

Education, Employment and Small Business Committee

Report No. 38, 56th Parliament

Subordinate legislation tabled between 17 June 2020 and 15 July 2020

1 Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 17 June 2020 and 15 July 2020. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).¹

The report identifies any issues identified by the committee in its consideration of the human rights certificates tabled with the subordinate legislation.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
104	Education Legislation (COVID-19 Emergency Response) Regulation 2020	1 July 2020	To be advised
91	Education (Accreditation of Non-State Schools) (National Declaration) Amendment Regulation 2020	14 July 2020	To be advised
128	Proclamation No. 1— <i>Community Services Industry (Portable Long Service Leave) Act 2020</i> (commencing certain provisions)	14 July 2020	To be advised
129	Further Education and Training (Fees) Amendment Regulation 2020	14 July 2020	To be advised
132	Work Health and Safety (Codes of Practice) (Stone Benchtop Industry and Coal-fired Power Stations) Amendment Notice 2020	15 July 2020	To be advised

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

3 Committee consideration of the subordinate legislation

No significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified.

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

The committee considered some potential FLP concerns raised by SL No. 104 of 2020 and SL No. 91 of 2020, which are discussed below. In each instance, however, the committee was satisfied that any breach of fundamental legislative principle is sufficiently justified.

The committee considers explanatory notes tabled with the subordinate legislation comply with the requirements of s 24 of the LSA, with the exception of one error made in SL No. 104 of 2020, as outlined below.

The committee considers that the subordinate legislation raises no human rights issues. The human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.³

4 SL No. 104 – Education Legislation (COVID-19 Emergency Response) Regulation 2020

Background – regulations made in reliance on the *COVID-19 Emergency Response Act 2020*

SL No. 104 – Education Legislation (COVID-19 Emergency Response) Regulation 2020 (the Education Legislation Regulation) is made in reliance, in part, on s 8 and s 13 of the *COVID-19 Emergency Response Act 2020* (Emergency Response Act).⁴ That Act contains a range of regulation-making powers to deal with matters arising from the COVID-19 public health emergency. In broad terms, s 8 (in part) provides an additional regulation-making power in relation to requirements or permissions under an Act for a person to physically attend a place or meeting, or for an entity to call or hold a meeting, for a particular purpose or a particular matter. Such a regulation can have retrospective effect to not earlier than 19 March 2020.⁵

Section 13 of the Emergency Response Act provides an additional regulation-making power for the modification by regulation of statutory time limits (such as a period within which an entity is authorised to do a thing or a period at the end of which a thing expires) in certain circumstances. Such a regulation can:

- extend a period up to 31 December 2020⁶
- have retrospective effect to not earlier than 19 March 2020.⁷

A regulation made in reliance on those sections is an ‘extraordinary regulation’ and an Act to which an extraordinary regulation applies is an ‘affected Act’.⁸

In relation to an extraordinary regulation:

- a Minister administering an affected Act may recommend to the Governor in Council the making of an extraordinary regulation only if the Minister is satisfied the regulation is necessary for a purpose of the Emergency Response Act
- an extraordinary regulation may be inconsistent with the affected Act, and any other Act (other than the *Human Rights Act 2019*), to the extent necessary to achieve a purpose of the Emergency Response Act
- to the extent a person’s act or omission complies with an extraordinary regulation made under an affected Act, the person does not incur civil or criminal liability under the affected Act for the act or omission

³ *Human Rights Act 2019*, s 41.

⁴ See the declaration in s 4 of the regulation.

⁵ *COVID-19 Emergency Response Act 2020*, s 8(4).

⁶ *COVID-19 Emergency Response Act 2020*, s 13(4).

⁷ *COVID-19 Emergency Response Act 2020*, s 13(5).

⁸ See *COVID-19 Emergency Response Act 2020*, s 5(1)-(3).

- a regulation must declare it is made under the relevant additional regulation-making provision
- an additional regulation-making provision does not limit any other regulation-making power conferred under an affected Act.⁹

An extraordinary regulation must be tabled within 14 days of notification (rather than the usual 14 sitting days).¹⁰

The Education Legislation Regulation was notified on 26 June 2020 and tabled on 1 July 2020.

Section 4 declares that the Education Legislation Regulation is made under s 8 and s 13 of the Emergency Response Act. The Education Legislation Regulation expires on 31 December 2020.¹¹

Objectives

According to the explanatory notes, the purpose of the Education Legislation Regulation is to modify legislative requirements to address education portfolio related issues that have arisen as a consequence of the COVID-19 emergency and the associated social restrictions under the authority of the Emergency Response Act.¹²

The objectives of Education Legislation Regulation are to:

- enable attendance at meetings during investigations under the *Education (Queensland College of Teachers) Act 2005*
- clarify that Parents and Citizens' Association (P&C) meetings can be held via communication technology
- enable the chief executive to extend when things must be done by and when things expire under the *Education (General Provisions) Act 2006* (EGP Act) and *Education (General Provisions) Regulation 2017* (EGP Regulation)—in some situations, this power will be able to be applied retrospectively
- enable the Non-State School Accreditation Board (Board) to extend when things must be done by and when things expire under the *Education (Accreditation of Non-State Schools) Act 2017* and *Education (Accreditation on Non-State Schools) Regulation 2017* (EANSS Regulation)
- amend the *Education (Queensland Curriculum and Assessment Authority) Regulation 2014* (QCAA Regulation) and *Education (Overseas Student) Regulation 2018* (EOS Regulation) to allow fees to be waived or reduced by the Queensland Curriculum and Assessment Authority or chief executive respectively under exceptional circumstances such as the COVID-19 emergency or a natural disaster.¹³

4.1 Fundamental legislative principle issues

The committee identified potential FLP issues relating to the subordinate legislation's:

- regard for the institution of parliament in providing for the amendment of principal legislation by subordinate legislation
- imposition of obligations retrospectively.

The committee's consideration of these issues is set out below.

⁹ See generally *COVID-19 Emergency Response Act 2020*, s 5(4)-(8), and s 4.

¹⁰ See *COVID-19 Emergency Response Act 2020*, s 5(9), and contrast s 49(1) of the *Statutory Instruments Act 1992*.

¹¹ SL No. 104 of 2020, s 14.

¹² SL No. 104 of 2020, explanatory notes, p 2.

¹³ SL No. 104 of 2020, explanatory notes, pp 5-6.

4.1.1 Sufficient regard for the institution of parliament

Whether subordinate legislation has sufficient regard to the institution of Parliament depends on whether, for example, the subordinate legislation:

- contains only matter appropriate to subordinate legislation¹⁴
- amends statutory instruments only.¹⁵

The Education Legislation Regulation provides broad powers for the chief executive and the Board to, in special circumstances related to the COVID-19 emergency, extend legislated timelines for a variety of actions under the Acts and associated regulations.

The regulation makes provision for the chief executive to, in special circumstances such as the COVID-19 emergency or a natural disaster, waive or reduce prescribed fees.

In modifying provisions in an Act, the regulation breaches the fundamental legislative principles that whether subordinate legislation has sufficient regard to the institution of Parliament depends on whether, for example, the subordinate legislation contains only matters appropriate to subordinate legislation and amends statutory instruments only.¹⁶

The principle of Parliamentary law-making that an Act should only be amended by another Act of Parliament has long been recognised. Former committees have noted that a subordinate instrument that amends an Act is inconsistent with the fundamental legislative principle requiring that subordinate legislative has sufficient regard to the institution of Parliament.¹⁷

The Education Legislation Regulation is made in reliance in part, on s 8 and s 13 of the recently passed Emergency Response Act. The provisions are consistent with s 8(3)(a) and s 13, which respectively contemplate regulations providing for attendance at meetings by other than physical attendance and regulations modifying statutory time limits within primary legislation, through an 'extraordinary regulation' such as these provisions.

The explanatory notes refer in error to the wrong provision of the LSA in discussing issues of fundamental legislative principle, referencing s 4(4), which relates only to Bills.¹⁸ However, this statement in the explanatory notes is relevant:

*The use of secondary instruments to implement the modification framework represents a potential departure [from fundamental legislative principles]... However, the new provisions are consistent with the modification framework established by the [Emergency Response Act] which enables various Acts to be amended by subordinate legislation (such as a regulation), should that be required for a temporary period during the COVID-19 emergency.*¹⁹

In relation to the extension of timelines, the explanatory notes state:

The proposed new provisions limit the ability to make an extension or variation to the chief executive (or an appropriately qualified officer delegated by the chief executive) or the Board. They would allow an appropriate level of temporary flexibility in the legislation during the COVID-19 emergency. The provisions ensure that regulations and others subject to legislative

¹⁴ Legislative Standards Act 1992, s 4(5)(c).

¹⁵ Legislative Standards Act 1992, s 4(5)(d).

¹⁶ Legislative Standards Act 1992, ss 4(5)(c) and 4(5)(d).

¹⁷ See the discussion in the Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: the OQPC Notebook*, p 167, where it is noted that the former Scrutiny of Legislation Committee consistently expressed the view that a subordinate instrument that amends an Act, whether it be the body of the Act or a schedule to the Act, is inconsistent with the fundamental legislative principle requiring that subordinate legislation has sufficient regard to the institution of Parliament.

¹⁸ SL No. 104 of 2020, explanatory notes, p 8, second heading in bold.

¹⁹ SL No. 104 of 2020, explanatory notes, p 8.

requirements (such as P&Cs and non-state school) can continue meeting their statutory obligations during the COVID-19 emergency, without risking the health and safety of people.²⁰

In relation to the power to waive or reduce fees, the explanatory notes state:

The amendments are justified given the major financial impact that the COVID-19 emergency or other potential future emergency events may impose on Queenslanders and their economic circumstances, and the need to ensure there is an appropriate and flexible mechanism for the waiver or reduction of fees when such emergencies occur. The limitations on when the power to waive or reduce fees (only in exceptional circumstances such as the COVID-19 emergency or major natural disasters) can be used and who can use it (the chief executive under the EOS Act and QCAA under the QCAA Act) also ensure that the power will not be applied inappropriately.²¹

Further to this, the explanatory notes state:

Given potential future health emergencies or natural disasters and their duration are difficult to predict, there is a need for flexibility as to how these fees can be waived or reduced to make them administratively effective. For this reason, the authority to waive or reduce fees is required to be provided to the chief executive under the EOS Act, and the Queensland Curriculum and Assessment Authority (QCAA) under the QCAA Act. This will allow the chief executive and QCAA respectively to waive or reduce fees when necessary and for a period appropriate to the emergency.²²

Committee comment

The committee is satisfied that the breach of fundamental legislative principle is justified, given the circumstances and the objectives of the regulation.

4.1.2 Sufficient regard to rights and liberties of individuals

The LSA provides that legislation should not adversely affect rights and liberties or impose obligations retrospectively.²³ The retrospective operation of modifications to time periods in the Education Legislation Regulation could be seen to be a breach of this fundamental legislative principle.

The Emergency Response Act provides the power to modify timeframes with a retrospective effect from 19 March 2020. The Education Legislation Regulation provides power for the chief executive to extend when a P&C's Annual General Meeting (AGM) must be conducted and when P&Cs must provide audited accounts to the chief executive, to 31 December 2020.

The explanatory notes provide the following justification for the retrospective action:

The power for the chief executive to extend when a P&C's AGM must be conducted and when P&Cs must provide audited accounts to the chief executive have retrospective application in the Regulation. The EGP Regulation, under the authority of the EGP Act, requires that the AGM must be held by 31 March; however, the ER Act only came into effect on 23 April 2020. The social distancing measures came into full effect on 19 March 2020, with issues relating to COVID-19 arising earlier. Therefore, a significant number of P&Cs have not been able to hold their AGM as required under the EGP Regulation and the retrospective operation of the extension will allow these P&Cs to comply with the legislation.²⁴

²⁰ SL No. 104 of 2020, explanatory notes, p 7.

²¹ SL No. 104 of 2020, explanatory notes, pp 7-8.

²² SL No. 104 of 2020, explanatory notes, p 5.

²³ *Legislative Standards Act 1992*, s 4(3)(g).

²⁴ SL No. 104 of 2020, explanatory notes, p 8.

Committee comment

The committee noted that the retrospective application has a beneficial rather than adverse effect. The committee is satisfied that any breach of fundamental legislative principle is sufficiently justified.

4.2 Explanatory notes

As noted above, the explanatory notes refer in error to the wrong provision of the LSA in discussing issues of fundamental legislative principle (referencing s 4(4), which relates only to Bills).

The explanatory notes otherwise comply with part 4 of the LSA.

4.3 Human rights considerations

Section 8 of the *Human Rights Act 2019* (HRA) provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

*In my opinion, the Regulation is compatible with the human rights protected by the HR Act.*²⁵

The committee considers that the subordinate legislation is compatible with human rights.

4.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

5 SL No. 91 – Education (Accreditation of Non-State Schools) (National Declaration) Amendment Regulation 2020

The Education (Accreditation of Non-State Schools) Regulation 2017 (EANSS Regulation) prescribes matters under the *Education (Accreditation of Non-State Schools) Act 2017* to uphold standards of and maintain public confidence in Queensland's non-State schools, including prescribing accreditation criteria to ensure that non-State schools provide a quality education program.²⁶

On 12 December 2019, the Council of Australian Governments' Education Council endorsed the *Alice Springs (Mparntwe) Education Declaration* (Mparntwe Declaration) which replaces the former *Melbourne Declaration on Education Goals for Young Australians* (Melbourne Declaration). The explanatory notes state:

*The key changes between the Melbourne Declaration and Mparntwe Declaration include a greater emphasis on early learning, the individual needs of all learners, and the importance of students having a voice in their education. The Mparntwe Declaration specifically focuses on the wellbeing of young people, including mental health and resilience.*²⁷

²⁵ SL No. 104 of 2020, human rights certificate, p 1.

²⁶ Education (Accreditation of Non-State Schools) Regulation 2017.

²⁷ SL No. 91 of 2020, explanatory notes, p 2.

The objective of SL No. 91 – Education (Accreditation of Non-State Schools) (National Declaration) Amendment Regulation 2020 (EANSS Amendment Regulation) is to amend the EANSS Regulation to replace references to the Melbourne Declaration with references to the Mparntwe Declaration.

The changes relate to the requirements for non-State schools to have:

- a written educational program that meets the requirements in s 9(1) of the EANSS Regulation, including being consistent with the Mparntwe Declaration
- a written statement of philosophy and aims that meets the requirements in s 10 of the EANSS Regulation, including being consistent with the Mparntwe Declaration.

5.1 Fundamental legislative principle issues

5.1.1 Sufficient regard for the institution of parliament – subdelegation of power

Whether subordinate legislation has sufficient regard to the institution of Parliament depends on whether the subordinate legislation allows the sub-delegation of a power delegated by an Act only:

- if authorised by an Act, and
- in appropriate cases and to appropriate persons.²⁸

Part of the rationale for this is to ensure sufficient parliamentary scrutiny of a delegated legislative power.²⁹

The significance of dealing with such matters other than by subordinate legislation is that, since the relevant document is not ‘subordinate legislation’, it is not subject to the tabling and disallowance provisions in Part 6 of the *Statutory Instruments Act 1992*.

Where there is, incorporated into the legislative framework of the State, an extrinsic document (such as the declaration) that is not reproduced in full in subordinate legislation, and where changes to that document can be made without the content of those changes coming to the attention of the House, it may be argued that the document (and the process by which it is incorporated into the legislative framework) has insufficient regard to the institution of Parliament.

Currently, the declaration is not contained in the subordinate legislation in its entirety, and as such its content does not come to the attention of the House.

Committee comment

The committee notes that the declaration includes detailed information and is 24 pages long. The committee considers it is appropriate for practical reasons for such detailed matters to be set out in a document other than subordinate legislation.

The committee is satisfied that the regulation has sufficient regard to the institution of Parliament.

5.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

5.3 Human rights considerations

Section 8 of the HRA provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and

²⁸ *Legislative Standards Act 1992*, s 4(5)(e).

²⁹ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: the OQPC Notebook*, p 170.

freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

*I consider that the Amendment Regulation is compatible with the HR Act because it does not raise a human rights issue, but supports and strengthens existing human rights protected under the HR Act.*³⁰

The committee considers that the subordinate legislation raises no human rights issues.

5.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

6 SL No. 128 – Proclamation No. 1—Community Services Industry (Portable Long Service Leave) Act 2020 (commencing certain provisions)

SL No. 128 – Proclamation No. 1—*Community Services Industry (Portable Long Service Leave) Act 2020* (commencing certain provisions) commences provisions of the *Community Services Industry (Portable Long Service Leave) Act 2020* which relate to the *Youth Justice Act 1992* and the *Bail Act 1980*.³¹ According to the explanatory notes, the *Community Services Industry (Portable Long Service Leave) Act 2020* amends the *Youth Justice Act 1992* to ‘streamline the bail decision-making process, with increased clarity that community safety is a paramount consideration’.³²

The proclamation fixes 15 July 2020 as the commencement date for Part 13, Divisions 1A and 8 of the *Community Services Industry (Portable Long Service Leave) Act 2020*.

6.1 Fundamental legislative principle issues

The committee identified no issues regarding the subordinate legislation’s consistency with fundamental legislative principles or its lawfulness.

6.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

6.3 Human rights considerations

Section 8 of the HRA provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

³⁰ SL No. 91 of 2020, human rights certificate, p 2.

³¹ SL No. 128 of 2020, explanatory notes, p 1.

³² SL No. 128 of 2020, explanatory notes, p 1.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

*I consider that the Proclamation is compatible with the Human Rights Act 2019 because it does not raise any human rights issues.*³³

The committee considers that the subordinate legislation raises no human rights issues.

6.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

7 SL No. 129 – Further Education and Training (Fees) Amendment Regulation 2020

According to the explanatory notes, regulatory fees levied by the Department of Employment, Small Business and Training are subject to annual review required under government policy and then indexed by the approved government indexation factor, which is 1.8 per cent for 2020-21.³⁴

The objective of SL No. 129 – Further Education and Training (Fees) Amendment Regulation 2020 is to increase the fees prescribed in the Further Education and Training Regulation 2014, in line with the government policy on the indexation of fees and charges.³⁵

7.1 Fundamental legislative principle issues

The committee identified no issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness.

7.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

7.3 Human rights considerations

Section 8 of the HRA provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s13 of that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

*I consider that the Further Education and Training (Fees) Amendment Regulation 2020 is compatible with the Human Rights Act 2019 because it does not raise a human rights issue.*³⁶

The committee considers that the subordinate legislation raises no human rights issues.

7.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

³³ SL No. 128 of 2020, human rights certificate, p 2.

³⁴ SL No. 129 of 2020, explanatory notes, p 1.

³⁵ SL No. 129 of 2020, explanatory notes, p 1.

³⁶ SL No. 129 of 2020, human rights certificate, p 2.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

8 SL No. 132 – Work Health and Safety (Codes of Practice) (Stone Benchtop Industry and Coal-fired Power Stations) Amendment Notice 2020

Under s 274 of the *Work Health and Safety Act 2011*, the Minister has the power to approve, revoke or vary a code of practice.³⁷

The Work Health and Safety (Codes of Practice) (Stone Benchtop Industry and Coal-fired Power Stations) Amendment Notice 2020 varies the following codes of practice from 1 July 2020:

- the Managing respirable crystalline silica dust exposure in the stone benchtop industry Code of Practice 2019
- the Managing respirable dust hazards in coal-fired power stations Code of Practice 2018.

The variations update the existing references to the national workplace exposure standard for respirable crystalline silica to reflect the revised standard of 0.05mg/m³.

The explanatory notes state:

On 31 October 2019, the Chair of Safe Work Australia (SWA) advised Work Health and Safety (WHS) ministers that a majority decision had been reached to halve the national workplace exposure standard for respirable crystalline silica, reducing it from a time-weighted-average (TWA) of 0.1 milligrams per cubic metre (mg/m³) to a TWA of 0.05mg/m³.

*Given the increase in the number of workers diagnosed with silicosis, it was Queensland's position that the reduction should be implemented with immediate effect.*³⁸

A commencement date of 1 July 2020 was nominated for the revised standard for workplaces covered by Queensland's work health and safety legislative framework.³⁹

8.1 Fundamental legislative principle issues

The committee identified no issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness.

8.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

8.3 Human rights considerations

Section 8 of the HRA provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

³⁷ SL No. 132 of 2020, explanatory notes, p 1.

³⁸ SL No. 132 of 2020, explanatory notes, p 1.

³⁹ SL No. 132 of 2020, explanatory notes, p 1.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

*I consider that the Work Health and Safety (Codes of Practice) (Stone Benchtop Industry and Coal-fired Power Stations) Amendment Notice 2020 is compatible with the Human Rights Act 2019 because it does not raise any human rights issues.*⁴⁰

The committee considers that the subordinate legislation raises no human rights issues.

8.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

9 Recommendation

The committee recommends that the House notes this report.



Leanne Linard MP

Chair

September 2020

Education, Employment and Small Business Committee

Chair	Ms Leanne Linard MP, Member for Nudgee, Chair
Deputy Chair	Mr Jim McDonald MP, Member for Lockyer, Deputy Chair
Members	Mr Bruce Saunders MP, Member for Maryborough
	Mrs Simone Wilson MP, Member for Pumicestone
	Mr Michael Healy MP, Member for Cairns
	Mr Nick Dametto MP, Member for Hinchinbrook

⁴⁰ SL No. 132 of 2020, human rights certificate, p 2.