



QUEENSLAND PARLIAMENT COMMITTEES

Housing, Big Build and Manufacturing Committee

Report No. 22, 57th Parliament

Subordinate legislation tabled between 22 May 2024 and 20 August 2024

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 22 May 2024 and 20 August 2024. 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
71	Retirement Villages (Financial documents) Amendment Regulation 2024	20 August 2024	To be advised
74	Workers' Compensation and Rehabilitation (QOTE) Notice 2024	20 August 2024	To be advised
75	Local Government Legislation (Superannuation) Amendment Regulation 2024	20 August 2024	To be advised
79	State Development and Public Works Organisation (CopperString 2032 – Workers Accommodation Camps) Amendment Regulation 2024	20 August 2024	To be advised
84	Proclamation made under the <i>Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024</i>	20 August 2024	To be advised
85	Building Industry Fairness (Security of Payment) and Other Legislation Amendment Regulation 2024	20 August 2024	To be advised
99	Safety in Recreational Water Activities (Code of Practice) Amendment Notice 2024	20 August 2024	To be advised
100	Safety in Recreational Water Activities Regulation 2024	20 August 2024	To be advised
101	Work Health and Safety (Engineered Stone) Amendment Regulation 2024	20 August 2024	To be advised

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

Subordinate legislation tabled between 22 May 2024 and 20 August 2024

107	Planning (Prescribed Amounts) Amendment Regulation 2024	20 August 2024	To be advised
115	State Development and Public Works Organisation (Construction and Commissioning of Toowoomba to Warwick Water Pipeline) Amendment Regulation 2024	20 August 2024	To be advised
116	Water Plan (Georgina and Diamantina) (Postponement of Expiry) Notice	20 August 2024	To be advised
118	Proclamation made under the <i>Work Health and Safety and Other Legislation Amendment Act 2024</i>	20 August 2024	To be advised
120	Proclamation made under the <i>Water Legislation Amendment Act 2023</i>	20 August 2024	To be advised
121	Water and Other Legislation Amendment Regulation 2024	20 August 2024	To be advised
123	Planning and Other Legislation Amendment Regulation 2024	20 August 2024	To be advised
124	Proclamation made under the <i>Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024</i>	20 August 2024	To be advised
125	Brisbane Olympic and Paralympic Games Arrangements Regulation 2024	20 August 2024	To be advised
128	Work Health and Safety and Other Legislation Amendment Regulation 2024	20 August 2024	To be advised
137	Regional Planning Interests (Lake Eyre Basin) Amendment Regulation 2024	20 August 2024	To be advised
138	Economic Development and Other Legislation (Waraba PDA) Amendment Regulation 2024	20 August 2024	To be advised
156	Electrical Safety (Codes of Practice) Notice 2024	20 August 2024	To be advised
157	Work Health and Safety (Codes of Practice) Amendment Notice 2024	20 August 2024	To be advised
158	Proclamation made under the <i>Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024</i>	20 August 2024	To be advised
159	Residential Tenancies and Rooming Accommodation (Transitional) Regulation 2024	20 August 2024	To be advised
160	Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Regulation 2024	20 August 2024	To be advised

* The disallowance date is 14 sitting days after the tabling date. Disallowance dates are based on proposed sitting dates as advised by the Leader of the House at the time the committee adopts its report. The dissolution date can be calculated once sitting dates for the 58th Parliament are advised by the Leader of the House.

3. Committee consideration of the subordinate legislation

The committee did not identify any significant issues regarding the policies to be given effect, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the *Human Rights Act 2019*.

The committee is largely satisfied that all explanatory notes tabled with the subordinate legislation examined in this report comply with the requirements of section 24 of the *Legislative Standards Act 1992*. The committee did however identify a number of instances where explanatory notes did not include a brief outline of the results of consultation undertaken, or changes made to the subordinate legislation as a result of that consultation, as required by sections 24(2)(a)(ii) and (iii) of the *Legislative Standards Act 1992*. The committee will provide a copy of this report to the relevant Departments to ensure obligations under the Act are fully understood and complied with.

The committee is also satisfied that all human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the *Human Rights Act 2019*.

The sections below provide an overview of the subordinate legislation, a summary of consultation activities undertaken in developing the subordinate legislation and any fundamental legislative principle or human rights issues considered by the committee during its examination.

4. Retirement Villages (Financial Documents) Amendment Regulation 2024

4.1 Overview

The primary objective of the Retirement Villages (Financial Documents) Amendment Regulation 2024 (SL No. 71) is to amend the Retirement Villages Regulation 2018 (RV Regulation) to prescribe requirements to improve the transparency, accountability, and consistency of financial reporting by retirement village scheme operators.³

SL No. 71 prescribes the form and content requirements for matters that must be included by retirement village scheme operators in fund budgets and quarterly statements, audited annual financial statements and audit reports, and independent quantity surveyor reports. SL No. 71 also prescribe the village quantity surveyor report (which is used by the operator to identify expected capital replacement, maintenance and repair costs for the village) as an operational document.⁴

The explanatory notes state that these amendments will ‘give village residents and prospective residents a clearer line of sight and scrutiny over how residents’ finances are allocated and spent on services and village operations.’⁵ The notes also state that implementation of the regulation will be supported through departmental guidance materials and non-mandatory templates which may assist smaller and stand-alone operators.⁶

4.2 Consultation

The explanatory notes set out a comprehensive consultation process in relation to SL No. 71 including:

- consultation over several years with residents, seniors, industry/operators, and legal stakeholder groups, through the Housing Legislation Consultative Group (Consultative Group), on how to improve financial reporting in residential villages
- consultation undertaken in 2019 by an independent financial services and accounting firm on improved, standardised financial reporting for retirement villages and the potential impacts for resident and operators

³ SL No. 71, explanatory notes, p 1.

⁴ SL No. 71, explanatory notes, p 2.

⁵ SL No. 71, explanatory notes, p 4.

⁶ SL No. 71, explanatory notes, p 3.

- consideration of a Consultation Draft Amendment Regulation in 2023 by the Consultative Group and the Australian Institute of Quantity Surveyors, as well as consultation meetings and written submissions from stakeholders.⁷

The explanatory notes state that resident and legal stakeholders supported the proposed regulation, and industry stakeholders and operators expressed some reservations about the implementation period and potential increases to administrative workload. The explanatory notes state that SL No. 71 was refined to minimise possible compliance costs for operators.⁸

4.3 Consistency with fundamental legislative principles

Fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. These principles include requiring that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament as contained in the *Legislative Standards Act 1992* (LSA) s 4.

No issues of fundamental legislative principle were identified with SL No. 71.

4.4 Compatibility with human rights

Section 8 of the *Human Rights Act 2019* (HRA) provides that a statutory provision is compatible with human rights if the provision 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 the HRA. Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

As outlined in the human rights certificate, the responsible Minister considers that SL No. 71 is compatible with the HRA because it does not limit human rights.⁹ No human rights issues were identified by the committee.

5. Workers' Compensation and Rehabilitation (QOTE) Notice 2024

5.1 Overview

Under the *Workers' Compensation and Rehabilitation Act 2003*, the Workers' Compensation Regulator must notify the Queensland Ordinary Time Earnings (QOTE) figures for the financial year and the percentage difference in QOTE compared to the previous financial year.¹⁰ The purpose is 'to ensure workers' compensation entitlements are indexed to ensure their relative value over time.'¹¹

5.2 Consultation

The explanatory notes state that 'WorkCover Queensland, self-insurers and legal stakeholders have been advised of the pending increase to QOTE and the Notice'.¹²

5.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 74.

⁷ SL No. 71, explanatory notes, pp 5-6.

⁸ SL No. 71, explanatory notes, p 6.

⁹ SL No. 71, human rights certificate, pp 2-3.

¹⁰ SL No. 74, explanatory notes, p 1; QOTE is the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the publication *Average Weekly Earnings, Australia* most recently published before the start of the financial year.

¹¹ SL No. 74, explanatory notes, p 1.

¹² SL No. 74, explanatory notes, p 2.

5.4 Compatibility with human rights

As outlined in the human rights certificate, the responsible Minister considers that SL No. 74 is compatible with the HRA because it does not raise a human rights issue.¹³ No human rights issues were identified by the committee.

6. Local Government Legislation (Superannuation) Amendment Regulation 2024

6.1 Overview

The Local Government Legislation (Superannuation) Amendment Regulation 2024 (SL No. 75) amends the City of Brisbane Regulation 2012 and the Local Government Regulation 2012 to make amendments related to superannuation arrangements. The amendments are designed to:

- align the superannuation contribution rates payable by local government employers with the Commonwealth charge percentage in the *Superannuation Guarantee (Administration) Act 1992* (Cth) (Commonwealth Superannuation Act)
- ensure that local government superannuation arrangements for employees 75 years of age or older are consistent with the Commonwealth Superannuation Act
- provide that permanent Brisbane City Council (BCC) employees 70 years of age or older but under the age of 75 are entitled to the same employer superannuation contributions as other permanent BCC employees
- align the definition of 'salary' used in the *Local Government Act 2009* and Local Government Regulation 2012 with the equivalent definition in the Commonwealth Superannuation Act.¹⁴

The amendments complement the changes to the local government superannuation scheme made by the *Residential Tenancies and Rooming Accommodation and Other Legislation Act 2024*.¹⁵

SL No. 75 also makes legislative amendments to:

- Remove the option for a chief executive officer of a local government to make a deduction from the salary or wages of a local government employee as a disciplinary action. According to the explanatory notes, this change has been made as deductions may result in financial hardship and other options for disciplinary action are available.¹⁶
- Amend how the class of large local governments is prescribed for the purposes of s 105 of the *Local Government Act 2009* (which deals with auditing requirements) in response to a change of the remuneration schedule set by the Local Government Remuneration Commission, noting that SL No. 75 does not alter which local governments are deemed large local governments.¹⁷

6.2 Consultation

The explanatory notes state that consultation was undertaken with Brighter Super, Brisbane City Council, Local Government Association of Queensland (LGAQ), Local Government Managers Australia (LGMA), The Services Union, and the Rail, Tram & Bus Union, with stakeholders supporting the amendments.¹⁸ The explanatory notes state that the LGAQ and LGMA did not support the amendment preventing the chief executive officer from deducting the salary or wages of an employee

¹³ SL No. 71, human rights certificate, pp 2-3.

¹⁴ SL No. 75, explanatory notes, pp 1-2.

¹⁵ SL No. 75, explanatory notes, p 1.

¹⁶ SL No. 75, explanatory notes, p 3.

¹⁷ SL No. 75, explanatory notes, p 1. See also, *Local Government Act 2009*, s 105.

¹⁸ SL No. 75, explanatory notes, p 4.

as a form of disciplinary action.¹⁹ The explanatory notes acknowledge that ‘only some CEOs elect to use this power and most were indifferent to its removal’.²⁰

6.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 75.

6.4 Compatibility with human rights

The human rights certificate discusses property rights, to the extent that the regulation promotes local government employees’ right to property.²¹

As outlined in the human rights certificate, the responsible Minister considers that SL No. 75 is compatible with the HRA and does not limit any human rights.²² The committee did not identify any human rights issues.

7. State Development and Public Works Organisation (CopperString 2032 – Workers Accommodation Camps) Amendment Regulation 2024

7.1 Overview

The State Development and Public Works Organisation (CopperString 2032—Workers Accommodation Camps) Amendment Regulation 2024 (SL No. 79) directs Powerlink and the Coordinator-General to undertake project and facilitation works in relation to the construction of the CopperString 2032 workers accommodation camps in accordance with the *State Development and Public Works Organisation Act 1971* (SDPWO Act).²³

SL No. 79 removes ‘the requirement for development permits under local planning schemes for the construction of workers accommodation camps at Hughenden, Julia Creek and Richmond’. According to the notes, the streamlined process is necessary for the timely delivery of the project.²⁴ The notes also state that the effect of SL No. 79 ‘will be minor as the camp’s impacts, usually assessed through a development application, have been assessed by the Coordinator-General.’²⁵

7.2 Consultation

The explanatory notes state that ‘State and local governments support the economic and social benefits to be provided by the [CopperString 2032] project and the use of the Amendment Regulation to allow the quicker realisation of these benefits.’²⁶

7.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 79.

7.4 Compatibility with human rights

The human rights certificate raises various human rights.²⁷ The freedom of expression and right to take part in public life are discussed below.

¹⁹ SL No. 75, explanatory notes, p 4.

²⁰ SL No. 75, explanatory notes, p 4.

²¹ SL No. 75, human rights certificate, p 2

²² SL No. 75, human rights certificate, pp 1 and 2.

²³ SL No. 79, s 3.

²⁴ SL No. 79, human rights certificate, p 3.

²⁵ SL No. 79, explanatory notes, p 2.

²⁶ SL No. 79, explanatory notes, p 3.

²⁷ Including the freedom of expression (s 21), taking part in public life (s 23), property rights (s 24), cultural rights – Aboriginal and Torres Strait Islander peoples (s 28) and fair hearing (s 31).

Freedom of expression and taking part in public life

Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds.²⁸ Furthermore, the right to take part in public life protects the right of all persons to have the opportunity, without discrimination, to participate in the conduct of public affairs.²⁹

The human rights certificate considers that these rights may be limited by SL No. 79 because, by using the streamlined process in the SDPWO Act, the usual public notification processes in planning legislation will not apply. This may limit a person's opportunity to express their views about the project works, make submissions or appeal certain decisions.³⁰

The human rights certificate justifies the limitations on the basis that the workers accommodation needs to be established for the CopperString 2032 to proceed and be completed in a timely manner and that public consultation in relation to the camps has already taken place through the environmental impact statement process administered by the Coordinator-General.³¹

Committee comment

The committee is satisfied that potential limitations to freedom of expression and taking part in public life are reasonable and justifiable in the circumstances.

8. Proclamation No. 1 - *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024***8.1 Overview**

Proclamation No. 1 made under the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024* (BIFOLA Act) (SL No. 84), fixes 1 July 2024 as the commencement date for all sections of the BIFOLA Act, except those related to GST on retention amounts, which are intended to commence at a later date.³² The BIFOLA Act is intended to simplify and clarify the trust account framework's application to the building and construction industry.³³

8.2 Consultation

The explanatory notes state that during the development of the BIFOLA Act and the BIFOLA Regulation amendments (discussed in section 9 below), consultation was undertaken with a wide range of stakeholders including the Ministerial Construction Council, the Trust Account Framework Implementation Steering Committee, professional bodies, and software providers. It also notes that making the proclamation is machinery in nature and does not add any additional burden.³⁴

8.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 84.

8.4 Compatibility with human rights

As outlined in the human rights certificate, the responsible Minister considers that SL No. 84 is compatible with the HRA because it does not limit human rights.³⁵ No human rights issues were identified by the committee.

²⁸ HRA, s 21.

²⁹ HRA, s 23.

³⁰ SL No. 79, human rights certificate, pp 3-4.

³¹ SL No. 79, human rights certificate, pp 3-4.

³² See SL No. 84, schedule.

³³ SL No. 84, explanatory notes, p 2.

³⁴ SL No. 84, explanatory notes, p 2.

³⁵ SL No. 84, human rights certificate, p 2.

9. Building Industry Fairness (Security of Payment) and Other Legislation Amendment Regulation 2024

9.1 Overview

The Building Industry Fairness (Security of Payment) and Other Legislation Amendment Regulation 2024 (SL No. 85) makes amendments following the passing of the BIFOLA Act, which relates to the trust account framework's application to the building and construction industry.³⁶

Specifically, SL No. 85 will:

- clarify types of work captured under the meaning of 'project trust subcontract' which determines which subcontractors are beneficiaries of the trust
- prescribe simplified and clarified trust account record keeping requirements
- remove the requirement for account review reports (external audits) to be completed for each retention trust account annually
- remove the requirement for retention trust training.³⁷

Additionally, SL No. 85 seeks to provide clarity to industry on the interaction of the trust framework and the minimum financial requirements for licensing, specifically how amounts held in trust are to be dealt with for the purposes of calculating assets and liabilities.³⁸

9.2 Consultation

The explanatory notes state that broad stakeholder consultation occurred during the development of the BIFOLA Act and BIFOLA Regulation amendments. This included consultation with the Ministerial Construction Council, which consists of key industry stakeholders, and the Trust Account Framework Implementation Steering Committee.³⁹ The explanatory notes also state that dedicated consultation occurred with accounting professional bodies and software providers.⁴⁰

9.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 85.

9.4 Compatibility with human rights

As outlined in the human rights certificate, the responsible Minister considers that SL No. 85 is compatible with the HRA because it does not limit or engage any human rights.⁴¹ No human rights issues were identified by the committee.

10. Safety in Recreational Water Activities (Code of Practice) Amendment Notice 2024

10.1 Overview

The Safety in Recreational Water Activities (Code of Practice) Amendment Notice 2024 (SL No. 99) gives notice that the Minister is revoking the Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018 and approving the Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2024 (2024 Diving Code).⁴² It is a requirement under the *Safety in Recreational Water Activities Act 2011* for the Minister to give such notice.⁴³

³⁶ SL No. 85, explanatory notes, p 2; human rights certificate, p 1.

³⁷ SL No. 85, explanatory notes, p 1.

³⁸ SL No. 85, human rights certificate, p 1.

³⁹ SL No. 85, explanatory notes, p 5.

⁴⁰ SL No. 85, explanatory notes, p 5.

⁴¹ SL No. 85, human rights certificate, p 2.

⁴² SL No. 99, explanatory notes, p 1.

⁴³ *Safety in Recreational Water Activities Act 2011*, s 43(2).

According to the explanatory notes, the 2024 Diving Code will continue to provide direction and guidance to dive operators and maintain the high industry and safety standards while responding to coronial recommendations and incorporating consequential changes from recent legislative amendment.⁴⁴ The 2024 Diving Code commenced on 1 August 2024.⁴⁵

10.2 Consultation

The explanatory notes advise that consultation for the development of the 2024 Diving Code was undertaken through industry roundtables, with a review carried out by an industry working group. Drafts of the 2024 Diving Code were provided to ‘dive operators, industry representatives, worker representatives, medical experts and relevant government departments’.⁴⁶

10.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 99.

10.4 Compatibility with human rights

According to the human rights certificate, the responsible Minister considers that SL No. 99 is compatible with the HRA as it does not raise a human rights issue.⁴⁷ No human rights issues were identified by the committee.

11. Safety in Recreational Water Activities Regulation 2024

11.1 Overview

The primary objective of the Safety in Recreational Water Activities Regulation 2024 (SL No. 100) is to maintain and modernise high standards of safety in the recreational water activities industry. SL No. 100 remakes the current Safety in Recreational Water Activities Regulation 2011 (2011 Regulation) which was due to expire on 1 September 2024.⁴⁸ According to the explanatory notes, SL No. 100 is simplified, aligns with contemporary drafting practices, reduces duplication and makes minor technical amendments.⁴⁹

In summary, SL No. 100 continues to require that:

- all persons aboard the boat are counted
- entry-level certificate divers and non-certified divers complete a medical declaration
- entry-level certificate divers provide a medical certificate where required
- snorkellers are given advice about medical conditions which may impact their ability to snorkel safely
- lookouts (and/or guides for snorkellers), rescuers and first aid facilities are provided
- non-certified divers are adequately supervised
- a dive safety log is kept.⁵⁰

The explanatory notes state that there will be no additional regulatory burden on dive operators.⁵¹

⁴⁴ SL No. 99, explanatory notes, p 1.

⁴⁵ SL No. 99, sch 1.

⁴⁶ SL No. 99, explanatory notes, p 2.

⁴⁷ SL No. 99, human rights certificate, p 2.

⁴⁸ SL No. 100, explanatory notes, p 1.

⁴⁹ SL No. 100, explanatory notes, p 2.

⁵⁰ SL No. 100, explanatory notes, p 2

⁵¹ SL No. 100, explanatory notes, p 3

11.2 Consultation

The explanatory notes state that the regulation has broad support from industry stakeholders.⁵²

11.3 Consistency with fundamental legislative principles

SL No. 100 raises several potential fundamental legislative principle issues which are discussed below:

General rights and liberties of individuals – penalties

SL No. 100 contains various penalty provisions, with maximum penalties ranging from 12½ penalty units (\$2,016.25)⁵³ to 60 penalty units (\$9,678). For example:

- Dive operators must ensure each nominated crew member aboard a boat counts the persons aboard the boat again if the original 2 counts do not agree (maximum penalty 12½ penalty units, \$2,016.25).⁵⁴
- Dive operators must ensure a person participates in an entry-level certificate dive only if the person has provided a medical certificate certifying they are fit to dive (maximum penalty 30 penalty units, \$4,839).⁵⁵
- If after a second count, the counts still do not agree, the dive operator must ensure the relevant procedures in the dive operator's emergency response plan are implemented (maximum penalty 60 penalty units, \$9,678).⁵⁶ This is a new penalty provision.

Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.⁵⁷ Further, in the context of subordinate legislation, where possible the maximum penalties should be limited (generally, to 20 penalty units).⁵⁸

The explanatory notes do not raise this issue of fundamental legislative principle. This may be because the penalty provisions largely mirror the penalty provisions in the 2011 Regulation.

While the penalties in SL No. 100 appear to be proportionate to the provisions to which they relate, with more serious provisions attracting higher penalties. There are some penalty provisions that are above the generally accepted maximum of 20 penalty units for subordinate legislation. These provisions are designed to ensure the health and safety of people for whom recreational water activities are provided by dive operators.

Committee comment

The committee is satisfied that the penalties are proportionate to the offences and that the provisions have sufficient regard for the rights and liberties of individuals.

Institution of Parliament – subdelegation of power

SL No. 100 includes 2 definitions 'initial training course' and 'recreational dive training organisation' that refer to an external document – AS ISO 24801.⁵⁹ This document is an Australian Standard published by Standards Australia.⁶⁰

⁵² SL No. 100, explanatory notes, p 4.

⁵³ From 1 July 2024, a penalty unit is \$161.30. Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

⁵⁴ SL No. 100, s 16(2).

⁵⁵ SL No. 100, s 11(2).

⁵⁶ SL No. 100, s 16(3).

⁵⁷ LSA, s 4(2)(a). Office of the Queensland Parliamentary Counsel (OQPC), '*Fundamental legislative principles: the OQPC Notebook*' (Notebook), p 120.

⁵⁸ OQPC, Notebook, p 150.

⁵⁹ See SL No. 100, s 8(2) and sch (dictionary).

⁶⁰ SL No. 100, explanatory notes, p 4.

References to external documents, such as standards, raise the fundamental legislative principle that subordinate legislation should have sufficient regard for the institution of Parliament.⁶¹ This is because these documents are not subject to the scrutiny of Parliament, as they are incorporated by reference rather than their terms being incorporated into the subordinate legislation itself. Amendments to these documents may not come to the attention of the Parliament.

The explanatory notes acknowledge that reference to AS ISO 24801 raises issues concerning the institution of Parliament but consider, in the circumstances, that this is justified on the basis that the standard deals with specific, detailed requirements that are not appropriate to set out in full in SL No. 100.⁶² Further, the explanatory notes state that referring to the standard provides for flexibility and ensures the most up to date standards are being applied by industry.⁶³

Committee comment

The committee is satisfied that references to an Australian Standard in SL No. 100 are appropriate in the circumstances and that sufficient regard has been given to the institution of Parliament.

11.4 Compatibility with human rights

The human rights certificate raises the right to privacy, which is discussed below.

Right to privacy

A person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.⁶⁴

SL No. 100 requires that people who are participating in certain types of dives must provide the dive operator with a medical declaration and/or medical certificate about the person's medical fitness to dive.⁶⁵ The dive operator must keep a copy of these documents for at least one year.⁶⁶ This may impact a person's right to privacy as it requires them to disclose their health information and that information will be retained for at least one year by the dive operator.

The human rights certificate justifies the limitation on the basis that it is a necessary requirement to ensure the safety of persons undertaking recreational water activities.⁶⁷ The human rights certificate also states SL No. 100 'strikes a fair balance between the health and safety benefits gained by properly assessing a person's medical fitness to dive to minimise the risk of injury or death, and any limitations to the human rights of privacy and reputation'.⁶⁸

Committee comment

The committee is satisfied that the limitation to the right to privacy is reasonable and justifiable in the circumstances, noting the purpose is to enhance the safety of persons undertaking diving activities.

⁶¹ LSA, s 4(5)(e). OQPC, Notebook, p 155.

⁶² SL No. 100, explanatory notes, p 4.

⁶³ SL No. 100, explanatory notes, p 4.

⁶⁴ HRA, s 25(1).

⁶⁵ See, for example, SL No. 100, ss 10, 11.

⁶⁶ SL No. 100, ss 10(2), 11(3).

⁶⁷ SL No. 100, human rights certificate, p 2.

⁶⁸ SL No. 100, human rights certificate, pp 2-3.

12. Work Health and Safety (Engineered Stone) Amendment Regulation 2024

12.1 Overview

The objective of the Work Health and Safety (Engineered Stone) Amendment Regulation 2024 (SL No. 101) is to improve the safety of workers and others when processing benchtops, panels and slabs at a workplace.⁶⁹ SL No. 101 does this by amending the Work Health and Safety Regulation 2011 (WHS Regulation) to prohibit the manufacture, supply, processing, and installation of all engineered stone benchtops, panels and slabs, with some limited exceptions.⁷⁰

Specifically, SL No. 101:

- prohibits engineered stone benchtops, panels and slabs
- specifies that all sintered stone and porcelain products (including benchtops, panels and slabs) are excluded from the prohibition
- clarifies that finished engineered stone products (such as jewellery, garden ornaments, kitchen sinks) pose minimal risk to the health and safety of workers and are not prohibited
- defines what is meant by 'controlled processing' and requires that all processing of sintered stone, porcelain products, other engineered stone products that are not prohibited, and legacy engineered stone benchtops, panels, and slabs (for the limited circumstances where work on these products is permitted), must be controlled
- provides a framework for exemptions from the prohibition
- provides a framework for the removal, disposal, repair or minor modification of permitted work with 'legacy' engineered stone benchtops, panels and slabs.⁷¹

SL No. 101 follows work undertaken by the Commonwealth, State and Territory work health and safety Ministers through Safe Work Australia (SWA) which resulted in an agreement to prohibit the use of all engineered stone from 1 July 2024.⁷²

12.2 Consultation

The explanatory notes state that consultation occurred between March and April 2023. Submissions from businesses working with engineered stone generally opposed the ban, suppliers of engineered stone also either opposed or requested limitations on the ban, and professional bodies provided feedback on the 'technical complexities related to the management of RCS in engineered stone'.⁷³

The explanatory notes state that the model regulations were informed by 'consultation with WHS regulators, industry and union social partners through SWA (Safe Work Australia) and technical experts'. The Office of Industrial Relations also consulted separately with distributors and other government agencies.⁷⁴

12.3 Consistency with fundamental legislative principles

SL No. 101 raises the following issue of fundamental legislative principle:

General rights and liberties of individuals – restriction on ordinary business

SL No. 101 is likely to impact businesses that deal with engineered stone as it prohibits the manufacture, supply, processing, and installation of all engineered stone benchtops, panels and slabs.

⁶⁹ SL No. 101, human rights certificate, p 1.

⁷⁰ SL No. 101, explanatory notes, p 2.

⁷¹ SL No. 101, explanatory notes, pp 2-3.

⁷² See Safe Work Australia, *Decision Regulation Impact Statement: Prohibition on the use of engineered stone*, 27 October 2023; SL No. 101, explanatory notes, p 2.

⁷³ SL No. 101, explanatory notes, pp 4-5.

⁷⁴ SL No. 101, explanatory notes, p 5.

Legislation should not, without sufficient justification, unduly restrict ordinary activities.⁷⁵ While the explanatory notes do not address this issue in the context of fundamental legislative principles, it can be seen elsewhere that the overall purpose of SL No. 101 is to improve the safety of workers when processing benchtops, panels and slabs at a workplace.⁷⁶ The explanatory notes suggest that the current laws and codes of practice that require risks to be eliminated or minimised are not sufficient for the level of risk posed by engineered stone.⁷⁷

Committee comment

The committee is satisfied that the restriction on ordinary business is justified in the circumstances.

General rights and liberties of individuals – penalties

SL No. 101 contains various penalty provisions, with maximum penalties ranging from 36 penalty units (\$5,806.80)⁷⁸ to 60 penalty units (\$9,678). For example:

- A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work that involves manufacturing, supplying, processing or installing engineered stone benchtops, panels or slabs (maximum penalty 60 penalty units, \$9,678).⁷⁹
- A person conducting a business or undertaking must not process, or direct or allow a worker to process, engineered stone unless the processing of the stone is ‘controlled’ (maximum penalty 60 penalty units, \$9,678).⁸⁰
- A person conducting a business or undertaking must not process, or direct or allow a worker to process, porcelain products and sintered stone unless the processing is ‘controlled’ (maximum penalty 60 penalty units, \$9,678).⁸¹
- If work that involves processing engineered stone benchtops, panels or slabs is carried out to remove, repair or make minor modifications to install engineered stone, or to dispose of engineered stone, notice must be given to the regulator (maximum penalty 36 penalty units, \$5,806.80).⁸²

Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.⁸³ Further, in the context of subordinate legislation, where possible the maximum penalties should be limited (generally, to 20 penalty units).⁸⁴

The explanatory notes do not raise this issue of fundamental legislative principle. While the penalties in SL No. 101 appear to be proportionate to the provisions to which they relate, with more serious provisions attracting higher penalties, the penalty provisions are above the generally accepted maximum of 20 penalty units for subordinate legislation. These provisions are consistent with penalties in the current WHS Regulation.⁸⁵

⁷⁵ LSA, s 4(2)(a). OQPC, Notebook, p 118.

⁷⁶ SL No. 101, human rights certificate, p 1.

⁷⁷ SL No. 101, explanatory notes, p 2.

⁷⁸ From 1 July 2024, a penalty unit is \$161.30. Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

⁷⁹ SL No. 101, s 4 (WHS Regulation, new s 529D).

⁸⁰ SL No. 101, s 4 (WHS Regulation, new s 529K).

⁸¹ SL No. 101, s 4 (WHS Regulation, new s 529L).

⁸² SL No. 101, s 4 (WHS Regulation, new s 529G).

⁸³ LSA, s 4(2)(a). OQPC, Notebook, p 120.

⁸⁴ OQPC, Notebook, p 150.

⁸⁵ See, for example, s 66 (managing risks to health and safety – 36 penalty units) and s 39 (provision of information, training and instruction – 60 penalty units).

The human rights certificate briefly refers to the introduction of offence provisions, noting that they are intended to send a ‘strong message of deterrence’.⁸⁶

Committee comment

The committee is satisfied that the penalties are proportionate to the offences and that the provisions have sufficient regard for the rights and liberties of individuals.

Institution of Parliament – subdelegation of power

Reference to Australian Standards

The definition of ‘respiratory protective equipment’ in SL No. 101 means personal protective equipment that is designed to prevent a person wearing the equipment from inhaling airborne contaminants and complies with AS/NZ 1716:2012 (Respiratory protective devices) and AS/NZS 1715:2009 (Selection, use and maintenance of respiratory protective equipment).⁸⁷ These documents are Australian Standards published by Standards Australia.

References to external documents, such as standards, raise the fundamental legislative principle that subordinate legislation should have sufficient regard for the institution of Parliament.⁸⁸ This is because these documents are not subject to the scrutiny of Parliament, as they are incorporated by reference rather than their terms being incorporated into the subordinate legislation itself. Amendments to these documents may not come to the attention of the Parliament.

The explanatory notes do not address this issue of fundamental legislative principle. However, it is likely that the standards deal with specific, detailed requirements that are not appropriate to set out in full in SL No.101. For example, AS/NZS 1715:2009, sets out requirements and guidelines for respiratory protection including a discussion of respiratory hazards, the assessment of associated risks and various methods of control including the use of respiratory protective equipment.⁸⁹ It could be argued that by including a reference to the relevant Australian Standards, SL No. 101 provides for flexibility and ensures the most up to date standards are being applied.

Committee comment

The committee is satisfied that reference to certain Australian Standards is appropriate in the circumstances, noting the need for flexibility and the technical nature of the documents.

Exemptions

SL No. 101 includes an exemption provision.⁹⁰ The regulator must not grant an exemption unless satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without the exemption.⁹¹

One of the matters the regulator must have regard to when making a decision, is a document published by Safe Work Australia (SWA) under proposed new s 689E of the WHR Regulation.⁹² SWA may issue a document setting out the matters to be considered when granting an exemption and the document must be published on SWA’s website.⁹³

The explanatory notes acknowledge the issue of fundamental legislative principle regarding references to external documents not having the scrutiny of Parliament. However, state that any inconsistency is justified by the fact that SWA is an appropriately qualified body to provide guidance to regulators and that this will allow for a consistent approach to exemptions across the national

⁸⁶ SL No. 101, human rights certificate, p 3.

⁸⁷ SL No. 101, s 4 (WHS Regulation, new s 529B(2)).

⁸⁸ LSA, s 4(5)(e). OQPC, Notebook, p 155.

⁸⁹ See Standards Australia store, AS/NZS 1715:2009.

⁹⁰ SL No. 101, s 7 (WHS Regulation, new ss 689A, 689B).

⁹¹ SL No. 101, s 7 (WHS Regulation, new s 689D(1)).

⁹² SL No. 101, s 7 (WHS Regulation, new s 689D(2)).

⁹³ SL No. 101, s 7 (WHS Regulation, new s 689D).

framework.⁹⁴ In addition, it is noted that it is ultimately the Queensland regulator that will make final decisions on an exemption and that decisions are subject to review under the WHS Regulation.⁹⁵

Committee comment

The committee is satisfied that reference to a document published by Safe Work Australia is appropriate in the circumstances.

12.4 Compatibility with human rights

The human rights certificate raises the right to property, which is discussed below.

Right to property

The right to property protects the right of all persons to own property and provides that people have a right not to be arbitrarily deprived of their property.⁹⁶

The human rights certificate states that SL No. 101 may limit a person's property rights as they will no longer be able to freely modify and process existing engineered stone benchtops, panels, and slabs without notifying the regulator of the proposed work. Further, a person conducting a business or undertaking that deals with engineered stone bench tops may be restricted in how they use their stock (for example, they may be required to dispose of stock).⁹⁷

The purpose of the limitation, according to the human rights certificate, is to improve the health and safety outcomes of workers and others when processing engineered stone products at a workplace.⁹⁸ While other alternatives were considered as set out in the certificate, it was concluded that SL No. 101 was the least restrictive and most reasonable way to achieve the purpose.⁹⁹ Overall, the human rights certificate considered a fair balance was struck between the property rights of certain business owners and the health and safety benefits gained from implementing SL No. 101.¹⁰⁰

Committee comment

The committee is satisfied that the potential limitation to the right to property is reasonable and justifiable in the circumstances, noting that the purpose is to improve the health and safety of workers.

13. Planning (Prescribed Amounts) Amendment Regulation 2024

13.1 Overview

The Planning (Prescribed Amounts) Amendment Regulation 2024 (SL No. 107) amends the Planning Regulation 2017 to reflect the annual indexation of the 'Prescribed amounts' which are the maximum amounts local governments or distributor-retailers can adopt in an infrastructure charges resolution. These amounts are automatically annually indexed against the 3-yearly moving average quarterly percentage increase in the producer price index (PPI).¹⁰¹

13.2 Consultation

The explanatory notes state that no consultation has occurred outside of government agencies as the amendments do not impact policy outcomes and are 'required to reduce the administrative burden related to development assessment'.¹⁰²

⁹⁴ SL No. 101, explanatory notes, p 4.

⁹⁵ See SL No. 101, s 7 (WHS Regulation, new s 689A (see Note)).

⁹⁶ HRA, s 24.

⁹⁷ SL No. 101, human rights certificate, pp 2-3.

⁹⁸ SL No. 101, human rights certificate, p 3.

⁹⁹ SL No. 101, human rights certificate, p 3.

¹⁰⁰ SL No. 101, human rights certificate, p 4.

¹⁰¹ SL No. 107, explanatory notes, p 1.

¹⁰² SL No. 107, explanatory notes, p 2.

13.3 Consistency with fundamental legislative principles

No Issues of fundamental legislative principle were identified with SL No. 107.

13.4 Compatibility with human rights

According to the human rights certificate, the responsible Minister considers that SL No. 107 is compatible with the *Human Rights Act 2019* because it does not limit any human rights.¹⁰³ No human rights issues were identified by the committee.

14. State Development and Public Works Organisation (Construction and Commissioning of Toowoomba to Warwick Water Pipeline) Amendment Regulation 2024

14.1 Overview

The State Development and Public Works Organisation (Construction and Commissioning of Toowoomba to Warwick Water Pipeline) Amendment Regulation 2024 (SL No. 115) contains directions to Queensland Bulk Water Supply Authority (Seqwater) and the Coordinator-General to undertake project works and reserved works, respectively, in relation to the construction and commissioning of the Toowoomba to Warwick Pipeline Project.¹⁰⁴

An effect of SL No. 115 is that the works will not be considered assessable development by the planning legislation.¹⁰⁵ This means that the usual developmental approval processes (including public notification requirements) will not apply.¹⁰⁶

According to the human rights certificate, using the streamlined process through the SDPWO Act and the Coordinator-General's powers is necessary for the timely delivery of the project.¹⁰⁷ The explanatory notes also state that the Coordinator-General's functions and powers under the SDPWO Act are intended to facilitate large-scale and complex projects while ensuring their environmental and social impacts are properly managed.¹⁰⁸

14.2 Consultation

The explanatory notes state that the Office of the Coordinator-General has and continues to consult with Seqwater and the Department of Regional Development, Manufacturing and Water as a member of the working group on this matter.¹⁰⁹ Furthermore, to ensure that parties are informed of and involved in the lifecycle of the project, Seqwater has ongoing engagement with various State and local government agencies, private landowners, and other key entities, including the Toowoomba Regional Council and Southern Downs Regional Council.¹¹⁰

No information was provided in the explanatory notes on the results of the consultation or any changes made to the legislation because of the consultation, as required by section 24(2)((a)(ii) and (iii) of the *Legislative Standards Act 1992*.

14.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 115.

¹⁰³ SL No. 107, human rights certificate, p 1.

¹⁰⁴ SL No. 115, s 3.

¹⁰⁵ *Planning Act 2016*; Planning Regulation 2017.

¹⁰⁶ SL No. 115, human rights certificate, p 3.

¹⁰⁷ SL No. 115, human rights certificate, p 3.

¹⁰⁸ SL No. 115, explanatory notes, p 2.

¹⁰⁹ SL No. 115, explanatory notes, p 3.

¹¹⁰ SL No. 115, explanatory notes, p 3.

14.4 Compatibility with human rights

The human rights certificate raises various human rights.¹¹¹ Freedom of expression and the right to take part in public life are discussed below.

Freedom of expression and taking part in public life

Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds.¹¹² Further, the right to take part in public life protects the right of all persons to have the opportunity, without discrimination to participate in the conduct of public affairs.¹¹³

These human rights may be limited by SL No. 115 because by using the streamlined process in the SDPWO Act, the usual public notification processes in planning legislation will not apply. This may limit a person's opportunity to express their views about the project works, make submissions or appeal certain decisions.¹¹⁴

The human rights certificate justifies the limitations on the basis that SL No. 115 will facilitate timely construction and commissioning of the pipeline, which will ensure the delivery of the project and long-term sustainable water security for the region.¹¹⁵

Committee comment

The committee is satisfied potential limitations to freedom of expression and taking part in public life are reasonable and justifiable in the circumstances.

15. Water Plan (Georgina and Diamantina) (Postponement of Expiry) Notice 2024

15.1 Overview

The Water Plan (Georgina and Diamantina) (Postponement of Expiry) Notice 2024 (SL No. 116) postpones the expiry of the Water Plan (Georgina and Diamantina) 2004 (Water Plan) under the *Water Act 2000* (Water Act) to 5 August 2027.¹¹⁶ The Water Act allows the expiry of a water plan to be postponed for not more than 3 years.¹¹⁷

The Water Plan is due to expire on 5 August 2024 but the department is continuing to complete technical assessments and undertake consultation to ensure emerging issues are addressed as part of developing the replacement plan.¹¹⁸ According to the explanatory notes, postponing the expiry of the Water Plan will ensure that the existing water management framework is continued, which in turn protects the existing water entitlements and the needs of the environment until a replacement water plan comes into effect.¹¹⁹

15.2 Consultation

The explanatory notes state that although consultation is not required for the Postponement of Expiry Notice, 'the development of a replacement water plan will be subject to the consultation provisions of the Water Act'. The proposed arrangements for this consultation were contained in a preliminary public consultation notice earlier this year. The consultation process was closed in August 2024 and the explanatory notes state that feedback will be considered in the drafting of the replacement water plan.¹²⁰

¹¹¹ Including the freedom of expression (s 21), property rights (s 24), cultural rights – Aboriginal and Torres Strait Islander peoples (s 28) and fair hearing (s 31).

¹¹² HRA, s 21.

¹¹³ HRA, s 23.

¹¹⁴ SL No. 115, human rights certificate, pp 3-4.

¹¹⁵ SL No. 115, human rights certificate, p 4.

¹¹⁶ SL No. 116, s 2.

¹¹⁷ Water Act, s 55(2).

¹¹⁸ SL No. 116, explanatory notes, p 1.

¹¹⁹ SL No. 116, explanatory notes, p 1.

¹²⁰ SL No. 116, explanatory notes, pp 2-3.

15.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 115.

15.4 Compatibility with human rights

The human right certificate states that SL No. 115 is compatible with the Human Rights Act 2019 because it does not limit human rights. No human rights issues were identified by the committee.

16. Proclamation made under the *Work Health and Safety and Other Legislation Amendment Act 2024*

16.1 Overview

The proclamation made under the *Work Health and Safety and Other Legislation Amendment Act 2024* (WHSOLA Act) (SL No. 118), fixes 29 July 2024 as the commencement date for certain provisions of the WHSOLA Act.¹²¹

According to the explanatory notes, the provisions commenced by SL No. 118 will:

- strengthen and promote the role of health and safety representatives (HSRs) including to clarify their powers and functions
- enable HSRs to choose their training provider
- clarify and streamline issue and dispute resolution processes
- clarify the establishment of a health and safety committee (HSC) and an inspector's role if the constitution of a HSC cannot be agreed
- extend the definition of 'discriminatory conduct' to include treating a worker less favourably than other workers of the person
- change the jurisdiction from the Magistrates Court to the Queensland Industrial Relations Commission (Commission) for certain work health and safety disputes
- give standing to certain entities, such as relevant unions, to apply for an order for a contravention of a work health and safety civil penalty provision
- change the types of decisions that may be reviewed, and clarifying the costs that can be ordered by the Commission in reviewing decisions.¹²²

16.2 Consultation

The explanatory notes state that the proclamation is machinery in nature and therefore 'not subject to regulatory impact assessment requirements under the Queensland Government Better Regulation Policy'.¹²³

16.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 118.

16.4 Compatibility with human rights

The human rights certificate concludes that SL No. 118 is compatible with the Human Rights Act 2019 because it does not limit human rights. No human rights issues were identified by the committee.

¹²¹ See SL No. 118, schedule.

¹²² SL No. 118, explanatory notes, pp 1-2. Note these are amendments to the *Work Health and Safety Act 2011*.

¹²³ SL No. 118, explanatory notes, p 2.

17. Proclamation No. 1 - *Water Legislation Amendment Act 2023*

17.1 Overview

The proclamation made under the *Water Legislation Amendment Act 2023* (WLA Act) (SL No. 120) fixes 22 July 2024 as the commencement date for certain provisions of the WLA Act.¹²⁴

According to the explanatory notes, these provisions will:

- allow administrative and operational arrangements to be developed to ensure water take can be appropriately measured and the receipt of information about water take can be improved
- update terminology regarding measurement and measurement devices.¹²⁵

17.2 Consultation

The explanatory notes state that consultation was undertaken with the Department of the Premier and Cabinet and Queensland Treasury. Since the proclamation is a 'regulatory proposal of a machinery nature', the Department of Regional Development, Manufacturing and Water has self-assessed that no further regulatory impact analysis is required.¹²⁶

17.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 120.

17.4 Compatibility with human rights

The human rights certificate concludes that SL No. 120 is compatible with the *Human Rights Act 2019* because it does not raise any human rights issues. No human rights issues were identified by the committee.

18. Water and Other Legislation Amendment Regulation 2024

18.1 Overview

The policy objective of the Water and Other Legislation Amendment Regulation 2024 (SL No. 121) is to provide the operational and administrative requirements necessary to implement a strengthened non-urban water measurement policy in relation to the application of measurement devices.¹²⁷

Specific amendments include:

- requirements for using measuring devices including attaching, certifying and maintaining measurement devices, taking water under a relevant authorisation and ongoing certification requirements
- requirements for providing information about the water being taken
- requirements for faulty measurement devices including identifying, notifying and rectifying faults and chief executive powers to give notice of suspected faulty measurement devices
- alternative requirements if the measurement device is faulty
- record keeping requirements
- a definition of who is a duly qualified person for performing functions under the new part, details regarding the appointment of a duly qualified person, their performance functions and actions the chief executive may take if a duly qualified person does not perform these functions properly.¹²⁸

¹²⁴ See SL No. 120, schedule.

¹²⁵ SL No. 120, explanatory notes, pp 1-2. Note these are amendments to the *Water Act 2000*.

¹²⁶ SL No. 120, explanatory notes, p 2.

¹²⁷ SL No. 121, explanatory notes, p 2. This involves amendments to the Water Regulation 2016 and State Penalties Enforcement Regulation 2014.

¹²⁸ SL No. 121, human rights certificate, p 1.

18.2 Consultation

The explanatory notes state that the Department of Regional Development, Manufacturing and Water (department) consulted with the Water Engagement Forum which is the department's peak body advisory group on government-related water matters. The peak body comprises representatives from various agricultural, mining, industry, and conservation groups.¹²⁹

No information was provided in the explanatory notes on the results of the consultation, or any changes made to the legislation because of the consultation, as required by section 24(2)(a)(ii) and (iii) of the *Legislative Standards Act 1992*.

18.3 Consistency with fundamental legislative principles

SL No. 121 raises the following potential issue of FLP:

General rights and liberties of individuals – penalties

SL No. 121 contains several penalty provisions with a maximum penalty of 20 penalty units (\$3,226).¹³⁰ For example:

- The holder of a relevant authorisation who contravenes the requirements about providing the chief executive with information about water taken commits an offence (unless they have reasonable excuse).¹³¹
- The holder of a relevant authorisation who becomes aware, or suspects, that a measurement device is faulty and does not comply with the notice requirements commits an offence (unless they have reasonable excuse).¹³²

Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.¹³³ Further, in the context of subordinate legislation, where possible the maximum penalties should be limited (generally, to 20 penalty units).¹³⁴

The explanatory notes do not raise this issue of fundamental legislative principle. However, the penalties in SL No. 121 appear to be proportionate to the provisions to which they relate, are consistent with the generally accepted level of penalty for subordinate legislation and are consistent with the penalties for the previous offence provisions in the Water Regulation 2016 (prior to being amended by SL No. 121).

Committee comment

The committee is satisfied that the penalties are proportionate to the provisions to which they relate and that the legislation has sufficient regard for the rights and liberties of individuals.

18.4 Compatibility with human rights

The human rights certificate raises the right to property, which is discussed below.

Right to property

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property.¹³⁵

¹²⁹ SL No. 121, explanatory notes, p 3.

¹³⁰ From 1 July 2024, a penalty unit is \$161.30. Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

¹³¹ SL No. 121, s 114(1).

¹³² SL No. 121, s 117(1). See SL No. 121, ss 118, 120, 121, 121B and 121C for other penalty provisions.

¹³³ LSA, s 4(2)(a). OQPC, Notebook, p 120.

¹³⁴ OQPC, Notebook, p 150.

¹³⁵ HRA, s 24.

The human rights certificate states that SL No. 121 may limit a person's property rights as the obligation to measure the volume of water taken under a water entitlement may be a restriction on a person's ability to use or enjoy their property (property being the water entitlement).¹³⁶

The purpose of the limitation, according to the human rights certificate, is to ensure that Queensland's strengthened non-urban water measurement policy can be implemented.¹³⁷ Specifically the human rights certificate states that the installation of telemetry devices on non-urban water meters allows for near real-time transmission of meter read information, which will ultimately benefit the administering department, water users and the environment.¹³⁸

Committee comment

The committee is satisfied that the limitation to the right to property is reasonable and justifiable in the circumstances.

19. Planning and Other Legislation Amendment Regulation 2024

19.1 Overview

The objective of the Planning and Other Legislation Amendment Regulation (SL No. 123) is to give effect to the provisions established under the *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024* (HAAPOLA Act), the purpose of which is to 'optimise the planning framework's response to current housing challenges through a suite of new tools, and to improve the operational and process aspects of the Planning Act.'¹³⁹

Specifically, SL No. 123:

- allows for a development condition to be imposed for the provision of an affordable housing component
- provides criteria for what constitutes an 'affordable housing component'
- provides for the supporting processes and criteria for State facilitated development (SFD), including the materials that need to be made publicly available by the chief executive for inspection and purchase
- requires temporary use licences to be registered to reflect those licences which have been amended, cancelled or suspended, and also identifies application requirements for amendments and extensions to temporary use licences
- provides what material should be supplied for an urban encroachment application following public consultation, public consultation requirements and the requirements for applications to amend a registration, including in circumstances in which additional land is being included in the affected areas
- provides for a new administrative definition for 'build to rent' development
- provides for transitional provisions to support local governments in transitioning from the use of the term 'affordable housing' to the new definition 'affordable housing component'.¹⁴⁰

19.2 Consultation

The explanatory notes state that public consultation on the updated Development Assessment Rules, updated Minister's Guidelines and Rules and Planning Regulation amendments was undertaken between April and May 2024. The explanatory notes summarise feedback provided by stakeholders and resulting amendments to the regulation. In summary, this included:

¹³⁶ SL No. 121, human rights certificate, p 2.

¹³⁷ SL No. 121, human rights certificate, p 2.

¹³⁸ SL No. 121, human rights certificate, p3.

¹³⁹ SL No. 123, explanatory notes, p 2.

¹⁴⁰ SL No. 123, human rights certificate, pp 1-2.

- State facilitated development (SFD) – criteria amended to exclude premises located in the limited development zone from being able to be declared a SFD.
- Affordable housing - the criteria for an affordable housing component has been amended to include the existing definition for affordable housing in response to feedback from local governments and peak bodies.
- Development Control Plans - amendments relating to DCPs have been removed from the Amendment Regulation, to allow for additional time for the department to consult with key stakeholders about the translation of terms.

19.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 123.

19.4 Compatibility with human rights

The human rights certificate raises the freedom of expression and property rights, which are discussed below.

Freedom of expression

Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds.¹⁴¹

The human rights certificate considers that this right may be limited by SL No. 123 through specific provisions that clarify the processes around ‘proposed declarations’. These provisions provide that if the Minister gives notice of a proposed declaration, then the process for assessing and deciding the relevant application stops when such notice is given. This means that during this period a person may not be able to make a submission on an application.¹⁴²

The human rights certificate justifies any limitation on the basis that there are options for input at later stages in the process.¹⁴³ Overall, the human rights certificate concludes that SL No. 123 strikes a ‘fair balance between the benefits gained by the public through an expedited delivery of State identified priorities, with limited inconsistencies in decision-making, and the limitation on the right to freedom of expression.’¹⁴⁴

Right to property

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property.¹⁴⁵

The human rights certificate considers SL No. 123 may limit property rights of landowners or those entitled to develop land. This is because the definition of ‘affordable housing component’ and the criteria for State facilitated development, both limit the way in which development may be undertaken on land.¹⁴⁶ However, the human rights certificate considers that, on balance, the amendments strike a fair balance between the property rights of landowners and developers, and the benefits to the community in providing for affordable housing in planning legislation.¹⁴⁷

Committee comment

The committee is satisfied that potential limitations to freedom of expression and property rights are reasonable and justifiable in the circumstances.

¹⁴¹ HRA, s 21.

¹⁴² SL No. 123, human rights certificate, p 2. See also SL No. 123, s 16.

¹⁴³ SL No. 123, human rights certificate, p 3.

¹⁴⁴ SL No. 123, human rights certificate, p 3.

¹⁴⁵ HRA, s 24.

¹⁴⁶ SL No. 123, human rights certificate, p 4.

¹⁴⁷ SL No. 123, human rights certificate, p 6.

20. Proclamation No. 1 - *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024* (SL No. 124)

20.1 Overview

The proclamation made under the *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024* (HAAPOLA Act) (SL No. 124) fixes 22 July 2024 as the commencement date for certain provisions of the HAAPOLA Act.¹⁴⁸

According to the explanatory notes, these provisions will provide for:

- the establishment of State facilitated development to facilitate development that is a priority to the State (for example, affordable housing)
- the creation of new acquisition and easement powers to deliver critical development infrastructure
- streamlined renewal and registration processes for the urban encroachment provisions
- new ability to impose conditions for an affordable housing component
- improved functionality for applicable events and temporary use licences
- streamlined powers for the Planning Minister to direct an amendment to a local planning instrument
- removal of duplication of assessment for Queensland heritage places, including, places that are both Queensland heritage places and local heritage places.¹⁴⁹

20.2 Consultation

The explanatory notes state that during 2022 and 2023, targeted consultation was undertaken on the policy intent of the housing related tools with ‘all local governments, local government peak bodies, utility providers and legal, community and industry peak bodies.’¹⁵⁰

Public consultation was also undertaken with key stakeholders from 4 April 2023 to 5 May 2023 on the policy intent for the proposed amendments to the *Planning Act 2016*. Key stakeholders included the Local Government Association of Queensland, Housing Supply Expert Panel, Urban Development Institute of Australia, Planning Institute of Australia and Property Council of Australia.¹⁵¹

20.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 124.

20.4 Compatibility with human rights

The human rights certificate notes that the Proclamation is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue. No human rights issues were identified by the committee.

21. *Brisbane Olympic and Paralympic Games Arrangements Regulation 2024* (SL No. 125)

21.1 Overview

The Brisbane Olympic and Paralympic Games Arrangements Regulation 2024 (SL No. 125) prescribes the following venues and villages under the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act):¹⁵²

¹⁴⁸ See SL No. 124, schedule.

¹⁴⁹ SL No. 124, explanatory notes, p 1.

¹⁵⁰ SL No. 124, explanatory notes, p 2.

¹⁵¹ SL No. 124, explanatory notes, p 2.

¹⁵² See BOPGA Act, s 5A.

Venues:

- the facility known as the Sleeman Sports Complex, including the Brisbane Aquatic Centre and Chandler Sports Precinct
- the facility known as the Sunshine Coast Stadium
- the site on which an indoor sports centre, to be known as the Sunshine Coast Indoor Sports Centre, is to be developed within the Kawana Sports Precinct at 320 Nicklin Way, Bokarina 4575
- the site on which a mountain bike facility, to be known as the Sunshine Coast Mountain Bike Centre, is to be developed at 348 Yandina Bli Bli Road, Parklands 4560¹⁵³

Villages:

- the site on which an accommodation facility, to be known as the Brisbane Athlete Village, is to be developed within the Northshore Hamilton Priority Development Area
- the site on which an accommodation facility, to be known as the Gold Coast Athlete Village, is to be developed on Robina Town Centre Drive, Robina 4226
- the site on which an accommodation facility, to be known as the Kooralbyn Satellite Athlete Village, is to be developed on Routley Drive, Kooralbyn 4285
- the site on which an accommodation facility, to be known as the Sunshine Coast Athlete Village, is to be developed within the Maroochydore City Centre Priority Development Area.¹⁵⁴

According to the explanatory notes, these venues and villages were identified as a venue or village for the Games in the Olympic Host Contract and/or the Queensland Government's March 2024 response to the independent Sport Venue Review.¹⁵⁵

Prescription of these venues and villages will enliven the ability of the Games Venue and Legacy Delivery Authority (Authority) to deliver the venues and monitor and ensure the delivery of the villages.¹⁵⁶ Once prescribed, further regulations are needed to enliven the powers under ch 3, pt 4 of the BOPGA Act which facilitate development.¹⁵⁷

21.2 Consultation

The explanatory notes state that consultation was undertaken with the Commonwealth Government during the development of the regulation.¹⁵⁸ Further consultation with other agencies will be considered, if necessary, when further regulation is drafted for planning and land acquisition powers in relation to venues and villages.¹⁵⁹

21.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 125.

21.4 Compatibility with human rights

The human rights certificate raises various human rights.¹⁶⁰ These are raised in the context of issues that may arise after the prescription of a venue or village, for example, where future regulations may

¹⁵³ SL No. 125, sch 1 pt 1.

¹⁵⁴ SL No. 125, sch 1 pt 2.

¹⁵⁵ SL No. 125, explanatory notes, p 4.

¹⁵⁶ SL No. 125, explanatory notes, p 3.

¹⁵⁷ SL No. 125, explanatory notes, p 4.

¹⁵⁸ SL No. 125, explanatory notes, pp 4-5.

¹⁵⁹ SL No. 125, explanatory notes, pp 4-5.

¹⁶⁰ For example, freedom of movement (s 19), taking part in public life (s 23), property rights (s 24), privacy and reputation (s 25).

declare a development for a venue or village is accepted development or PDA-accepted development, or future regulations that declare an acquisition of land under the BOPGA Act.

It is not considered that the prescription of venues and villages through SL No. 125 limits human rights directly.

Committee comment

The committee is satisfied that SL No. 125 is compatible with the *Human Rights Act 2019*.

22. Work Health and Safety and Other Legislation Amendment Regulation 2024

22.1 Overview

The objective of the Work Health and Safety and Other Legislation Amendment Regulation 2024 (SL No. 128) is to give effect to 4 recommendations from the '2022 Review of the *Work Health and Safety Act 2011*' to support the role of Health and Safety Representatives (HSRs) and work groups.¹⁶¹ For example, SL No. 128 clarifies the concept of a HSR being 'readily accessible' when negotiating or determining a work group and prescribes a list of types of resources, facilities and assistance that should be made available to them.¹⁶²

SL No. 128 also reintroduces audiometric testing requirements 'to ensure that workers have increased protections against hearing loss in the workplace in line with other work health and safety jurisdictions in Australia.'¹⁶³

22.2 Consultation

According to the explanatory notes, between August 2022 and November 2022, targeted consultation was undertaken with key stakeholders, and included 'employer and industry groups, registered unions, academics and other bodies'. The WHS Act Review received 51 submissions, and recommendations for regulatory change were implemented in this Amendment Regulation.¹⁶⁴

Further consultation was undertaken on the proposed amendments and a draft of the Amendment Regulation was circulated to key stakeholders on 4 March 2024.¹⁶⁵ Feedback on the draft Amendment Regulation was incorporated where appropriate, with the Office of Industrial Relations developing guidance material to support the Amendment Regulation. As required, the Rules Committee was consulted on, and they approved, the amendments to the *Industrial Relations (Tribunals) Rules 2011*.¹⁶⁶

22.3 Consistency with fundamental legislative principles

SL No. 128 raises the following potential issue of FLP:

General rights and liberties of individuals – penalties

SL No. 128 contains a penalty provision, requiring a person who is conducting a business or undertaking to provide audiometric testing for certain workers within specific time periods. The maximum penalty is 60 penalty units (\$9,678).

Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.¹⁶⁷ Further, in the context of subordinate legislation, where possible the maximum penalties should be limited (generally, to 20 penalty units).¹⁶⁸

¹⁶¹ SL No. 128, explanatory notes, p 1.

¹⁶² SL No. 128, ss 8, 9.

¹⁶³ SL No. 128, explanatory notes, pp 1, 4.

¹⁶⁴ SL No. 128, explanatory notes, p 4.

¹⁶⁵ SL No. 128, explanatory notes, p 4.

¹⁶⁶ SL No. 128, explanatory notes, p 5.

¹⁶⁷ LSA, s 4(2)(a). OQPC, Notebook, p 120.

¹⁶⁸ OQPC, Notebook, p 150.

The explanatory notes do not raise this issue of fundamental legislative principle. However, the penalty in SL No. 128 appears to be proportionate to the provision to which it relates and is consistent with other penalty provisions in the WHS Regulation.¹⁶⁹

Committee comment

The committee is satisfied that the penalties are proportionate to the offences, such that the provisions have sufficient regard for the rights and liberties of individuals.

22.4 Compatibility with human rights

The human rights certificate concludes that SL No. 128 is compatible with the *Human Rights Act 2019* because it does not limit human rights. No human rights issues were identified by the committee.

23. Regional Planning Interests (Lake Eyre Basin) Amendment Regulation 2024

23.1 Overview

The Regional Planning Interests (Lake Eyre Basin) Amendment Regulation 2024 (SL No. 137) amends the Regional Planning Interests Regulation 2014 to add more environmental attributes for the Channel Country strategic environmental area (SEA).¹⁷⁰

The RPI Regulation includes a range of prescribed solutions to ensure that activities in SEAs do not result in widespread or irreversible impact on any of the SEA's environmental attributes.¹⁷¹ The Channel Country SEA is overlaid by areas with designated precinct (DP) status, which identifies certain activities as 'unacceptable uses' to maintain the ecologically and culturally sensitive nature of these areas.¹⁷² As well as expanding the environmental attributes for the Channel Country SEA, SL No. 137 prohibits future new gas and oil production from the Channel Country SEA.¹⁷³

23.2 Consultation

The explanatory notes state that the Department of Environment, Science and Innovation (department) has consulted with 'First Nations partners, conservation groups, industry peaks, local government, others in the community, and scientists to develop the range of options presented to the Queensland Government' and that 'a wide range of sectors and groups support the Amendment Regulation.'¹⁷⁴

23.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 137.

23.4 Compatibility with human rights

The human rights certificate discusses cultural rights in some detail but concludes that while it engages these rights it does not limit them. No human rights issues were identified by the committee.

24. Economic Development and Other Legislation (Waraba PDA) Amendment Regulation 2024

24.1 Overview

The Economic Development and Other Legislation (Waraba PDA) Amendment Regulation 2024 (SL No. 138) amends the:

¹⁶⁹ See, for example, Work Health and Safety Regulation 2011, s 40 (duty in relation to general workplace facilities), ss 42 (duty to provide first aid) and 44 (provision to worker and use of personal protective equipment).

¹⁷⁰ SL No. 137, s 3; explanatory notes, p 2.

¹⁷¹ SL No. 137, explanatory notes, p 1.

¹⁷² SL No. 137, explanatory notes, pp 1-2.

¹⁷³ SL No. 137, explanatory notes, p 2. See SL No 137, ss 4, 5.

¹⁷⁴ SL No. 137, explanatory notes, p 5.

- Economic Development Regulation 2023 (ED Regulation) to declare the Waraba PDA
- ED Regulation to state the expiry date for the Interim Land Use Plan for the Waraba PDA
- provisions in sch 10, pt 2A of the Planning Regulation 2017 as they relate to land within the Waraba PDA.¹⁷⁵

According to the human rights certificate, the proposed PDA is considered to be a major expansion area in the ShapingSEQ 2023 regional plan. The proposed PDA is anticipated to provide housing diversity and supply, along with land for business and industry. The PDA will potentially provide 30,000 dwellings for 70,000 people and deliver 17,000 jobs.¹⁷⁶

24.2 Consultation

The explanatory notes state ‘there are no requirements for general public consultation prior to the declaration. However, the Minister administering the *Economic Development Act 2012* (ED Act) consulted with the Minister administering the *Planning Act 2016* about the proposed declaration of the PDA, as required by section 37(2) of the ED Act. Further, targeted stakeholder consultation was undertaken with Moreton Bay City Council, as the relevant local government and with Unitywater, as the relevant local water distributor-retailer. A draft of the PDA development scheme will be subject to public notification prior to coming into effect and replacing the ILUP.’¹⁷⁷

24.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 138.

24.4 Compatibility with human rights

The human rights certificate raises various human rights. The freedom of expression and right to take part in public life are discussed below.

Freedom of expression and taking part in public life

Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds.¹⁷⁸

Further, the right to take part in public life protects the right of all persons to have the opportunity, without discrimination, to participate in the conduct of public affairs.¹⁷⁹

The human rights certificate considers that these rights may be limited by SL No. 138 because the consequence of an area being declared as a PDA is that there are limited rights of review and appeal against decisions about development applications, and there may be a limited opportunity for the public to make submissions compared with the existing planning scheme.¹⁸⁰

The human rights certificate justifies the limitations on the basis that SL No. 138 enables:

... the establishment of a regulatory framework governing land use planning and infrastructure requirements needed to facilitate the intention of the *ShapingSEQ 2023*. This will contribute to orderly development in south-east Queensland, including increasing housing supply at a time when there is unmet demand, and increased employment opportunities in the area.¹⁸¹

¹⁷⁵ SL No. 138, pt 3. See also SL No. 138, explanatory notes, p 1.

¹⁷⁶ SL No. 138, human rights certificate, p 2.

¹⁷⁷ SL No. 138, explanatory notes, p 4.

¹⁷⁸ HRA, s 21.

¹⁷⁹ HRA, s 23.

¹⁸⁰ SL No. 138, human rights certificate, pp 3-4.

¹⁸¹ SL No. 138, human rights certificate, p 6.

Committee comment

The committee is satisfied that potential limitations to freedom of expression and taking part in public life are reasonable and justifiable in the circumstances.

25. Electrical Safety (Codes of Practice) Notice 2024

25.1 Overview

The Electrical Safety (Codes of Practice) Notice 2024 (SL No. 156), which commences on 15 August 2024, repeals and replaces the Electrical Safety (Codes of Practice) Notice 2013.¹⁸² SL No. 156 retains notification of codes of practice made under the *Electrical Safety Act 2002*.¹⁸³

25.2 Consultation

The explanatory notes state that given the administrative nature of the 2024 Codes Notice and its purpose, no further regulatory impact analysis under the Queensland Government Better Regulation Policy was required.¹⁸⁴

25.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 156.

25.4 Compatibility with human rights

The human rights certificate concludes that the Notice does not engage any human rights.¹⁸⁵ No human rights issues were identified by the committee.

26. Work Health and Safety (Codes of Practice) Amendment Notice 2024

26.1 Overview

The Work Health and Safety (Codes of Practice) Amendment Notice 2024 (SL No. 157) commences on 16 August 2024 (part 2) and 23 September 2024 (part 3).¹⁸⁶ SL No. 157 amends the Work Health and Safety (Codes of Practice) Notice 2022 for the Minister to give notice that the Minister has:

- revoked the Managing Respirable Crystalline Silica Dust Exposure in the Stone Benchtop Industry Code of Practice 2019 on 16 August 2024
- revoked the Mobile Crane Code of Practice 2006 on 23 September 2024 and approved the Mobile Crane Code of Practice 2024 to commence on 23 September 2024
- revoked the Rural Plant Industry Code of Practice 2004 and the Safe Design and Operation of Tractors Code of Practice 2005 on 23 September 2024 and approved the Rural Plant Code of Practice 2024 to commence on 23 September 2024
- revoked the Sugar Industry Code of Practice 2005 on 23 September 2024 and approved the Sugar Mill Safety Code of Practice 2024 to commence on 23 September 2024.¹⁸⁷

26.2 Consultation

The explanatory notes state that ‘as the WHS Amendment Notice is minor and machinery in nature, a regulatory impact analysis was not required under the Queensland Government Better Regulation Policy’. However, the explanatory notes state that stakeholder consultation was undertaken during the development of the new approved codes.¹⁸⁸

¹⁸² SL No. 156, ss 2 and 4.

¹⁸³ SL No. 156, sch 1. SL No. 156, explanatory notes, p 1.

¹⁸⁴ SL No. 156, explanatory notes, p 2.

¹⁸⁵ SL No. 156, human rights certificate, p 1.

¹⁸⁶ SL No. 157, s 2.

¹⁸⁷ SL No. 157, s 3. SL No. 157, explanatory notes, p 1.

¹⁸⁸ SL No. 157, explanatory notes, p 3.

26.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 157.

26.4 Compatibility with human rights

The human rights certificate states that SL No. 157 does not limit any human rights. No human rights issues were identified by the committee.

27. Proclamation made under the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024*

27.1 Overview

The proclamation made under the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (RTRAOLA Act) (SL No. 158) fixes the dates stated in the schedule for commencement of the sections of the RTRAOLA Act.¹⁸⁹

The schedule provides the following commencement dates:

- 16 August 2024 for the head of power for a Transitional Regulation to enable a Transitional Regulation to be made that clarifies the obligations for rental property owners and their agents to disclose the date of the last rent increase to renters when the property was purchased within 12 months of the RTRAOLA Act commencing
- 30 September 2024 for priority provisions that help ease cost of living pressures for renters and support the Residential Tenancies Authority's (RTA's) compliance and enforcement role
- 1 May 2025 for remaining provisions to give the residential tenancies sector and implementation agencies time to adjust and prepare for implementation.¹⁹⁰

27.2 Consultation

The notes also state that the Rental Tenancies Authority 'support the proposed implementation approach and the provision of certainty about commencement dates for the RTRAOLA Act but raised concerns about the sector adjusting to reforms that commenced on Assent, and that commencement of further reforms may contribute to reform fatigue and complexity in communications and implementation.'¹⁹¹

27.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 158.

27.4 Compatibility with human rights

The human rights certificate states that the Proclamation is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.¹⁹² No human rights issues were identified by the committee.

¹⁸⁹ SL No. 158, schedule.

¹⁹⁰ SL No. 158, schedule. SL No. 158, explanatory notes, p 2.

¹⁹¹ SL No. 158, explanatory notes, p 2.

¹⁹² SL No. 158, human rights certificate, p 2.

28. Residential Tenancies and Rooming Accommodation (Transitional) Regulation 2024

28.1 Overview

The Residential Tenancies and Rooming Accommodation (Transitional) Regulation 2024 (SL No. 159) makes transitional provisions to support the implementation of the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (RTRAOLA Act).¹⁹³

The policy objectives of SL No. 159 are to ensure:

- rental property owners or their agents are not in breach of the RTRAOLA Act or subject to penalties when the premises was the subject of a tenancy agreement or rooming accommodation agreement in the 12 months prior to commencement, and they are unable to provide the date of the last increase on the written agreement or written notice of a rent increase because they purchased the property during the 12 month period and do not hold information about the day of the last rent increase
- requirements to provide evidence of the date of the last rent increase apply for the 12 months prior to commencement of the provision.¹⁹⁴

28.2 Consultation

The explanatory notes state that the amendments clarify obligations established under the RTRAOLA Act and are minor and machinery in nature. Consequently, no consultation was undertaken. An Impact Analysis Statement has been prepared and approved.¹⁹⁵

28.3 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified with SL No. 159.

28.4 Compatibility with human rights

The human rights certificate discusses property rights and protection of families and children, the latter of which is discussed below.¹⁹⁶

Protection of families and children

The human rights certificate states that the right to protection of families and children is in some cases limited as it may affect tenants and residents' ability to know when a rent increase will occur and to plan accordingly.¹⁹⁷

The human rights certificate justifies the potential limitations on the basis that the purpose of SL No. 159 is to ensure 'that lessors and providers are not subject to penalties for failing to provide information that is not in their possession or under their control.'¹⁹⁸

Committee comment

The committee is satisfied that potential limitations to the protection of families and children is reasonable and justifiable in the circumstances.

¹⁹³ SL No. 159, s 2. SL No. 159, explanatory notes, p 2.

¹⁹⁴ SL No. 159, explanatory notes, p 2.

¹⁹⁵ SL No. 159, explanatory notes, p 3.

¹⁹⁶ SL No. 159, human rights certificate, p 1.

¹⁹⁷ SL No. 159, human rights certificate, p 2.

¹⁹⁸ SL No. 159, human rights certificate, p 2.

29. Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Regulation 2024

29.1 Overview

The Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Regulation 2024 (SL No. 160) amends the Residential Tenancies and Rooming Accommodation Regulation 2009 (RTRAR).¹⁹⁹

The amendments to the RTRAR are to support provisions of the RTRAOLA Act that will commence on 30 September 2024 and provide the RTA with more enforcement options in relation to rent bidding offences which commence on assent.²⁰⁰ The explanatory notes state that the provisions commencing on 30 September 2024 will ‘help alleviate cos of living pressures for renters and enhance the RTA’s compliance and enforcement ability’. Specifically, they will:

- limit the maximum amount of rental bonds
- require utility charges to be promptly passed on
- require that renters be offered a fee- free rent payment method
- limit reletting costs to a prescribed amount according to how much of the lease has expired
- expand a provision to make it an offence to give the RTA a false or misleading document
- allow the RTA to share confidential information with the Office of Fair Trading and the Department of Housing, Local Government, Planning and Public Works.²⁰¹

SL No. 160 also amends the State Penalties Enforcement Regulation 2014 to:

- enable the RTA to issue penalty infringement notices (PINs) for a rent bidding offence in relation to residential tenancy agreements and rooming accommodation agreements
- correct a referencing error.²⁰²

29.2 Consultation

The explanatory notes state that no specific consultation was undertaken in relation to the amendment regulation as the RTRAOLA Act was subject to rigorous consultation and the amendments are consequential. Furthermore, an Impact Assessment Statement found the ‘proposed amendments are minor and machinery in nature and do not result in a substantive change to regulatory policy or new impacts on business, government or the community’.²⁰³

29.3 Consistency with fundamental legislative principles

The explanatory notes raise the fundamental legislative principle that legislation should not abrogate statutory or common law rights without sufficient justification, in the context of property rights (being the property rights of owners).²⁰⁴ Property rights are discussed in the human rights section below.

29.3.1 Compatibility with human rights

The human rights certificate raises various human rights²⁰⁵. Property rights are discussed below.

¹⁹⁹ SL No. 160, s 3.

²⁰⁰ SL No. 160, explanatory notes, p 1.

²⁰¹ SL No. 160, explanatory notes, p 2.

²⁰² SL No. 160, explanatory notes, p 2.

²⁰³ SL No. 160, explanatory notes, p 4.

²⁰⁴ SL No. 160, explanatory notes, p 3.

²⁰⁵ Freedom of expression (section 21), property rights (section 24), privacy and reputation (section 25).

Property rights

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

The human rights certificate states that amendments in SL No. 160 including limits on the frequency of rent increases,²⁰⁶ the way rent is to be paid,²⁰⁷ service charges,²⁰⁸ reletting costs,²⁰⁹ and increased and new penalties²¹⁰ may engage the right to property, for example, by limiting how property owners can deal with their investment property.²¹¹

However, the human rights certificate states that any interference with property is proportionate and not arbitrary and, as such, the right to property is not limited by the amendments.²¹² Even if the right was limited, the human rights certificate provides that any limitation must be balanced against the interests of ensuring a stable, transparent and fair private rental market in a time of unprecedented housing stress.²¹³

Committee comment

The committee is satisfied that a potential limitation to property rights is reasonable and justifiable in the circumstances.

Recommendation

The committee recommends that the House notes this report.



Chris Whiting MP

Chair

September 2024

Housing, Big Build and Manufacturing Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Jim McDonald MP, Member for Lockyer
Members	Mr Don Brown MP, Member for Capalaba
	Mr Michael Hart MP, Member for Burleigh
	Mr Robbie Katter MP, Member for Traeger
	Mr Tom Smith MP, Member for Bundaberg

²⁰⁶ SL No. 160, human rights certificate, pp 2-4.

²⁰⁷ SL No. 160, human rights certificate, pp 4-5.

²⁰⁸ SL No. 160, human rights certificate, pp 5-7.

²⁰⁹ SL No. 160, human rights certificate, pp 7-8.

²¹⁰ SL No. 160, human rights certificate, pp 8-9.

²¹¹ SL No. 160, human rights certificate, p 3.

²¹² SL No. 160, human rights certificate, pp 4, 5, 7, 8 and 9.

²¹³ SL No. 160, human rights certificate, pp 4, 5, 9.

Statement of Reservations

Report No. 22 – Subordinate legislation tabled between 22 May 2024 and 20 August 2024

James McDonald MP and Michael Hart MP

Non-government members of the committee are concerned that much of the subordinate legislation considered within this report is being rushed through by the government with minimal consultation with industry and is likely to have unintended consequences.

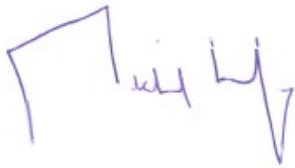
We suggest that the next government review the subordinate legislation the subject of this report and consider disallowance where necessary.



Jim McDonald MP

Deputy Chair

Member for Lockyer



Michael Hart MP

Member for Burleigh