when making or varying a domestic violence order (DVO); and
- simplify, streamline and expand the video-recorded evidence-in-chief (VREC) framework statewide to support victim-survivors of DFV.

Electronic monitoring of high-risk DFV perpetrators focuses on victim protection and enables police to respond to electronic monitoring alerts. Electronic monitoring is not intended to keep victim-survivors safe on their own, but to complement existing integrated safety planning.

The Amendment Act also provides regulation-making powers for elements of the pilot intended to provide flexibility throughout the life of the pilot.

The Amendment Regulation supports and operationalises the pilot by amending the *Domestic and Family Violence Protection Regulation 2023* (DFVP Regulation) to prescribe:

- courts that can impose a monitoring device condition on a DVO under section 66B of the DFVP Act (new s1B DFVP Regulation).
- two additional matters the court must be satisfied of before imposing a monitoring device condition on a DVO (eligibility requirements) under section 66B of the DFVP Act:
  - the first eligibility requirement relates to the residential address of the respondent and the aggrieved at the time the monitoring device condition is imposed (new s1C DFVP Regulation).
  - the second eligibility requirement facilitates a phased approach to the pilot, limiting eligibility to respondents in the custody of the Queensland Police Service (QPS) or Queensland Corrective Services (QCS) (s1D DFVP Regulation).
- an information sharing framework for information relating to a monitoring device condition ('monitoring information') (new Part 2, Division 2 DFVP Regulation, s66F DFVP Act).

The Amendment Regulation also makes consequential amendments to the following subordinate legislation, to reference and facilitate the PPD framework where relevant:

- *Childrens Court Rules 2016*
- *Disability Services Regulation 2017*
- *Domestic and Family Violence Protection Rules 2014*
- *Explosives Regulation 2017*
- *Police Service Administration Regulation 2016*
- *Residential Tenancies and Rooming Accommodation Regulation 2025 (RTRA Regulation)*

The Amendment Act simplifies, streamlines and expands the video recorded evidence-in-chief (VREC) framework provided for in Part 6A of the *Evidence Act 1977*.

The Amendment Regulation facilitates the statewide expansion of the VREC framework by omitting section 4A of the *Evidence Regulation 2017*. Currently, section 4A restricts the framework's application to certain courts and locations. As the Amendment Act extends the VREC framework to all summary and committal proceedings for domestic violence offences, section 4A is no longer necessary.

## Human Rights Issues

DFV threatens human rights. People who fear or experience DFV are entitled to enjoy their rights to life (in section 16 of the Human Rights Act), not to be subjected to cruel, inhuman or

degrading treatment (in section 17 of the Human Rights Act) and to mental and bodily integrity (protected by sections 25 and 29 of the Human Rights Act). Section 26 of the Human Rights Act also recognises that families are the fundamental group unit of society and are entitled to be protected by society and the State. Further, this right provides that every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child. DFV threatens the enjoyment of these rights. That is why overseas, it has been recognised that the state has a positive obligation to address DFV to fulfil some of these rights.<sup>1</sup>

Like the Amendment Act, the Amendment Regulation aims to better address DFV and better protect these human rights. It is recognised that the Amendment Regulation will impact the human rights of people using violence (respondents), particularly their rights to recognition and equality under the law and to privacy, but it is considered that the negative impacts on those human rights are justified by the need to address DFV for the reasons outlined in this certificate.

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

The Amendment Regulation potentially limits the following human rights under the Human Rights Act:

- recognition and equality before the law (section 15); and
- the right to privacy and reputation (section 25).

It is acknowledged that the pilot as established by the Amendment Act will also limit the right to freedom of movement (section 19), the right to freedom of assembly and association (section 22), cultural rights (sections 27 and 28), and the right to liberty (section 29) under the Human Rights Act. The Amendment Regulation does not limit these rights any further than the Amendment Act. The Statement of Compatibility for the Amendment Act considers the impacts of limiting these rights in greater detail.

#### Recognition and equality before the law (section 15)

The rights to equal protection of the law without discrimination and to equal and effective protection against discrimination (section 15(3) and (4)) embody the notion that all laws and policies should be applied equally and must not result in discriminatory treatment or effects. The definition of discrimination under the Human Rights Act includes discrimination as defined under the *Anti-Discrimination Act 1991*.

The Amendment Regulation limits the right to recognition and equality before the law as it prescribes limited eligibility criteria for the pilot, including limiting the pilot to two locations (Caboolture and Townsville).

#### Privacy and reputation (section 25)

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<sup>1</sup> *Tunikova v Russia* [2021] ECHR 1064; (2022) 75 EHRR 1

Section 25(a) of the Human Rights Act protects against unlawful or arbitrary interferences with a person's privacy, family, home or correspondence. Privacy captures personal information but extends to a person's private life more generally, including their mental and bodily integrity.

The Amendment Regulation limits the right to privacy as it will allow authorities to accumulate and share data about a respondent's daily life.

The Amendment Regulation will also engage an aggrieved person's right to privacy by interfering with their personal information.

The right to privacy will only be limited if the interference with privacy is unlawful or arbitrary. The interference with privacy will be authorised by the DFVP Act and the Amendment Regulation and will therefore be lawful. Arbitrary means capricious, unpredictable, unjust or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the Human Rights Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

#### Pilot Locations

The Amendment Regulation limits the electronic monitoring pilot to two court locations by prescribing the Townsville and Caboolture Magistrates Courts as courts that can impose monitoring device conditions.

In addition to prescribing these court locations, the Amendment Regulation provides that the respondent and aggrieved must live within a pilot location, as defined by postcode, at the time the monitoring device condition is imposed. Providing limitations on where the respondent and the aggrieved reside at the time the monitoring device condition is imposed is intended to facilitate fitting and removal of monitoring devices and the provision of specialist domestic and family violence services to both the respondent and aggrieved, as these services will primarily be within pilot locations.

The pilot will operate for two years. By the conclusion of this period a thorough sunset review will be undertaken to assess the safety and efficacy of the pilot and identify and address any unintended consequences.

Establishing the pilot in two locations limits the right to recognition and equality under the law for people living within the prescribed boundaries. Respondents in these locations may be subject to electronic monitoring conditions, while other respondents with similar DFV histories in Queensland will not be subject to the same conditions. The Amendment Regulation may also limit the rights of victim-survivors who reside outside the pilot locations as they will not be able to seek a monitoring device condition in an application for a DVO and, therefore, will not have access to a safety device.

Evidence of the imposition of a monitoring device condition or the use of a monitoring device or safety device, and other evidence directly or indirectly derived from the imposition or use of the device, will be admissible in a proceeding for a domestic violence offence. A court may also consider evidence of the imposition of a monitoring device condition, or the use of a monitoring device, and other evidence directly or indirectly derived from its use, in a

proceeding for a criminal offence if the court considers it is in the interests of justice to admit the evidence.

As electronic monitoring conditions will only be imposed by Magistrates Courts in two locations, respondents in those locations may be subject to indirect discriminatory treatment or effects.

### Information Sharing

Electronic monitoring allows prescribed government entities to collect and store data showing a person's habits and movements in their daily life. By continuously monitoring the person's location, the authorities can build up a picture of the person's religious, political, sexual, and other personal affiliations and associations. The ability to share that private information in accordance with a regulation prescribed under section 66F of the DFVP Act exacerbates that interference with privacy. Depending on the functionality of a safety device provided to another person (such as the aggrieved), the interference with privacy may be significant. The amendments will also engage an aggrieved person's right to privacy by interfering with their personal information.

The intention of the amendments is to ensure monitoring device condition information is shared and used with regard to the purpose of the pilot; that is, encouraging compliance with the conditions of a DVO and reducing the risk of further DFV.

The Amendment Regulation prescribes how information relating to a monitoring device or safety device may be shared and with whom (and the purpose which it can be shared), how the information will be recorded or stored, and the entity responsible for recording or storing the information.

Information sharing is enabled between prescribed entities and specialist DFV service providers. The Amendment Regulation also enables particular information to be provided to respondents, aggrieved persons and named persons as appropriate.

The purposes for sharing information include assessing and responding to a serious threat to the life, health or safety of the aggrieved or a named person because of domestic violence, performing a function necessary for the imposition of a monitoring device condition (including in compliance with a request from the chief executive for the DFVP Act), assisting or supporting a respondent, aggrieved or named person, and evaluating whether imposing monitoring device conditions on respondents has been effective in improving the safety, protection and wellbeing of people who fear or experience domestic violence.

### **Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**

Any limits on these human rights are considered reasonable and justified under section 13 of the Human Rights Act as follows.

#### Pilot Locations

- (a) the nature of the right

Recognition and equality before the law in section 15 of the Human Rights Act protects against discrimination in a range of circumstances. It provides that all people have the right to be protected from discrimination.

The Amendment Regulation limits this right as, by prescribing two court locations for the pilot to function in, only people living within the boundaries of these court locations will have access to or, be subject to monitoring device conditions.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The overall purpose of the pilot is to encourage compliance with the conditions of a DVO and reduce the risk of further DFV.

The purpose of limiting the number of court locations for the pilot is to allow a controlled implementation of the pilot with monitoring and evaluation.

Although constraining the pilot to Townsville and Caboolture Magistrates courts will limit the right to recognition and equality under the law for people living within those districts, the intended purpose of targeted implementation and evaluation of the pilot is a proper purpose.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitation on the right to recognition and equality before the law ensures that the pilot can be implemented in a targeted manner and, evaluated before any potential extension to further locations.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

The obvious alternative to limiting the pilot to two locations would be statewide rollout.

Limiting the pilot to Townsville and Caboolture will ensure implementation can occur in a controlled manner. This is intended to enable effective monitoring of the respondent and, will enable the respondent and aggrieved to access appropriate services to support the pilot.

If the pilot was rolled out statewide from the outset, commencement would be significantly delayed as appropriate training and resourcing would need to be deployed on a much larger scale. It is important that the pilot is operational as soon as possible to support the purpose of the DFVP Act, to encourage compliance with the conditions of a DVO and reduce the risk of further DFV. Limited rollout will also allow Government to monitor and evaluate the trial and ensure that any issues or concerns are addressed prior to consideration of any expansion of the pilot.

As the electronic monitoring provisions will expire 2 years after commencement (section 66H, DFVP Act), the continuance or expansion of the pilot will require a thorough and fulsome evaluation.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The amendments have the potential to limit the right to recognition and equality before the law. However, this limitation on human rights is mitigated by the safeguards identified above.

On the other side of the scales, the amendments are necessary to ensure the operation of the pilot. The pilot aims to reduce the risk of DFV from occurring against an aggrieved person and their children, by monitoring a respondent's compliance with the conditions of a DVO. This will promote the human rights of victims of DFV, including their rights to life (section 16), protection from cruel, inhuman or degrading treatment (section 17) and privacy (section 25 of the Human Rights Act).

On balance, I consider the importance of protecting potential victims from harm within the pilot locations outweighs the impacts on people who may not have access to or will be subject to monitoring device conditions.

To the extent that a person's right to recognition and equality before the law may be limited by the Amendment Regulation, the limitation is reasonable and justified.

### Information Sharing

(a) the nature of the right

The right to privacy in section 25 of the Human Rights Act protects personal information. The Amendment Regulation limits this right as it establishes a framework for collecting, handling and storing data related to respondents' daily lives. The amendments is likely to also limit an aggrieved person's right to privacy by interfering with their personal information.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Amendment Regulation allows for monitoring device condition information to be shared, enabling access to information when necessary for the performance of the pilot and protecting the privacy of a respondent, aggrieved or named person where possible.

The overall purpose of the pilot is to encourage compliance with the conditions of a DVO and reduce the risk of further DFV.

The intention of the amendments is to ensure monitoring device condition information is shared and used with regard to the purpose of the pilot.

The information sharing framework established by the Amendment Regulation will interfere with the private information of respondents and aggrieved persons by allowing authorities to accumulate data about their daily lives.

The interference with respondents' personal information is not arbitrary and seeks to protect individuals who may fear or experience DFV. Therefore, the purpose of the information sharing framework is a proper purpose to limit the right to privacy.

The interference with the aggrieved's personal information is not arbitrary as it is protective in nature and, necessary to facilitate the operation of the monitoring device condition and engagement with DFV service providers.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The information sharing framework established by the Amendment Regulation will achieve the purpose of enabling the performance of a function for the pilot to encourage compliance with the conditions of a DVO and reducing the risk of further DFV. This includes sharing of information such as contact details, DVO conditions or location data. By necessity, this will unavoidably impact upon a respondent and aggrieved's right to privacy.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

It will be an offence to use information relating to alerts or notifications from a monitoring device or safety device for a purpose other than the purpose for which the information was obtained unless authorised or permitted under an Act (section 66F(2) DFVP Act).

Setting out the requirements for sharing, recording and storing information in the DFVP Act rather than in regulation was considered. It was determined this would not provide the necessary flexibility to adapt the requirements as the pilot proceeds.

As the views and wishes of the aggrieved must be taken into account by a court considering a monitoring device condition and, the consent of the aggrieved will be required prior to the issue of a safety device, the limitation on the aggrieved privacy is minimised.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The amendments have the potential to impose limits on a respondent's right to privacy. The amendments could also limit an aggrieved person's right to privacy. However, those limitations are mitigated by the safeguards identified above.

The amendments are necessary to ensure the operation of the pilot. The pilot aims to reduce the risk of domestic violence from occurring against an aggrieved person and their children, by monitoring a respondent's compliance with the conditions of a DVO. The provision of a safety device to an aggrieved will support their protection and complement their safety planning. These measures will promote the human rights of victims of DFV, including their rights to life (section 16), protection from cruel, inhuman or degrading treatment (section 17) and privacy (section 25 of the Human Rights Act).

On balance, I consider the importance of protecting victim-survivors from harm outweighs the impacts on respondents subject to a monitoring device conditions and the associated impacts on the privacy of victim-survivors.

To the extent that a person's right to right to privacy may be limited by the Amendment Regulation, the limitation is reasonable and justified.

(f) any other relevant factors

Nil.



## Conclusion

I consider that the *Domestic and Family Violence Protection and Other Legislation Amendment Regulation 2025* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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