

Health, Environment and Agriculture Committee

Report No. 17, 57th Parliament

Subordinate legislation tabled between 12 June 2024 and 20 August 2024

1 Aim of this report

This report summarises the committee's findings following its examination of subordinate legislation within its portfolio areas tabled between 12 June 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 (FLPs),¹ its compatibility with human rights,² and its lawfulness.³ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),⁴ and the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
78	Fisheries Quota (Spanner Crab Fishery) Amendment Declaration 2024	20 August 2024	tba
80	Proclamation—Health and Other Legislation Amendment Act 2023	20 August 2024	tba
92	Health and Other Legislation Amendment Regulation 2024	20 August 2024	tba
93	Proclamation—Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022	20 August 2024	tba
102	Medicines and Poisons (Medicines) Amendment Regulation (No. 2) 2024	20 August 2024	tba
110	Nature Conservation Legislation Amendment Regulation (No. 2) 2024	20 August 2024	tba
111	Waste Reduction and Recycling Amendment Regulation 2024	20 August 2024	tba
119	Rural and Regional Adjustment (Sheep and Goats Electronic Identification Rebate Scheme) Amendment Regulation 2024	20 August 2024	tba
126	Environmental Protection (Composting Facilities) Amendment Regulation 2024	20 August 2024	tba
139	Public Health (Infection Control for Personal Appearance Services) (Infection Control Guidelines) Notice 2024	20 August 2024	tba
141	Proclamation—Health and Other Legislation Amendment Act 2024	20 August 2024	tba

¹ *Legislative Standards Act 1992* (LSA), s 4.

² *Human Rights Act 2019* (HRA), s 8.

³ LSA, Part 4.

⁴ LSA, Part 4.

⁵ HRA, s 41.

142	Health Legislation (Ratios and Other Matters) Amendment Regulation 2024	20 August 2024	tba
143	Rural and Regional Adjustment (Regional Drought Resilience Planning Scheme and Another Matter) Amendment Regulation 2024	20 August 2024	tba
148	Health Ombudsman Regulation 2024	20 August 2024	tba
153	Rural and Regional Adjustment (Variation of Primary Industry Productivity Enhancement Scheme) Amendment Regulation 2024	20 August 2024	tba

* The disallowance date is 14 sitting days after the tabling date. Proposed sitting dates are as advised by the Leader of the House. These dates are subject to change.

3 Committee consideration of the subordinate legislation

No issues with the policy or lawfulness of the subordinate legislation were identified. The committee did not identify any issues in regard to FLPs or compatibility with the HRA in SL Nos. 80, 93, 110, 111, 119, 126, 141, 143, or 153.

The committee considered potential FLP issues in relation to SL Nos. 78, 92, 102, 139, 142, and 148, and was ultimately satisfied that the subordinate legislation is consistent with FLPs. The committee also considered human rights matters in relation to SL No. 92, and was satisfied that the subordinate legislation is compatible with human rights. The FLP and human rights issues identified are discussed in this report.

The explanatory notes tabled with the subordinate legislation generally comply with the requirements of part 4 of the LSA. All human rights certificates accompanying the subordinate legislation provided a sufficient level of information to facilitate understanding of the subordinate legislation in relation to compatibility with the HRA.

A brief overview of the subordinate legislation is provided in the following sections.

4 SL No. 78 – Fisheries Quota (Spanner Crab Fishery) Amendment Declaration 2024

The Fisheries Quota (Spanner Crab Fishery) Amendment Declaration 2024 (SL No. 78) amends the Fisheries Quota Declaration 2019 to reduce the total allowable commercial catch (TACC) for the spanner crab managed area 'A' from 847 tonnes to 797 tonnes for the individual transferable quota (ITQ) year commencing on 1 July 2024.⁶

The spanner crab fishery is managed using quota-based management systems which set out a total quota entitlement for a species or group of species, that is, the TACC. Under the TACC, individual fishers hold ITQ units, a type of total quota entitlement which entitles the holder to take a portion of the declared total quota entitlement for that species, or group of species, during the ITQ year (generally from 1 July to 30 June each year).⁷

According to the explanatory notes:

From season to season, the declared total quota entitlement may be increased or decreased depending upon the status of the fish stocks concerned. As a consequence, the amount of catch (in kilograms) that a unit entitles the holder to take also increases and decreases.⁸

The Spanner Crab Fishery Harvest Strategy, which was developed to rebuild spanner crab stocks to levels previously considered sustainable, uses standardised commercial and fishery independent

⁶ See SL No. 78, ss 2-4.

⁷ SL No. 78, explanatory notes, pp 1, 3.

⁸ SL No. 78, explanatory notes, p 1.

survey catch rates from the past 2 years, compared against target reference points, to calculate the recommended TACC for subsequent fishing seasons.⁹

In accordance with the Spanner Crab Fishery Harvest Strategy decision rules,¹⁰ the ‘Total allowable commercial catch review for Queensland spanner crab (*Ranina ranina*), with data to December 2023’ report recommended the reduction of the TACC for managed area A to 797 tonnes.¹¹

4.1 Consistency with fundamental legislative principles

4.1.1 Rights and liberties of individuals—ordinary business activities should not be restricted

Legislation should not, without sufficient justification, unduly restrict ordinary activities.¹² Regulation of business, although prolific, is an intervention in a right to conduct business in the way in which the persons involved consider appropriate.¹³

The explanatory notes acknowledge that the taking and possessing of spanner crabs under existing ITQ values (kg/unit) could be an ordinary activity that is being limited by SL No. 78:

Implementing the reduced TACC will mean that instead of ITQ holders being able to take their individual share of a 847 tonne TACC of spanner crabs, they will be restricted to their individual share of a 797 tonne TACC, which will be a smaller amount of catch for the next fishing year.¹⁴

In seeking to justify the interference, the explanatory notes state that the amendment to the allowable catch is ‘necessary to ensure the sustainable take of Spanner Crab and commercial harvest levels remain consistent with the Spanner Crab Fishery Harvest Strategy and Sustainable Fisheries Strategy’.¹⁵ The explanatory notes also state:

Commercial Spanner Crab fishers are aware that the TACC for each fishing year is based on assessment of the fishery’s performance in accordance with the harvest strategy rules and that the TACC is subject to change.¹⁶

In addition, ‘the amendment to the TACC will only affect the commercial sector and will not impact other sectors such as recreational and traditional fishing’.¹⁷

Committee comment

The committee is satisfied that SL No. 78 has sufficient regard to the rights and liberties of individuals.

5 SL No. 80 – Proclamation—Health and Other Legislation Amendment Act 2023

The Proclamation made under the *Health and Other Legislation Amendment Act 2023* (HOLA Act) fixes a commencement date of 1 July 2024 for the stated provisions of the HOLA Act.¹⁸ The provisions commence amendments to:

- the *Mental Health Act 2016* to authorise the release and use of expert reports and Mental Health Court transcripts for criminal proceedings in certain circumstances
- the *Hospital and Health Boards Act 2011* to:

⁹ SL No. 78, explanatory notes, p 2.

¹⁰ The explanatory notes set out the specific indicators used in accordance with the Strategy decision rules in the making of the recommendation; SL No. 78, explanatory notes, p 2.

¹¹ SL No. 78, explanatory notes, p 2.

¹² OQPC, Notebook, p 118.

¹³ OQPC, Notebook, p 118.

¹⁴ SL No. 78, explanatory notes, p 4.

¹⁵ SL No. 78, explanatory notes, p 4.

¹⁶ SL No. 78, explanatory notes, p 4.

¹⁷ SL No. 78, explanatory notes, p 3.

¹⁸ SL No. 80, sch. The provisions commence HOLA Act, pt 3, div 3 (other than s 12) and pt 4; SL No. 80, explanatory notes, p 1.

- authorise key findings, recommendations and lessons learned from root cause analyses to be shared with patient safety and clinical governance areas in Queensland Health to promote state-wide patient safety improvements and shared learning and to ensure the implementation of recommendations can be more effectively monitored
- require a Quality Assurance Committee to disclose information about a serious risk of harm by a health professional to the chief executive (or delegate) to ensure patient safety issues can be addressed as quickly as possible.¹⁹

6 SL No. 92 – Health and Other Legislation Amendment Regulation 2024

The Health and Other Legislation Amendment Regulation 2024 (SL No. 92) amends various legislation, including:

- the Hospital and Health Boards Regulation 2023 to prescribe new confidential information-sharing agreements with the Commonwealth
- the Hospital and Health Boards Regulation 2023, Private Health Facilities Regulation 2016 and Public Health Regulation 2018 to authorise the provision of confidential information to Queensland Primary Health Networks (PHNs), the Queensland Aboriginal and Islander Health Council (QAIHC) and the Institute for Urban Indigenous Health Services (IUIH)
- the Radiation Safety Regulation 2021 to:
 - deem certain classes of student health practitioners to be licence holders for training purposes, removing the requirement for them to apply to Queensland Health for a licence and for Queensland Health to process the applications
 - enable specialist cardiologists who have completed specialised computed tomography (CT) coronary angiography training to request CT diagnostic imaging procedures, removing the need for them to refer the patient to another health practitioner to request the procedure
- the State Penalties Enforcement Regulation 2014 (SPER) to prescribe 2 new offences in the *Tobacco and Other Smoking Products Act 1998* (TOSPA) as infringement notice offences
- the Voluntary Assisted Dying Regulation 2022 (VAD Regulation) to provide that a voluntary assisted dying (VAD) substance cannot be supplied to a person unless a previously supplied substance has been disposed of by or is in the possession of an authorised disposer or the administering practitioner for the person.²⁰

6.1 Consistency with fundamental legislative principles

6.1.1 Rights and liberties of individuals – penalties

Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation.²¹

SL No. 92 amends the SPER to prescribe 2 new offences in the TOSPA as infringement notice offences:²²

- unlicensed retail or wholesale sale of smoking products²³
- supplying smoking products at a liquor licensed premises other than from a point of sale.²⁴

According to the explanatory notes, although most of the new offences introduced by the *Tobacco and Other Smoking Products Amendment Act 2023* have already commenced, the specified offences

¹⁹ SL No. 80, explanatory notes, p 1.

²⁰ SL No. 92, explanatory notes, pp 1-2.

²¹ LSA, s 4(2)(a). OQPC, Notebook, p 120.

²² SL No. 92, explanatory notes, p 11.

²³ TOSPA, s 65(1).

²⁴ TOSPA, s 78(2).

were delayed until 1 September 2024 to give businesses sufficient time to become licensed and to relocate smoking product vending machines.²⁵

The explanatory notes seek to justify the introduction of the infringement notice offences:

When used appropriately and in conjunction with other compliance mechanisms under the Act [TOSPA], infringement notices are considered to be a fair and effective enforcement response and provide a more immediate deterrent than commencing lengthy prosecution action. By providing an alternative to prosecution, infringement notices reduce demands on Queensland courts while still maintaining a person's right to access the judicial system if they wish to challenge the offence.²⁶

Additionally, the explanatory notes observe that the penalty units for the infringement notices prescribed in SL No. 92 are consistent with those prescribed for similar offences in both the TOSPA and other health portfolio legislation.²⁷

Committee comment

The committee considers the penalty is appropriate, relevant and proportionate in the circumstances, and we are satisfied that SL No. 92 has sufficient regard to the rights and liberties of individuals.

6.2 Compatibility with human rights

6.2.1 Right to privacy

A person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with.²⁸

As noted above, SL No. 92 amends:²⁹

- the Hospital and Health Boards Regulation 2023 to prescribe new confidential information-sharing agreements with the Commonwealth
- the Hospital and Health Boards Regulation 2023, Private Health Facilities Regulation 2016 and Public Health Regulation 2018 to allow the disclosure of confidential health data to PHNs,³⁰ QAIHC and IUIH.³¹

The amendments may infringe the privacy of persons whose medical information may be disclosed.

According to the human rights certificate, the aim of sharing confidential patient information with the Commonwealth is to 'support the treatment of eligible veterans and visiting Norfolk Island residents in Queensland public hospitals'.³²

Sharing confidential data for the purposes of evaluating, managing, monitoring or planning health services will assist PHNs, QAIHC and IUIH to achieve their health service planning and evaluation functions. The human rights certificate states 'this process aids in identifying strategies to allocate funding more effectively in accordance with population health needs'.³³

²⁵ SL No. 92, explanatory notes, p 13.

²⁶ SL No. 92, explanatory notes, p 13.

²⁷ SL No. 92, explanatory notes, p 13.

²⁸ HRA, s 25(1).

²⁹ SL No. 92, explanatory notes, p 2.

³⁰ PHNs are tasked with analysing pertinent local and national health data to ascertain present and future health priorities; SL No. 92, human rights certificate, pp 7-8.

³¹ The QAIHC and IUIH are committed to supporting and facilitating the development of Aboriginal and Islander health and well-being services for Community Controlled Health Services; SL No. 92, human rights certificate, p 8.

³² SL No. 92, human rights certificate, p 8.

³³ SL No. 92, human rights certificate, p 8.

The human rights certificate asserts that the disclosure of confidential data is justified when it serves a compelling public interest³⁴ and that the relevant legislation³⁵ provides that confidential information must not be disclosed, directly or indirectly, unless the disclosure is required or permitted under that legislation.³⁶

The human rights certificate concludes that the minor limitation on human rights resulting from SL No. 92 is justified having regard to ‘the importance of enhancing health outcomes in Queensland which is vital not only for individuals and communities but also for fostering overall well-being and socioeconomic development’.³⁷

6.2.2 Right to health services

Every person has the right to access health services, including medication, without discrimination.³⁸

SL No. 92 amends the VAD Regulation to provide that a VAD substance cannot be supplied to a person unless a previously supplied substance has been disposed of by or is in the possession of an authorised disposer or the administering practitioner for the person.³⁹

The amendment may infringe a person’s ability to access medication.

According to the human rights certificate:

Where a self-administration substance has been issued to a person and the person has revoked their self-administration decision and made a new practitioner administration decision, there is no legislative requirement for the original self-administration substance to be returned for disposal prior to the practitioner administration substance is supplied.⁴⁰

The human rights certificate states that the amendment to the VAD Regulation is a ‘required safeguard to protect the community, by ensuring that two substances are not supplied for the same person concurrently’ and ‘will mitigate some of the risk of possible unauthorised use of a VAD substance by vulnerable persons’.⁴¹

The human rights certificate concludes that the subordinate legislation’s limitation on human rights is justified to protect vulnerable people in the community and to ensure the enhanced management of VAD substances.⁴²

Committee comment

The committee is satisfied that SL No. 92 is compatible with human rights.

7 SL No. 93 – Proclamation—Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022

The Proclamation made under the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (Amendment Act) fixes a commencement date of 1 July 2024 for the provisions of the Amendment Act that are not in force.

The Amendment Act amends the Health Practitioner Regulation National Law (National Law), which is set out in the schedule to the *Health Practitioner Regulation National Law Act 2009* (Qld), to give effect

³⁴ Such as protecting public health and safety. SL No. 92, human rights certificate, p 8.

³⁵ Being the *Hospital and Health Boards Act 2011*, *Private Health Facilities Act 1999*, and *Public Health Act 2005*.

³⁶ SL No. 92, human rights certificate, p 8.

³⁷ SL No. 92, human rights certificate, p 9.

³⁸ HRA, s 37(1); SL No. 92, human rights certificate, p 9.

³⁹ SL No. 92, explanatory notes, p 2.

⁴⁰ SL No. 92, human rights certificate, p 9.

⁴¹ SL No. 92, human rights certificate, p 9.

⁴² SL No. 92, human rights certificate, p 10.

to nationally agreed reforms to the National Registration and Accreditation Scheme (National Scheme) for health practitioners.⁴³

According to the explanatory notes, the provisions commence amendments to:

- allow the Office of the Health Ombudsman to:
 - take immediate action by accepting an undertaking from a practitioner
 - establish the processes for varying and revoking an undertaking
- allow the Ministerial Council to delegate its power to approve registration standards to an appropriate entity
- amend the period of time for the commencement of all registration types
- establish the process regarding renewal of a practitioner's registration after a period of suspension
- empower the National Boards to include previously excluded information in the National Register if there is a reasonable belief the circumstances have changed
- allow National Boards and the Australian Health Practitioner Regulation Agency to issue interim prohibition orders to unregistered persons in certain circumstances where the person poses a serious risk to others
- give the Queensland Civil and Administrative Tribunal (QCAT) jurisdiction to hear an appeal of a decision of the Health Ombudsman to refuse an application to vary or revoke an undertaking given as an immediate registration action
- clarify specified matters
- make minor administrative amendments to reflect other amendments in the Amendment Act.⁴⁴

8 SL No. 102 – Medicines and Poisons (Medicines) Amendment Regulation (No. 2) 2024

The Medicines and Poisons (Medicines) Amendment Regulation (No. 2) 2024 (SL No. 102), which commences on 1 July 2024, amends the Medicines and Poisons (Medicines) Regulation 2021 (Medicines Regulation) to:

- authorise community pharmacists who have received appropriate training to prescribe a range of hormonal contraceptives⁴⁵ to women and girls over the age of 16 under the Community Pharmacy Hormonal Contraception Service Pilot
- provide an exemption for buying and supplying medicines stock held in or obtained from the Commonwealth National Medical Stockpile (NMS),⁴⁶ enabling rapid access to, and distribution of, NMS medicine stock and enabling unused stock of medicine to be returned to the NMS to avoid wastage⁴⁷

⁴³ SL No. 93, explanatory notes, p 1.

⁴⁴ SL No. 93, explanatory notes, pp 2-3, 5.

⁴⁵ Including, the specified oral medications, injected medication and contraceptive device; SL No. 102, explanatory notes, p 2.

⁴⁶ The NMS, which is managed by the Commonwealth Department of Health, is a strategic reserve of medicines and other supplies, such as vaccines, antidotes and personal protective equipment, for use in health emergencies; SL No. 102, explanatory notes, p 2.

⁴⁷ SL No. 102 provides for an exemption from having to comply with the usual requirements for purchase orders and wholesale supply under the *Medicines and Poisons Act 2019* and enable rapid access and distribution of National Medical Stockpile medicine stock in the event of a health emergency; SL No. 102, explanatory notes, p 5.

- authorise nurse practitioners to deal with unapproved medicine by removing the term 'registered'.⁴⁸

Extrinsic materials, being Extended Practice Authorities (EPAs), were tabled prior to the tabling of SL No. 102. The EPAs, tabled on 1 July 2024, comprise of:

- *Medicines and Poisons Act 2019*: EPA 'Pharmacists' (Version 6)
- *Medicines and Poisons Act 2019*: EPA 'Pharmacists – Community pharmacy scope of practice pilot' (Version 2).

8.1 Consistency with fundamental legislative principles

8.1.1 Sufficient regard to the institution of Parliament – external documents

External documents, such as EPAs, are not required to be tabled and are not subject to the disallowance provisions in the *Statutory Instruments Act 1992*. As a result, EPAs could be considered to have insufficient regard to the institution of Parliament, and therefore be inconsistent with FLPs.⁴⁹

New versions of extended practice authorities

An EPA is a document certified by the chief executive of Queensland Health (or delegate) that sets out matters of technical detail for how an approved person can carry out a regulated activity with a regulated substance.⁵⁰

Under the *Medicines and Poisons Act 2019*, an EPA may:

- state the places or circumstances in which the approved person may deal with the regulated substance
- impose conditions on dealing with the regulated substance
- require the approved person to hold particular qualifications or training to deal with the registered substance.⁵¹

The explanatory notes advise that an EPA includes details, such as the specific dose, quantity, duration and restrictions placed on substances and the circumstances in which they may be administered, and is:

...monitored and updated, when necessary, aligns with best clinical practice and is published on the Queensland Health website. When making or amending an extended practice authority, relevant individuals or organisations with expertise in, or experience of, the matters under consideration are consulted.⁵²

According to the explanatory notes, EPAs are:

...updated regularly, with consideration given to the healthcare needs of specific patient populations, how care can be provided in a timely and safe manner and requirements for medical advice, referral or transfer to other individuals qualified to provide higher levels of care, and the individual qualifications, skills and experience of the class of health practitioners who will act under the particular authority. Schedule 1, part 1 (Approved extended practice authorities) of the *Medicines Regulation* details the name of each extended practice authority made by the chief executive and its version number. The *Medicines Regulation* is updated to reflect the name and new version number of the extended practice authority each time a new version is made. A copy of the updated extended practice authority is tabled as extrinsic material each time the regulation is amended. The Act provides that an extended practice authority has

⁴⁸ Removing the term 'registered' allows nurse practitioners to deal with an unapproved medicine and reduces the need to refer patients to another health practitioner for treatment with an unapproved medicine; SL No. 102, explanatory notes, pp 1-2, 5.

⁴⁹ LSA, s 4(5)(e).

⁵⁰ SL No.102, explanatory notes, p 9.

⁵¹ *Medicines and Poisons Act 2019*, s 232; SL No. 102, explanatory notes, p 4.

⁵² SL No. 102, explanatory notes, p 9.

effect in relation to an approved person only if a provision of a regulation states it applies to the particular class of persons, as approved persons.⁵³

The explanatory notes seek to justify the delegation of legislative power by asserting that the inclusion of a list of EPAs in the schedule of the Medicines Regulation ‘creates certainty for the relevant professions and the public’.⁵⁴ Further, the explanatory notes state:

...the rigour surrounding the development of extended practice authorities, their use in ensuring Queenslanders receive health care based on best clinical practice and the detailed nature of the documents, justifies the need to sub-delegate by referring to external documents in the Medicines Regulation.⁵⁵

Additionally, while there is no statutory requirement to table an EPA, the updated EPAs associated with SL No. 102 were tabled on 1 July 2024, providing the Legislative Assembly with an opportunity to consider the content of the EPAs when scrutinising the subordinate legislation.

Committee comment

The committee is satisfied that any breach of FLPs arising from the updating of the EPAs is justified, having regard to the detail in the documents, the opportunity for parliamentary oversight when the Medicines Regulation is amended to include new or amended EPAs, and that copies of the approved EPAs were tabled in the Legislative Assembly.

9 SL No. 110 – Nature Conservation Legislation Amendment Regulation (No. 2) 2024

The Nature Conservation Legislation Amendment Regulation (No. 2) 2024 (SL No. 110) amends the Nature Conservation (Forest Reserves) Regulation 2000, Nature Conservation (Protected Areas Management) Regulation 2017 and Nature Conservation (Protected Areas) Regulation 1994 to:

- revoke part of Kuranda West Forest Reserve, near Cairns, and dedicate the area as part of the existing Kuranda National Park, near Cairns
- increase the area of following national parks –
 - Eurimbula National Park, near Gladstone
 - Girringun National Park, near Ingham
 - Gulngay National Park, near Cardwell
 - Homevale National Park, near Mackay
 - Hull River National Park, near Cardwell
 - Japoon National Park, near Innisfail
 - Lockyer National Park, near Toowoomba
 - Macalister Range National Park, near Cairns
 - Magnetic Island National Park, near Townsville
 - Mount Coolum National Park, north of Brisbane
 - Paluma Range National Park, near Townsville
 - Pioneer Peaks National Park, near Mackay
 - Russell River National Park, near Cairns
 - Tully Gorge National Park, near Cardwell
 - Venman Bushland National Park, south-east of Brisbane
 - Wooroonooran National Park, near Innisfail
- dedicate 2 new national parks – Malbon Thomson Range National Park, near Cairns, and The Lakes National Park, near Charters Towers

⁵³ SL No. 102, explanatory notes, p 9.

⁵⁴ SL No. 102, explanatory notes, p 9.

⁵⁵ SL No. 102, explanatory notes, p 9.

- rename the existing Littleton National Park, near Cairns, as Tagalaka National Park, as part of the National Parks First Nations Naming Project.⁵⁶

In addition, SL No. 110:

- increases the area of 2 conservation parks – Daisy Hill Conservation Park, south-east of Brisbane, and Mouth of Baffle Creek Conservation Park 2, near Bundaberg
- increases the area and redescribes the entirety of the Crystalvale Nature Refuge, near Coen
- renames and redescribes the entirety of the Rifle Range Nature Refuge as Emerald Rifle Range Nature Refuge, increasing the area of the nature refuge
- declares the new Abingdon Downs North Nature Refuge, near Georgetown
- adds new tidal areas to Eurimbula National Park and amends Schedule 6 of the Nature Conservation (Protected Areas Management) Regulation 2017 to accommodate recreational fishing and mud crabbing in all tidal areas of the national park.⁵⁷

According to the explanatory notes, ‘the core aim of dedicating new or amending existing protected areas is to permanently preserve, to the greatest extent possible, the area’s natural condition, to protect the area’s cultural resources and values and provide for ecologically sustainable activities and ecotourism’.⁵⁸ Revocation of the forest reserve and its subsequent dedication as a protected area is ‘part of the long-term forest reserve transfer process in Queensland’.⁵⁹

SL No. 110 also includes minor amendments, such as updating of the plans that define the boundaries of national parks or protected areas using contemporary survey and mapping technology.⁶⁰

10 SL No. 111 – Waste Reduction and Recycling Amendment Regulation 2024

The Waste Reduction and Recycling Amendment Regulation 2024 (SL No. 111) amends the Waste Reduction and Recycling Regulation 2023 (WRR Regulation) to:

- give effect to additional payments to 7 major regional councils⁶¹ to reinstate annual payments to 100 per cent of the incurred liability for the 2023-2024 and 2024-2025 financial years⁶²
- correct municipal solid waste baseline calculation errors for the 43 levy-impacted local governments for 2025-2026
- extend the expiry of the exemption⁶³ for alum sludge or other residuals produced as a result of a drinking water treatment process until 30 June 2029.⁶⁴

⁵⁶ SL No. 110, explanatory notes, pp 2-5.

⁵⁷ Explanatory notes, p 5.

⁵⁸ SL No. 110, explanatory notes, p 1.

⁵⁹ SL No. 110, explanatory notes, p 2.

⁶⁰ SL No. 110, explanatory notes, p 2.

⁶¹ Specifically, Cairns, Townsville, Mackay, Rockhampton, Gladstone, Bundaberg and Fraser Coast regional councils.

⁶² The annual payments are to be made to levy-impacted local governments, that is, those councils who incur a levy liability as a result of disposing of municipal solid waste to landfill; SL No. 111, explanatory notes, p 1.

⁶³ The WRR Regulation, s 8, gives effect to s 26(f)(i) of the *Waste Reduction and Recycling Act 2011* prescribing specific wastes to be exempt wastes. Section 8(1)(c) of the WRR Regulation prescribes alum sludge or other residuals produced as a result of a drinking water treatment process to be an exempt waste until 30 June 2024; SL No. 111, explanatory notes, p 2.

⁶⁴ SL No. 111, explanatory notes, p 1.

11 SL No. 119 – Rural and Regional Adjustment (Sheep and Goats Electronic Identification Rebate Scheme) Amendment Regulation 2024

The Rural and Regional Adjustment (Sheep and Goats Electronic Identification Rebate Scheme) Amendment Regulation 2024 (SL No. 119) amends the Rural and Regional Adjustment Regulation 2011 to introduce a new scheme of financial assistance, the Sheep and Goats Electronic Identification Rebate Scheme (Scheme).⁶⁵

The objective of the Scheme is to improve the biosecurity and traceability within the state's goat and sheep industry through providing rebates on the purchase by eligible applicants of approved devices (a tag or other identifying device used to distinguish the animal) and electronic readers (to scan these approved devices) for use in the National Livestock Identification System (NLIS).⁶⁶ Under NLIS, all livestock are identified by a visual or electronic ear tag/device, all physical locations are identified by means of a property identification code and all livestock location and movement data is recorded on a central database.⁶⁷

The Scheme is a component of the Queensland Sheep and Goat eID Assistance Package, which supports producers, saleyards, processors, livestock agents and agricultural show subcommittees to implement the mandatory national individual electronic identification (eID) system for sheep and managed goats.⁶⁸

The Scheme is administered by the Queensland Rural and Industry Development Authority (QRIDA) and includes the following categories of eligibility for assistance:

- primary producers (those with more than 30 sheep and/or goats in Queensland) and one or more property identification code (producers)
- Queensland livestock agents that hold an NLIS account as agent (agents).⁶⁹

The explanatory notes state that producers are eligible for a rebate of 50 per cent of costs for eligible items⁷⁰ that can be used to scan an approved device, capped at \$1,600 per property identification code.⁷¹ Agents are eligible for a rebate of up to 50 per cent of costs for eligible items,⁷² capped at \$1,600.⁷³

According to the explanatory notes:

The Scheme will open on the day stated on QRIDA's website for opening and will close on 30 June 2025 with the possibility of a six-month extension if the Minister is satisfied that eligible applicants need more time to apply for the assistance. Eligibility for assistance is subject to QRIDA having sufficient assistance funds to pay for the assistance.⁷⁴

⁶⁵ SL No. 119, explanatory notes, p 1.

⁶⁶ SL No. 119, human rights certificate, p 1.

⁶⁷ SL No. 119, human rights certificate, p 1.

⁶⁸ SL No. 119, explanatory notes, pp 1 and 2.

⁶⁹ SL No. 119, explanatory notes, p 2.

⁷⁰ Eligible items are approved devices under the *Biosecurity Act 2014*, sch 4, such as ear tags and eID readers (fixed panel or handheld).

⁷¹ SL No. 119, explanatory notes, p 2.

⁷² Eligible items are eID readers (fixed panel or handheld). The rebate applies only to the reader itself not ancillary expenses related to the reader (such as, software, batteries and cables).

⁷³ SL No. 119, explanatory notes, p 2.

⁷⁴ The Department of Agriculture and Fisheries will manage assistance for saleyards, processors and agricultural show sub-committee outside of the Scheme as the number of these entities is relatively small; SL No. 119, explanatory notes, p 2.

The relevant webpage⁷⁵ on QRIDA's website includes a link to guidelines associated with the Scheme.

12 SL No. 126 – Environmental Protection (Composting Facilities) Amendment Regulation 2024

The Environmental Protection (Composting Facilities) Amendment Regulation 2024 (SL No. 126) amends the Environmental Protection Regulation 2019 to:⁷⁶

- require the environmental regulator to specifically consider whether to impose a condition that prohibits a new or expanded composting facility from receiving odorous feedstock or require the facility to only use in-vessel or enclosed processing for that feedstock, if it is located within 4 kilometres of a residential area
- create an additional ground for the environmental regulator to issue a Notice of Proposed Amendment to an existing composting facility if it is within 4 kilometres of a residential area and accepting odorous feedstock⁷⁷
- require the environmental regulator to refuse an application for a consignment authorisation to a waste transporter if the receiving facility is not licensed to receive the waste and/or not meeting environmental standards⁷⁸
- define odorous feedstock, which includes materials such as abattoir waste, acid sulphate soils and sludge, animal manure, biosolids, grease trap waste, and protein based food organics.⁷⁹

According to the explanatory notes, SL No. 126 seeks to address 'odour issues relating to composting facilities, particularly those which are near residential premises'.⁸⁰

Additionally, SL No. 126:⁸¹

- aligns transportation of interstate waste with National Environment Protection (Movement of Controlled Waste between States and Territories) Measure 1998 (Cth)
- introduces an offence⁸² for operators who are not required to have an environmental authority (such as, interstate waste transporters) to ensure that waste only goes to a receiver who is authorised to treat the feedstock.

⁷⁵ <https://www.qrida.qld.gov.au/program/queensland-sheep-and-goat-electronic-identification-rebate#:~:text=The%20Queensland%20Sheep%20and%20Goat%20eID%20Assistance%20Package%20will%20provide,livestock%20agents%20for%20eID%20readers.>

⁷⁶ SL No. 126, explanatory notes, p 2.

⁷⁷ According to the explanatory notes, this could allow the environmental regulator to require the facility to only use in-vessel or enclosed processing for that feedstock if it is considered necessary or desirable; SL No. 126, explanatory notes, p 2.

⁷⁸ The explanatory notes state that this will allow consignment applications to be refused if they are transporting odorous feedstock to a facility that is not authorised to receive that waste, for example, because the composting facility's environmental authority has been amended to specify that the facility cannot receive odorous waste until they have an in-vessel or enclosed system in place; SL No. 126, explanatory notes, p 2.

⁷⁹ Environmental Protection Regulation 2019, sch 18A.

⁸⁰ SL No. 126, explanatory notes, p 1.

⁸¹ SL No. 126, explanatory notes, p 1.

⁸² The offence attracts a maximum penalty of 20 penalty units (\$3,226). Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2024, s 4, amends the Penalties and Sentences Regulation 2015, s 3; see *Penalties and Sentences Act 1992*, ss 5, 5A. Section 580(6) of the *Environmental Protection Act 1994* provides that a regulation may be made: creating offences against the regulation; and fixing a maximum penalty of a fine of 165 penalty units for an offence against the regulation.

13 SL No. 139 – Public Health (Infection Control for Personal Appearance Services) (Infection Control Guidelines) Notice 2024

Under the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, the Minister may make infection control guidelines about ways to minimise infection risks, which have no effect unless the Minister notifies the making of the guideline.⁸³

‘Personal appearance services’ include beauty therapy, hairdressing or skin penetration services such as tattooing, scarring and implanting substances such as hair or beads into skin, that are provided as part of a business transaction.⁸⁴

The Public Health (Infection Control for Personal Appearance Services) (Infection Control Guidelines) Notice 2024 (SL No. 139) repeals the Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013 (2013 Notice)⁸⁵ and notifies the making of the Infection Control Guidelines for Personal Appearance Services 2024 (2024 Guidelines).⁸⁶

According to the explanatory notes, the 2024 Guidelines:

- update content to align with the latest clinical evidence and advice
- contain information about new treatments and services, including microblading, eyebrow tattooing, feather touch brows and foot spas
- update content to align with the requirements of the new Australian Standard 5369:2023 *Reprocessing of reusable medical devices and other devices in health and non-health related facilities*
- update definitions and terminology to ensure consistency with the *Public Health (Infection Control for Personal Appearance Services) Act 2003* and Public Health (Infection Control for Personal Appearance Services) Regulation 2016.⁸⁷

The explanatory notes state that the 2024 Guidelines ‘do not introduce new obligations on business proprietors or operators of personal appearance services’⁸⁸ and ‘reflect contemporary infection control practice and standards of operation to provide evidence-based best practice recommendations, to minimise infection risks’.⁸⁹

13.1 Consistency with fundamental legislative principles

13.1.1 Institution of Parliament – external documents

Whether legislation has sufficient regard to the institution of Parliament depends on whether, for example, the subordinate legislation allows the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons, and if authorised by an Act.⁹⁰

SL No. 139 notifies the making of the 2024 Guidelines, which have been published on the Queensland Health website.⁹¹

External documents, such as extended practice authorities and guidelines, are provided for in legislation but, unlike subordinate legislation, are not subject to parliamentary scrutiny through the

⁸³ *Public Health (Infection Control for Personal Appearance Services) Act 2003*, s 28(1) and (2).

⁸⁴ SL No. 139, explanatory notes, p 1.

⁸⁵ The 2013 Notice was notified on 13 December 2013 and expires on 1 September 2024 under the *Statutory Instruments Act 1992*. SL No. 139 replaces the 2013 Notice. SL No. 139, explanatory notes, p 2.

⁸⁶ SL No. 139, s 2.

⁸⁷ SL No. 139, explanatory notes, p 2.

⁸⁸ SL No. 139, explanatory notes, p 1.

⁸⁹ SL No. 139, explanatory notes, p 2.

⁹⁰ LSA, s 4(5)(e).

⁹¹ https://www.health.qld.gov.au/__data/assets/pdf_file/0019/430642/infectcontrolguide.pdf.

tabling and disallowance provisions of the *Statutory Instruments Act 1992*.⁹² As a result, they could be considered to have insufficient regard to the institution of Parliament.

As noted above, the 2024 Guidelines incorporate references to an external document, Australian Standard 5369:2023 *Reprocessing of reusable medical devices and other devices in health and non-health related facilities*.⁹³ The 2024 Guidelines also reference the following other external documents:

- National Health and Medical Research Council Australian Guidelines for the Prevention and Control of Infection in Healthcare (2019)⁹⁴
- Queensland Department of Environment, Science and Innovation's Clinical and related waste guideline⁹⁵
- Therapeutic Goods Administration information regarding disinfectants, sterilants, and sanitary products.⁹⁶

By notifying the making of an external document, i.e. the 2024 Guidelines, SL No. 139 delegates legislative power to the Minister who made the guidelines. In turn, by itself referencing additional external documents, the 2024 Guidelines effectively subdelegate legislative power to those external documents, including the aforementioned Australian Standard and Commonwealth and State guidelines.

The *Public Health (Infection Control for Personal Appearance Services) Act 2003* does not provide criteria or requirements to be met or matters to be considered by the Minister in the making of the guidelines. However, in making guidelines, the Minister ought to be guided by the purpose of the primary legislation⁹⁷ and its requirements on how that purpose is to be achieved.⁹⁸ In addition, the *Public Health (Infection Control for Personal Appearance Services) Act 2003* requires the chief executive to:

- keep a copy of each infection control guideline and any document applied, adopted or incorporated by the guidelines available for inspection, without charge, during normal business hours at the part of the department that deals with infection control
- if asked, state where a copy of an infection control guideline may be obtained.⁹⁹

Although guidelines made by the Minister under the primary legislation are unable to have effect until they are notified by the tabling of a notice (such as SL No. 139), in future, the 2024 Guidelines may be amended by the Minister without being subject to parliamentary scrutiny and potential disallowance. However, given the primary delegation is to the Minister (a role of significant responsibility assumed to be held by an individual of appropriate qualifications and experience), the delegation of legislative power is to an appropriate person in the circumstances.

⁹² Scrutiny of Legislation Committee, Alert Digest 1999/04, p 10, para 1.66.

⁹³ <https://www.standards.org.au/standards-catalogue/standard-details?designation=as-5369-2023>.

⁹⁴ These guidelines are produced by the National Health and Medical Research Council in collaboration with the Australian Commission on Safety and Quality in Healthcare; <https://www.nhmrc.gov.au/about-us/publications/australian-guidelines-prevention-and-control-infection-healthcare-2019>.

⁹⁵ https://www.desi.qld.gov.au/policies?a=272936:policy_registry/pr-gl-clinical-and-related-waste.pdf.

⁹⁶ <https://www.tga.gov.au/resources/resource/guidance/disinfectants-sterilants-and-sanitary-products>.

⁹⁷ *Public Health (Infection Control for Personal Appearance Services) Act 2003*, s 7, provides that the purpose of the Act is to minimise the risk of infection that may result from the provision of personal appearance services.

⁹⁸ Under the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, s 8, the purpose is to be achieved by requiring business proprietors and operators to take reasonable precautions and care to minimise infection risks; requiring business proprietors whose business provides higher risk personal appearance services to hold a licence; requiring operators providing higher risk personal appearance services to hold an infection control qualification; and monitoring and enforcing compliance.

⁹⁹ *Public Health (Infection Control for Personal Appearance Services) Act 2003*, s 28(3) and (4).

Committee comment

Given the technical and specific nature of the information included in the external documents, along with the purpose of minimising infection risks, the committee considers there to be sufficient justification for the delegation and subdelegation of legislative power in the circumstances. Additionally, the committee notes that the 2024 Guidelines (and the external documents referenced within them) are published and able to be accessed, that the 2024 Guidelines replace earlier guidelines from 2012, and that the explanatory notes assert that the 2024 Guidelines do not introduce new obligations on business proprietors or operators of personal appearance services.

On balance, the committee is satisfied that the delegation of legislative power to the Minister to make guidelines and the subdelegation of legislative power to external documents in SL No. 139 has sufficient regard to the institution of Parliament.

13.2 Explanatory notes

The explanatory notes do not raise issues of consistency with FLPs or seek to justify the delegations of legislative power in the SL No. 139.¹⁰⁰

Committee comment

Although the explanatory notes appear to comply with part 4 of the LSA, the committee considers that it would have been useful for the explanatory notes to SL No. 139 to have provided detail in the assessment of the subordinate legislation's consistency with FLPs.

14 SL No. 141 – Proclamation—Health and Other Legislation Amendment Act 2024

The Proclamation made under the HOLA Act fixes a commencement date of 1 September 2024 for the provisions of the HOLA Act that are not in force.¹⁰¹

According to the explanatory notes, the provisions commence amendments to:

- the *Termination of Pregnancy Act 2018* and Criminal Code to allow additional health practitioners to perform medical terminations of pregnancy using a termination of pregnancy drug
- the *Termination of Pregnancy Act 2018*, Criminal Code and *Powers of Attorney Act 2018* to replace references to 'woman' with 'person' in termination of pregnancy provisions to ensure legal access to termination of pregnancy services for all pregnant Queenslanders
- the *Hospital and Health Boards Act 2011* to clarify that a newborn baby staying on a maternity ward with their birthing parent should be counted as a patient for the purposes of minimum nurse-to-patient and midwife-to-patient ratios.¹⁰²

15 SL No. 142 – Health Legislation (Ratios and Other Matters) Amendment Regulation 2024

The Health Legislation (Ratios and Other Matters) Amendment Regulation 2024 (SL No. 142) amends:¹⁰³

- the Hospital and Health Boards Regulation 2023 to prescribe a minimum midwife-to-patient ratio and the maternity wards the ratio will apply to

¹⁰⁰ LSA, s 24(1)(i).

¹⁰¹ SL No. 141.

¹⁰² SL No. 141, explanatory notes, p 1.

¹⁰³ SL No. 142, explanatory notes, p 1.

- the Medicines Regulation to update references to the new versions of the Midwives and Registered Nurses EPAs to:¹⁰⁴
 - allow registered nurses and midwives to perform medical terminations of pregnancy
 - clarify that midwives do not need to complete an immunisation training course to administer nirsevimab.¹⁰⁵

15.1 Consistency with fundamental legislative principles

15.1.1 Sufficient regard to the institution of Parliament – external documents

External documents, such as EPAs, are not required to be tabled and are not subject to the disallowance provisions in the *Statutory Instruments Act 1992*. As a result, EPAs could be considered to have insufficient regard to the institution of Parliament, and therefore be inconsistent with FLPs.¹⁰⁶

New versions of extended practice authorities

An EPA is a document certified by the chief executive of Queensland Health (or delegate) that sets out matters of technical detail for how an approved person can carry out a regulated activity with a regulated substance.¹⁰⁷

Under the *Medicines and Poisons Act 2019*, an EPA may:

- state the places or circumstances in which the approved person may deal with the regulated substance
- impose conditions on dealing with the regulated substance
- require the approved person to hold particular qualifications or training to deal with the registered substance.¹⁰⁸

The updating of references to new versions of the EPAs represents a delegation of legislative power.

The explanatory notes state:

When new versions of an extended practice authority are made by the chief executive or their delegate, the Medicines and Poisons (Medicines) Regulation requires an amendment to reflect the new version so it can take effect.¹⁰⁹

While there is no statutory requirement to table an EPA, the new versions of the EPAs associated with SL No. 142 were tabled on 20 August 2024. Tabling the updated EPAs provides the Legislative Assembly with an opportunity to consider the content of the EPAs when scrutinising the subordinate legislation.

Committee comment

The committee is satisfied that any breach of FLPs arising from the updating of the EPAs is justified, having regard to the detail in the documents, the opportunity for parliamentary oversight when the Medicines Regulation is amended to include new or amended EPAs, and that copies of the approved EPAs were tabled in the Legislative Assembly.

¹⁰⁴ SL No. 142, s 8, amends the Medicines and Poisons (Medicines) Regulation 2021, sch 1, pt 1, to update the reference to: the registered nurses EPA to version 5; and the midwives EPA to version 4.

¹⁰⁵ Nirsevimab is a medicine for immunisation that protects against respiratory syncytial virus, commonly referred to as RSV. SL No. 142, explanatory notes, p 3.

¹⁰⁶ LSA, s 4(5)(e).

¹⁰⁷ *Medicines and Poisons Act 2019*, s 232.

¹⁰⁸ *Medicines and Poisons Act 2019*, s 232. SL No. 142, explanatory notes, p 3.

¹⁰⁹ SL No. 142, explanatory notes, p 3.

15.2 Explanatory notes

The explanatory notes do not raise any issues in relation to consistency with FLPs.¹¹⁰

Committee comment

Although the explanatory notes appear to comply with part 4 of the LSA, the committee considers that it would have been useful for the explanatory notes to SL No. 142 to have included details in the assessment of the subordinate legislation's consistency with FLPs.

16 SL No. 143 – Rural and Regional Adjustment (Regional Drought Resilience Planning Scheme and Another Matter) Amendment Regulation 2024

The Rural and Regional Adjustment (Regional Drought Resilience Planning Scheme and Another Matter) Amendment Regulation 2024 (SL No. 143) amends the Rural and Regional Adjustment Regulation 2011 to introduce the following new schemes of financial assistance:¹¹¹

- North Queensland Restocking and On-farm Infrastructure Grants, Northern and Central Queensland Monsoon and Flooding, 20 December 2022–30 April 2023 (NQ Restocking Grants) which will provide grants to primary producers that suffered damage from the monsoonal flooding event of early 2023 for restocking and on-farm infrastructure repairs
- Regional Drought Resilience Planning (RDRP) scheme which will provide grants to improve drought resilience at the regional level.¹¹²

These schemes will be administered by the QRIDA.¹¹³

NQ Restocking Grants scheme

According to the explanatory notes, the NQ Restocking Grants scheme is an Australian Government scheme¹¹⁴ that provides grants of up to \$150,000 matched by the primary producer for restocking lost livestock or restoring or replacing lost or damaged on-farm infrastructure, lost or damaged as a result of the specified monsoonal flooding event that impacted far northern Queensland.¹¹⁵

The scheme will be open until 30 June 2025 or until the funding is exhausted, whichever comes first.¹¹⁶

The scheme guidelines are available on the QRIDA website.¹¹⁷

RDRP scheme

The explanatory notes state that the RDRP scheme, which provides grants to eligible entities to assist them to complete a plan, or implement activities identified in their completed RDRP plan, that will improve the drought resilience of the region, consists of:¹¹⁸

- the activity grant,¹¹⁹ of up to \$300,000,¹²⁰ for the implementation of eligible activities identified in the RDRP plan, and

¹¹⁰ LSA, s 24(1)(i).

¹¹¹ SL No. 143, s 2.

¹¹² SL No. 143, explanatory notes, p 1.

¹¹³ *Rural and Regional Adjustment Act 1994*, s 11, requires that all QRIDA schemes of financial assistance be set out in regulation; SL No. 143, explanatory notes, p 1.

¹¹⁴ In accordance with the *Rural and Regional Adjustment Act 1994*, s 11(4), the name of the scheme guidelines is included in the Rural and Regional Adjustment Regulation 2011, sch 16, and the scheme guidelines are available on the QRIDA website.

¹¹⁵ SL No. 143, explanatory notes, p 2.

¹¹⁶ SL No. 143, explanatory notes, p 2.

¹¹⁷ <https://www.qrida.qld.gov.au/program/north-queensland-restocking-and-farm-infrastructure-grant>.

¹¹⁸ SL No. 143, explanatory notes, p 2.

¹¹⁹ SL No. 143, s 4, inserts Rural and Regional Adjustment Regulation 2011, sch 61, ss 6 and 13.

¹²⁰ Excluding GST.

- the remuneration grant,¹²¹ of up to \$150,000,¹²² for wages and salaries necessary to either:
 - make amendments to a draft plan as required by the Australian Government Minister for Drought before the plan is approved as a regional drought resilience plan
 - assist the applicant identify or implement measures identified in an approved plan.

According to the explanatory notes:

To be eligible for an activity grant or remuneration grant the applicant must receive an eligibility notice (section 8 of Schedule 61) from the Chief Executive Officer of the Department of Agriculture and Fisheries that identifies the eligible activities that the applicant can obtain the grant for and the amounts that the Chief Executive recommends are payable for either a remuneration grant or activity grant. To be an eligible activity in [sic] cannot have been completed before the Plan has been published on the Australian Government's website.¹²³

17 SL No. 148 – Health Ombudsman Regulation 2024

The Health Ombudsman Regulation 2024 (SL No. 148), commenced on 2 September 2024, replacing the Health Ombudsman Regulation 2014, which expired on 1 September 2024.¹²⁴ SL No. 148 prescribes the following matters under the *Health Ombudsman Act 2013* (HO Act):¹²⁵

- recognition of interim prohibition orders¹²⁶ and prohibition orders¹²⁷ made under corresponding interstate legislation to enable the orders to be mutually recognised in Queensland¹²⁸
- documents that persons, such as the Health Ombudsman and QCAT, may have regard to when making decisions under the HO Act about what constitutes appropriate conduct or practice for a health service provider (prescribed conduct documents).¹²⁹

17.1 Consistency with fundamental legislative principles

17.1.1 Sufficient regard to the institution of Parliament – external documents

Subordinate legislation should allow the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons, and if authorised by an Act.¹³⁰

External documents, such as standards, charters and codes, are not required to be tabled and are not subject to the disallowance provisions in the *Statutory Instruments Act 1992*. As a result, standards, charters and codes could be considered to have insufficient regard to the institution of Parliament, and therefore be inconsistent with FLPs.

¹²¹ SL No. 143, s 4, inserts Rural and Regional Adjustment Regulation 2011, sch 61, ss 10 and 14.

¹²² Excluding GST.

¹²³ SL No. 143, explanatory notes, p 3; https://www.agriculture.gov.au/agriculture-land/farm-food-drought/drought/future-drought-fund/regional-drought-resilience-planning#toc_3.

¹²⁴ SL No. 148, s 2; SL No. 148, explanatory notes, p 1; see also *Statutory Instruments Act 1992*, s 54.

¹²⁵ SL No. 148, explanatory notes, p 1.

¹²⁶ The HO Act enables the Health Ombudsman to issue an interim prohibition order to a health practitioner, the purpose of which is to immediately take action to protect public health or safety if the Health Ombudsman receives information that a health practitioner poses a serious risk to persons or because of the practitioner's health, conduct or performance; SL No. 148, explanatory notes, p 2.

¹²⁷ The HO Act provides for QCAT to make a prohibition order against a health practitioner (as specified), the purpose of which is to prohibit, or restrict, a health practitioner from providing a health service in order to mitigate the serious risk the practitioner poses to persons; SL No. 148, explanatory notes, p 2.

¹²⁸ SL No. 148, ss 3 and 4.

¹²⁹ SL No. 148, s 5. The Health Ombudsman and QCAT may take into account a prescribed conduct document when taking action against a health practitioner, including when issuing an interim prohibition orders and prohibition orders; SL No. 148, explanatory notes, p 2.

¹³⁰ LSA, s 4(5)(e).

Standards, charter and code

Section 288(1) of the HO Act provides that a regulation may prescribe a prescribed conduct document, such as a code of conduct, charter, standard or other document, to provide guidance to health service providers, persons receiving health services and entities performing functions under the HO Act about the standard of services that should be provided by health service providers or a related matter. In accordance with the HO Act, SL No. 148 prescribes the following documents:¹³¹

- the 'National Safety and Quality Health Service Standards'¹³² published by the Australian Commission on Safety and Quality in Health Care (commission)¹³³
- the 'Australian charter of healthcare rights'¹³⁴ published by the commission
- the 'National code of conduct for health care workers (Queensland)'¹³⁵ published by Queensland Health.

SL No. 148 states that each of these standards and each charter is available on the commission's website and each code is available on the Queensland Health website.¹³⁶

According to the explanatory notes:

The external documents incorporated into the Regulation may be amended from time to time and as such, the Department has considered whether the exercise of delegated power is sufficiently subjected to parliamentary scrutiny, as only the initial Regulation with the current version of the non-legislative documents will be subject to parliamentary review.

The Standards, Charter and Code are all publicly available and free of charge. The documents do not provide for the delegation of any administrative powers (or sub-delegation of these powers).¹³⁷

In regard to the above explanation, while the prescribed documents were not tabled in the Legislative Assembly, SL No. 148, which references the documents, has been tabled, and each of the documents are accessible on the aforementioned websites.

In addressing each of the prescribed documents, the explanatory notes state:¹³⁸

- the Standards aim to protect the public from harm and to improve the quality of health service provision by providing a quality assurance mechanism that tests whether relevant systems are in place to ensure that expected standards of safety and quality are met
- the Charter provides a list of rights individuals have in all places where health care is provided in Australia
- the Code is a prescribed conduct document that defines what a health care worker and health care service is in Queensland and sets out responsibilities of health care workers in Queensland.

The explanatory notes seek to justify the subdelegation of power, asserting that SL No. 148 supports national consistency, is clear in its effect and that referencing external documents is justified:

...noting the detailed, technical and clinical nature of the matters contained in the external documents, and the flexibility this provides the scheme to remain up to date with current practices and requirements.

¹³¹ SL No. 148, s 5(1).

¹³² <https://www.safetyandquality.gov.au/standards/nsqhs-standards>.

¹³³ Being the commission established under s 8 of the *National Health Reform Act 2011* (Cth). SL No. 148, s (2).

¹³⁴ <https://www.safetyandquality.gov.au/our-work/partnering-consumers/australian-charter-healthcare-rights>.

¹³⁵ https://www.careers.health.qld.gov.au/__data/assets/pdf_file/0027/188442/national-code-conduct-health-workers.pdf.

¹³⁶ SL No. 148, s 5(1), Notes.

¹³⁷ SL No. 148, explanatory notes, p 3.

¹³⁸ SL No. 148, explanatory notes, pp 3-4.

If the matters referenced in external documents were contained in the Regulation, they would regularly be out of date and not reflect changing practices and activities.¹³⁹

Committee comment

The committee is satisfied that any breach of FLPs arising from the making (and potential future updating) of a prescribed conduct document is justified, having regard to the technical detail in the documents, the attendant flexibility to update the documents as needed, the purpose of achieving national consistency, the purpose of the documents, the opportunity for parliamentary oversight of SL No. 148, and the availability of the standards and charter on the commission's website and the code on the department's website.

18 SL No. 153 – Rural and Regional Adjustment (Variation of Primary Industry Productivity Enhancement Scheme) Amendment Regulation 2024

The Rural and Regional Adjustment (Variation of Primary Industry Productivity Enhancement Scheme) Amendment Regulation 2024 (SL No. 153) amends the Rural and Regional Adjustment Regulation 2011¹⁴⁰ to amend the Primary Industry Productivity Enhancement Scheme (PIPES)¹⁴¹ to introduce a variable interest rate for loans and increase the potential interest only period from 5 to 10 years.¹⁴²

According to the explanatory notes:

It is desirable to have the proposed amendments commence as soon as reasonably practicable as they will increase the responsiveness of loan terms to changing market fluctuations, increase flexibility in loans in order to match production conditions and will represent the expectations of clients for common features of loans.¹⁴³

19 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Aaron Harper MP
Chair
September 2024

Health, Environment and Agriculture Committee

Chair	Mr Aaron Harper MP, Member for Thuringowa
Deputy Chair	Mr Robert (Rob) Molhoek MP, Member for Southport
Members	Mr Stephen (Steve) Andrew MP, Member for Mirani
	Hon Craig Crawford MP, Member for Barron River
	Mr James Martin MP, Member for Stretton
	Mr Samuel (Sam) O'Connor MP, Member for Bonney

¹³⁹ SL No. 148, explanatory notes, p 4.

¹⁴⁰ SL No. 153, s 2.

¹⁴¹ The Department of Agriculture and Fisheries (DAF) is the Program owner. As the specialist administrator of financial assistance schemes, QRIDA manages PIPES, from application to loan finalisation, on behalf of DAF; SL No. 153, explanatory notes, p 1.

¹⁴² SL No. 153, ss 4 and 5; SL No. 153, explanatory notes, p 2.

¹⁴³ SL No. 153, explanatory notes, p 2.