

Water Amendment Regulation (No. 2) 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*, I, Ann Leahy MP, Minister for Local Government and Water and Minister for Fire, Disaster Recovery and Volunteers provide this human rights certificate with respect to the *Water Amendment Regulation (No. 2) 2025* (Amendment Regulation) made under the *Water Act 2000* (Water 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* (HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The objective of the Amendment Regulation is to amend the *Water Regulation 2016* (Water Regulation) to:

- Extend the timeframe defined in Schedule 11 for the holders of a relevant authorisations within six water management areas in two Queensland Murray-Darling Basin water plan areas to comply with their obligations to attach a telemetry device to works that are used to take water.
- Amend certified meter installation and revalidation dates in the Barron, Burdekin and Whitsunday water plan areas. This is required to align requirements across subcatchment areas, with the intended 5-year certification cycle, and the timing for water planning processes that are currently underway. This supports the Government Election Commitments including the development of a water security plan for the entire State, including an analysis of all 23 regional water plans in this term of Government, with a focus on affordability for the end user.
- Dissolve the Fernlee Water Authority (FWA), a category 2 water authority, and provide for its conversion to three closed water activity agreements.

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 right under the HR Act that may be relevant to the Amendment Regulation is property rights (section 24 of the HR Act), which provides that a person must not be arbitrarily deprived of the person's property.

Measurement device requirements

The holders of relevant authorisations that are prescribed in Schedule 11 are already subject to measurement requirements. These are regulatory requirements which may limit property rights because it is an offence to take water under a relevant authorisation through works without the required certified measurement devices attached. The purpose of the Amendment Regulation is to extend the timeframe to comply with the measurement requirements, this will afford the holder of a relevant authorisation more time to comply.

Water authority dissolution and conversion

Only individuals have property rights. Non-human entities, such as the FWA, do not have human rights. The amendment to provide for the dissolution and conversion of FWA is administrative in nature. The conversion has been driven by the board, and ratepayers in the authority area have been balloted and the majority voted in favour. It is my opinion that this matter does not raise any human rights issues.

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

(a) the nature of the right

Section 24 of the HR Act provides that all persons have the right to own property alone or in association with others and that a person must not be arbitrarily deprived of the person's property.

Property is likely to include all real and personal property interests recognised under the general law and may include statutory rights. The Water Act provides a framework for the sustainable management of Queensland's water resources by establishing a system for the planning, allocation and use of water. Under this framework the State may authorise a person to take water via various authorisations issued under the Water Act, including through water licences and water allocations. An authorisation is considered property for the purposes of the HR Act.

(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 property right includes protection from the deprivation of property. Deprivation in this sense is considered to include the substantial restriction on a person's ability to use or enjoy their property or part of their property.

The Amendment Regulation proposes to defer compliance requirements for measurement devices in specific water management areas. This will give holders of a relevant authorisation additional time to achieve compliance and so does not limit property rights.

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

The Queensland Non-urban Measurement Policy 2022 was implemented with amendments to the Water Act receiving royal assent on 20 September 2023. The Water Act provides that a regulation may prescribe measurement requirements that apply to relevant authorisations. The amendment of the Water Regulation is required to address operational business needs to support existing compliance activities.

The amendments are intended to support ongoing implementation of the existing measurement framework and provide consistency in compliance timeframes, providing more time for a holder of a relevant authorisation to comply with measurement requirements. The proposed amendment does not limit property rights.

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

There is no less restrictive way to ensure the accurate measurement of water taken under a water authorisation.

(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 Amendment Regulation proposes to extend the compliance timeframe for holders of a relevant authorisation that are currently subject to measurement requirements.

Measurement requirements support the objectives of the Queensland Non-urban Measurement Policy and the relevant water plan outcomes. This will ultimately benefit all individual's property rights (water rights) by continuing to provide long-term protection and sustainability of water entitlements. The responsibility of complying with the measurement requirements is balanced with the benefit of maintaining security of water rights and equitable access to water, including for other water authorisation holders.

Conclusion

I consider that the Amendment Regulation 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.

Ann Leahy MP
Minister for Local Government and Water
and Minister for Fire, Disaster Recovery and Volunteers