

Legal Affairs and Safety Committee

Report No. 62, 57th Parliament

Subordinate legislation tabled between
25 October 2023 and 14 November 2023

1 Aim of this report

This report summarises the Legal Affairs and Safety Committee's (committee) findings following its examination of the subordinate legislation within its portfolio areas tabled between 25 October 2023 and 14 November 2023. 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 also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificates tabled with the subordinate legislation.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
153	Proclamation No. 1—Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Act 2023	14 November 2023	21 March 2024
155	Recording of Evidence Amendment Regulation (No. 2) 2023	14 November 2023	21 March 2024

*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



The committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, human rights compatibility or lawfulness of the subordinate legislation.

The committee considers that:

- the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA
- the human rights certificates tabled with the subordinate legislation, where relevant, provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

¹ LSA, Part 4.

² HRA, section 41.

The following sections provide a brief overview of the subordinate legislation.

4 Proclamation No. 1—Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Act 2023

4.1 Policy objective

The objective of Proclamation No. 1—Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Act 2023 (SL No. 153) is to fix 27 October 2023 as the commencement date for Part 3A of the *Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Act 2023* (the Amendment Act).³

Part 3A of the Amendment Act validates the appointment of the Inspector of Detention Services⁴ during the period from 9 December 2022 to 28 September 2023.⁵

5 Recording of Evidence Amendment Regulation (No. 2) 2023

5.1 Policy objective

The Recording of Evidence Amendment Regulation (No. 2) 2023 (SL No. 155) supports the introduction of a new statutory framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions of the proceedings of these tribunals.⁶

The *Recording of Evidence Act 1962* (Recording of Evidence Act) requires the recording of all relevant matters given in legal proceedings heard in a Queensland court or tribunal.

The *Health and Other Legislation Amendment Act 2023* amended the Recording of Evidence Act to establish a statutory framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions of the proceedings that is more appropriately suited to the operational requirements of smaller tribunals. The new statutory framework provides that these tribunals are to be prescribed by regulation, together with the judicial officer responsible for providing access to records under the new framework.⁷

Accordingly, SL No. 155:

- prescribes the Mental Health Review Tribunal as a prescribed tribunal
- prescribes the President of the Mental Health Review Tribunal as a prescribed judicial officer
- provides that no fees apply to the provision of copies of records and transcriptions of proceedings before the Mental Health Review Tribunal.⁸

³ Section 2 of the Amendment Act provides for commencement to be fixed by Proclamation; SL No. 153, explanatory notes, p 1.

⁴ Under the *Ombudsman Act 2001*.

⁵ SL No. 153, explanatory notes, p 1.

⁶ SL No. 155, explanatory notes, p 2.

⁷ SL No. 155, explanatory notes, pp 1-2.

⁸ SL No. 155, explanatory notes, p 1.

6 Recommendation

The committee recommends that the House notes this report.



Peter Russo MP

Chair

December 2023

Legal Affairs and Safety Committee

Chair

Deputy Chair

Members

Mr Peter Russo MP, Member for Toohey

Mrs Laura Gerber MP, Member for Currumbin

Mr Stephen Andrew MP, Member for Mirani

Ms Jonty Bush MP, Member for Cooper

Mr Jason Hunt MP, Member for Caloundra

Mr Jon Krause MP, Member for Scenic Rim