



QUEENSLAND PARLIAMENT **COMMITTEES**

**Report on subordinate legislation tabled between
10 September 2024 and 27 November 2024**

Health, Environment and Innovation Committee



Report No. 2

58th Parliament, February 2025

Overview

This report summarises the committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled on 10 September 2024, prior to the dissolution of the 57th Parliament on 1 October 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.¹ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992 (LSA)*.²

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019 (HRA)*³ and the human rights certificates tabled with the subordinate legislation.⁴

Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
186	Environmental Protection (Air) Amendment Policy 2024	10 September 2024	13 March 2025
193	Proclamation – <i>Pharmacy Business Ownership Act 2024</i>	10 September 2024	13 March 2025
194	Pharmacy Business Ownership (Postponement) Regulation 2024	10 September 2024	13 March 2025
196	Nature Conservation and Other Legislation Amendment Regulation 2024	10 September 2024	13 March 2025
197	Forestry Regulation 2024	10 September 2024	13 March 2025
198	Nature Conservation (Protected Areas Management) Regulation 2024	10 September 2024	13 March 2025
199	Recreation Areas Management Regulation 2024	10 September 2024	13 March 2025

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

¹ 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 rights and liberties of individuals and the institution of Parliament.

² *LSA* Part 4.

³ Section 8 of the *Human Rights Act 2019 (HRA)* relevantly 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.

⁴ *HRA* s 41.

Committee consideration of the subordinate legislation

Committee Comment



Unless noted below, the committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the HRA.

Similarly, unless noted below, the committee considers that the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA, which includes advice about consultation, and that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

1 SL No. 186 — Environmental Protection (Air) Amendment Policy 2024

The Environmental Protection (Air) Amendment Policy 2024 (SL No. 186) aims to amend the air quality objectives for nitrogen dioxide, ozone, sulphur dioxide and particulate matter 2.5 to ensure Queensland remains consistent with the National Environment Protection (Ambient Air Quality) Measure (AAQ NEPM).⁵

The explanatory notes provide that SL No. 186 is consistent with the main objectives of the *Environmental Protection Act 1994*, which is to protect Queensland’s environment while allowing for ecological sustainable development.⁶ SL No. 186 achieves these objectives by amending relevant air quality objectives and periods in Schedule 1 to align with the AAQ NEPM.⁷

2 SL No. 193 — Proclamation – Pharmacy Business Ownership Act 2024

The Proclamation (SL No. 193) made under the *Pharmacy Business Ownership Act 2024* (PBO Act) fixes a commencement date of 1 September 2024 for certain provisions of the PBO Act.⁸ The provisions are necessary for the commencement of the Pharmacy Business Ownership Council (Council) to regulate pharmacy business ownership in line with the commencement of the new licensing scheme in 2025.⁹

The provisions are also necessary to empower the Council to perform non-licensing functions, including opening of bank accounts, entering into service contracts, administering the Council Fund and advising the Minister on the standards that premises must meet to be compliant under the PBO Act.¹⁰

⁵ SL No. 186, Explanatory Notes, p 1.

⁶ SL No. 186, Explanatory Notes, p 1.

⁷ SL No. 186, Explanatory Notes, p 1.

⁸ SL No. 193, Explanatory Notes, p 1.

⁹ SL No. 193, Explanatory Notes, p 1.

¹⁰ SL No. 193, Explanatory Notes, p 1.

Section 150 of the PBO Act provides that the Council must have at least five members, appointed by the Governor in Council on the Minister's recommendation.¹¹ The Minister may only recommend persons for appointment who have sufficient experience or qualifications, with the first appointees being named on 1 September 2024.¹² To ensure that the Council is properly constituted under section 150, the proclamation commences section 150 with the exception of subsection (4), which requires that one individual of the Council owns a licensed pharmacy; and at least one individual who is an employee of a licensed pharmacy business.¹³ However, given that the licensing scheme will not commence until sometime in 2025, it would be impossible to appoint persons who are licensed under a scheme which is not yet in force.¹⁴

SL No. 194 is consistent with the policy objectives of the PBO Act and the costs associated with implementations can be met through existing budgets.¹⁵

3 SL No. 194 — Pharmacy Business Ownership (Postponement) Regulation 2024

The Pharmacy Business Ownership (Postponement) Regulation 2024 (SL No. 194) postpones the automatic commencement date of the yet to commence provisions of the PBO Act.¹⁶

Section 15DA of the *Acts Interpretation Act 1954* provides that, within one year of the assent day, a regulation may extend the period before the commencement to not more than 2 years of the assent day.¹⁷ The assent date for the PBO Act was 28 March 2024.¹⁸ SL No. 194 postpones the period before automatic commencement to the end of 28 March 2026.¹⁹

The explanatory notes state that the postponement will allow time for implementation activities including:

- appointing the Chief Executive Officer of the Council
- transferring existing Queensland Health staff to the Council
- developing an online platform for managing license applications
- publishing approved forms and comprehensive guidance materials for industry, and
- preparing delegations and assisting with the development of internal processes and procedures to support the establishment of the Council.²⁰

¹¹ SL No. 193, Explanatory Notes, p 2.

¹² Queensland Pharmacy Business Ownership Council, *Our Members* (Webpage, accessed 6 February 2025) <<https://www.pboc.qld.gov.au/council-members>>.

¹³ SL No. 194, s 150(4); SL No. 194, Explanatory Notes, p 2.

¹⁴ SL No. 194, Explanatory Notes, p 2.

¹⁵ SL No. 194, Explanatory Notes, p 3.

¹⁶ SL No. 194, p 2.

¹⁷ *Acts Interpretation Act 1954*, s 15DA(3).

¹⁸ Queensland Legislation, *Pharmacy Business Ownership Act 2024 – Legislative History* (Webpage, accessed 6 February 2025) <<https://www.legislation.qld.gov.au/view/html/asmade/act-2024-009/lh>>.

¹⁹ SL No. 194, s 2(1).

²⁰ SL No. 194, Explanatory Notes, p 2.

The anticipated timing associated with the implementation of the remaining provisions of the PBO Act will be determined based on the progress of the implementation activities and consultation with industry and the Council.²¹

SL No. 194 achieves its objective by postponing the commencement of yet to commence provisions of the PBO Act and is consistent with the policy objectives of the PBO Act and the *Acts Interpretation Act*.²² Postponing the commencement of the remaining provisions will support the efficient operation of the Council and ensure that relevant implementation activities may be completed before the new requirements commence.²³

4 SL No. 196 — Nature Conservation and Other Legislation Amendment Regulation 2024

The Nature Conservation and Other Legislation Amendment Regulation (SL No. 196) completes the routine update of listings and nomenclature of wildlife listed under the *Nature Conservation Act 1992* (NC Act).²⁴ SL No. 196 introduces new and amended existing offences related to estuarine crocodiles and K’gari dingoes and makes other minor administrative and clarification amendments.²⁵ Namely, SL No. 196 amends and updates the following:

- the conservation status of native flora and fauna species to reflect recent scientific assessments against criteria outlined in the NC Act
- the taxonomy of native flora and fauna species and provides nomenclature updates to reflect current scientific knowledge
- establishes appropriate management arrangements for protected fish species that have a presence in the fishing industry
- increases the maximum penalties for feeding and disturbing dangerous animals, and tampering with crocodile traps
- introduces new offences for remaining in close proximity of an estuarine crocodile and discarding food or waste in a way which would attract an estuarine crocodile
- introduces new offences for failing to secure food from dingoes on K’gari
- adjusts infringement notice fines in accordance with the increased maximum penalties for estuarine crocodile offences, and
- introduces new infringement notice offences corresponding to the new estuarine crocodile and dingo on K’Gari offences.²⁶

²¹ SL No. 194, Explanatory Notes, p 2.

²² SL No. 194, Explanatory Notes, p 2.

²³ SL No. 194, Explanatory Notes, p 2.

²⁴ SL No. 196, Human Rights Certificate, p 1.

²⁵ See NC Act, s 76-80.

²⁶ SL No. 196, Explanatory Notes, p 7.

4.1 Consultation

The explanatory notes detail consultation that was undertaken with the Species Technical Committee (STC).²⁷ The Chair of the STC was consulted to confirm details and scientific reclassifications and nomenclature for species under the regulation.²⁸

The explanatory notes also provide that targeted consultation was undertaken in relation to estuarine crocodile and K'gari dingo regulatory changes.²⁹ This consultation engaged with First Nations representatives, including Indigenous Corporations and Indigenous Land and Sea Rangers.³⁰ Consultation also included local governments, conservation groups and the tourism industry.³¹

The Office of Best Practice Regulation was notified of the proposed amendments, and Impact Analysis Statements were prepared for relevant matters.³²



4.2 Legislative Standards Act 1992

Assessment of SL No. 196's compliance with the LSA identified issues with the proportionality of penalties. Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.³³ In the context of subordinate legislation, maximum penalties should be limited where possible (generally, limited to 20 penalty units).³⁴

4.2.1 Individual rights and liberties – proportionality of penalties

SL No. 196 increases the maximum penalty for:

- unauthorised feeding or disturbing dingoes on K'gari from 80 penalty units (valued at \$12,904) to 165 penalty units (valued at \$26,614.50)³⁵
- unauthorised feeding or disturbing estuarine crocodiles from 40 penalty units (valued at \$6,542) to 165 penalty units (valued at \$26,614.50),³⁶ and
- interfering with crocodile traps from 120 penalty units (valued at \$19,356) to 165 penalty units (valued at \$26,614.50).³⁷

²⁷ SL No. 196, Explanatory Notes, p 9.

²⁸ SL No. 196, Explanatory Notes, p 9.

²⁹ SL No. 196, Explanatory Notes, p 9.

³⁰ SL No. 196, Explanatory Notes, p 9.

³¹ SL No. 196, Explanatory Notes, p 9.

³² Department of Environment, Tourism, Science and Innovation, Impact Analysis Statements - Nature Conservation Legislation Amendment Regulation (accessed on 6 February 2025, issued February 2024) <https://www.desi.qld.gov.au/_data/assets/pdf_file/0025/341953/ias-sl-no-27.pdf>.

³³ LSA, s 4(2). See also Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook* p 120 (OQPC, *FLP Notebook*).

³⁴ OQPC, *FLP Notebook*, p 150.

³⁵ SL No. 196, s 57 and 58. See *Penalties and Sentences Act 1992*, s 5 and 5A; *Penalties and Sentences Regulation 2015*, s 3. Note: From 1 July 2024, a penalty unit is valued at \$161.30.

³⁶ SL No. 196, s 57 and 58.

³⁷ SL No. 196, s 48.

The explanatory notes seek to justify the increase in penalties for these offences as recognition of the increased risks to public safety and animal welfare associated with the actions when dingoes and estuarine crocodiles are involved.³⁸ These penalties are only those which may be imposed by a court, whereas on-the-spot fines remain at a maximum of 16 penalty units (valued at \$2,580.80).³⁹ The NC Act does allow regulations made under that Act to prescribe maximum penalties of up to 165 penalty units.⁴⁰

SL No. 196 also introduces new offences for:

- remaining in close proximity of an estuarine crocodile without reasonable excuse (maximum penalty set at 100 penalty units, valued at \$16,310)⁴¹
- contravening a direction of a conservation officer to move away from an estuarine crocodile, without a reasonable excuse (maximum penalty set at 100 penalty units, valued at \$16,310)⁴²
- discarding food or waste in a way that may attract an estuarine crocodile, without reasonable excuse (maximum penalty set at 40 penalty units, valued at \$6,452),⁴³ and
- not securing food from dingoes on K'gari, without reasonable excuse (maximum penalty set at 40 penalty units, valued at \$6,452).⁴⁴

The explanatory notes provide that these new offences are intended to reduce problematic human-animal interactions, for the purposes of increased public safety and long-term sustainability of the animals and their respective populations.⁴⁵

The explanatory notes do not consider the new offence provision and the proposed maximum penalty in terms of consistency with fundamental legislative principles.⁴⁶

While the proposed penalties for some of the offences are particularly high, they are limited to being imposed by a court, with on-the-spot fines capped at 16 penalty units,⁴⁷ which allows for flexibility and discretion in the practical implementation of the framework. Further, the proposed penalties appear to be consistent with each other,⁴⁸ and namely, that more serious misconduct attracts higher penalties.

³⁸ SL No. 196, Explanatory Notes, p 4.

³⁹ SL No. 196, Explanatory Notes, p 4.

⁴⁰ *Nature Conservation Act 1992*, s 175.

⁴¹ SL No. 196, s 46.

⁴² SL No. 196, s 46.

⁴³ SL No. 196, s 46.

⁴⁴ SL No. 196, s 21.

⁴⁵ SL No. 196, Explanatory Notes, p 4-5.

⁴⁶ SL No. 196, Explanatory Notes, p 8.

⁴⁷ SL No. 196, Explanatory Notes, p

⁴⁸ Note: The penalties are consistent with those included in the framework of the Nature Conservation (Animals) Regulation 2020 and Nature Conservation (Protected Areas Management) Regulation 2017.

Committee Comment

While the committee is satisfied that SL No. 196 is compliant with fundamental legislative principles, we consider that it would have been useful for the explanatory notes to SL No. 196 to have provided detail in the assessment of the subordinate legislation's consistency with FLPs. The proposed penalties are proportionate to the offences, consistent with the legislation and limited to 165 penalty units.

4.3 Human Rights Act 2019

The human rights certificate raised the potential interferences with cultural rights of Aboriginal and Torres Strait Islander peoples,⁴⁹ property rights,⁵⁰ the right to liberty and security of the person,⁵¹ and fair hearing and trial rights in criminal proceedings.⁵² The committee's assessment of SL No. 196's compatibility with the HRA did not identify any incompatibilities with the listed rights.

Further, the human rights certificate raised the right to freedom of movement as a consideration insofar that the regulation may limit a person from moving freely around an estuarine crocodile, where that person does not have a reasonable excuse to be near the animal.⁵³

Committee Comment

The committee acknowledges that SL No. 196 may interfere with an individual's freedom of movement, insofar that it creates an offence based on the distance a person may be from an estuarine crocodile. However, the circumstances of a limitation on a person's movement in these circumstances is considered to be reasonable and demonstrably justified given the risk posed by estuarine crocodiles to humans.

The committee concluded that any purported interference is justified for the purpose of protecting public safety and that SL No. 196 is compatible with human rights.

4.4 Human rights certificate

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

⁴⁹ HRA, s 28.

⁵⁰ HRA, s 24.

⁵¹ HRA, s 29.

⁵² HRA, s 31 and 32.

⁵³ HRA, s 19.

accompanying the subordinate legislation, the former Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation, Leanne Linard MP stated:

I consider that the Nature Conservation and Other Legislation Amendment Regulation 2024 is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.⁵⁴

The statement contained a sufficient level of information to facilitate understanding of SL No. 196 in relation to its compatibility with human rights.

4.5 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

5 SL No. 197 – Forestry Regulation 2024

The Forestry Regulation 2024 (SL No. 197) repeals and replaces the Forestry Regulation 2015.⁵⁵ SL No. 1976 aims to provide for the ongoing and improved management of Queensland’s forestry areas declared under the *Forestry Act 1959*,⁵⁶ including:⁵⁷

- designation of timber reserves and declarations about State forests
- offence provisions in relation to bringing animals other than dogs into a State forest or timber reserve, in addition to provisions relating to bringing dogs and horses into a State forest or timber reserve
- offence provisions in relation to unauthorised feeding or disturbance of native animals
- provisions in relation to unauthorised feeding or disturbance of native animals
- provisions in relation to the management of vehicles, vessels, aircraft, drones and other craft in a State forest or timber reserve
- provisions relating to conduct and activities in a State forest or timber reserve including disturbance by amplified sound and unlawfully taking supplied firewood, and
- provisions relating to the statutory fees payable for permits, authorities and other uses under the *Forestry Act 1959*.⁵⁸

Generally, the provisions of SL No. 197 continue the effect of the provisions already in operation to support management of forestry areas in conjunction with non-regulatory measures such as the provision of information and education, and forest management staff working collaboratively with business and community groups.⁵⁹

⁵⁴ SL No. 196, Human Rights Certificate, p 11.

⁵⁵ SL No. 197, Explanatory Notes, p 1. See also SL No 197, s 45.

⁵⁶ SL No. 197, Explanatory Notes, p 1.

⁵⁷ SL No. 197, Explanatory Notes, p 2-4.

⁵⁸ SL No. 197, s 4, 5-8, 10-44 and sch 1-6.

⁵⁹ SL No. 197, Explanatory Notes, p 2.

The provisions mirror requirements that apply to protected areas and recreation areas to allow for consistent and effective management of issues and promotes improved public awareness and understanding of the relevant rules by commercial and recreational users of forests and protected and recreational areas across Queensland.⁶⁰

5.1 Consultation

The explanatory notes provide that consultation was undertaken with the general community through a survey which was composed of questions that canvassed the proposed changes to the regulation.⁶¹

Prior to the commencement of general consultation, engagement with First Nations stakeholders was undertaken to explain the key proposals and timeframes associated with consultation, including how to provide further feedback.⁶²

Specialised consultation was undertaken with the Civil Aviation Safety Authority on the proposed changes to drone regulations.⁶³



5.2 Legislative Standards Act 1992

Assessment of SL No. 196's compliance with the LSA identified issues with proportionality of penalties. Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.⁶⁴ In the context of subordinate legislation, maximum penalties should be limited where possible (generally, limited to 20 penalty units).⁶⁵

5.2.1 Individual rights and liberties – proportionality of penalties

SL No. 197's proposed offences include:

- allowing an animal, other than a dog, to enter a State forest or timber reserve
- failing to keep a dog under control in a State forest or timber reserve
- organising an unauthorised equestrian event in a State forest or timber reserve
- driving an unregistered vehicle in a State forest or timber reserve
- driving a vehicle at speed, or in another way that unreasonably damages the State forest or timber reserve
- operating a drone in a camping area, and
- unlawfully taking supplied firewood.⁶⁶

⁶⁰ SL No. 197, Explanatory Notes, p 2.

⁶¹ SL No. 197, Explanatory Notes, p 6-7.

⁶² SL No. 197, Explanatory Notes, p 6-7.

⁶³ SL No. 197, Explanatory Notes, p 7.

⁶⁴ LSA, s 4(2). See also OQPC, *FLP Notebook*, p 120.

⁶⁵ OQPC, *FLP Notebook*, p 150.

⁶⁶ SL No. 197, s 10, 12, 17, 21, 27, 32 and 28.

The maximum penalty for all offences under SL No. 197 is 20 penalty units (\$3,226).

The explanatory notes do not consider the proposed offence provisions in terms of their consistency with fundamental legislative principles.⁶⁷

Committee Comment



While the committee is satisfied that SL No. 197 is compliant with fundamental legislative principles, we consider that it would have been useful for the explanatory notes to SL No. 197 to have provided detail in the assessment of the subordinate legislation's consistency with FLPs. The proposed penalties are proportionate to the offences, consistent with legislation and limited to 20 penalty units.

5.3 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

6 SL No. 198 – Nature Conservation (Protected Areas Management) Regulation 2024

Nature Conservation (Protected Areas Management) Regulation 2024 (SL No. 198) replaces the Nature Conservation (Protected Areas Management) Regulation 2017 (2017 Regulation) to provide improved and ongoing management of protected areas under the *Nature Conservation Act 1992* (NC Act).⁶⁸ SL No. 198 includes:

- a framework for permits and other authorities for the use of protected areas
- procedures and requirements relating to those permits and other authorities
- regulation of conduct in protected areas, regarding conserving natural and cultural resources and values, and protecting human health and safety
- enforcement powers in relation to protecting the environment, human well-being and property
- offences and penalties
- fees payable for permits, authorities and other various uses, and
- transitional provisions to provide for continuity between the 2017 Regulation and SL No. 198.⁶⁹

The provisions mirror the requirements that apply under SL No. 197 and SL No. 199.⁷⁰ The proposed changes relate to new offences, amendments to provisions relating to authorities, and other clarification amendments.⁷¹

⁶⁷ SL No. 197, Explanatory Notes, p 5-6.

⁶⁸ SL No. 198, Explanatory Notes, p 1.

⁶⁹ SL No. 198, Explanatory Notes, p 1-2.

⁷⁰ SL No. 198, Explanatory Notes, p 2.

⁷¹ SL No. 198, Explanatory Notes, p 7-8.

6.1 Consultation

The explanatory notes provide that consultation was undertaken with the general community through a survey which was composed of questions that canvassed the proposed changes to the regulation.⁷²

Prior to the commencement of general consultation, engagement with First Nations stakeholders was undertaken to explain the key proposals and timeframes associated with consultation, including how to provide further feedback.⁷³

Specialised consultation was undertaken with the Civil Aviation Safety Authority on the proposed changes to drone regulations.⁷⁴ Additionally, private landholders, authority holders, peak industry groups, local government and other representative bodies were contacted to participate in the consultation process.⁷⁵

6.2 Legislative Standards Act 1992



Assessment of SL No. 198's compliance with the LSA identified issues of proportionality of penalties. Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.⁷⁶ In the context of subordinate legislation, maximum penalties should be limited where possible (generally, limited to 20 penalty units).⁷⁷

6.2.1 Individual rights and liberties – proportionality of penalties

SL No. 198 proposes to create a range of new penalties, including:

- a person must not light a fire or a type of fire in a protected area or part of a protected area if the area or part is within a fire ban under the *Fire Services Act 1990* (maximum penalty set at 165 penalty units, valued at \$26,614.50)⁷⁸
- a person must not bring an unregistered vehicle into, or drive or ride an unregistered vehicle in, a protected area (maximum penalty set at 20 penalty units, valued at \$3,226),⁷⁹ and
- a person must not collect natural material in a protected area (maximum penalty set at 100 penalty units, valued at \$16,310).⁸⁰

The NC Act allows regulations made under that Act to prescribe maximum penalties of up to 165 penalty units.⁸¹ The maximum penalties appear proportionate to the actions in which they relate, with more serious offences attracting higher penalties. The penalties are

⁷² SL No. 198, Explanatory Notes, p 13.

⁷³ SL No. 198, Explanatory Notes, p 13.

⁷⁴ SL No. 198, Explanatory Notes, p 13.

⁷⁵ SL No. 198, Explanatory notes, p 13.

⁷⁶ LSA, s 4(2). See also OQPC, *FLP Notebook*, p 120.

⁷⁷ OQPC, *FLP Notebook*, p 150.

⁷⁸ SL No. 198, s 229(1).

⁷⁹ SL No. 198, s 236(1).

⁸⁰ SL No. 198, s 219.

⁸¹ *Nature Conservation Act 1992*, s 175.

consistent with those in SL No. 197 and SL No. 198 and comply with the requirements set out in the NC Act.

The explanatory notes do not consider the new offence provisions and maximum penalties with respect to their consistency with fundamental legislative principles.⁸²

Committee Comment



While the committee is satisfied that SL No. 198 is compliant with fundamental legislative principles, we consider that it would have been useful for the explanatory notes to SL No. 198 to have provided detail in the assessment of the subordinate legislation's consistency with FLPs. The proposed penalties are proportionate to the offences and consistent with legislation.



6.3 Human Rights Act 2019

The human rights certificate and assessment of SL No. 198's compatibility with the HRA identified issues with:

- the right to freedom of movement,⁸³ and
- the right to freedom of expression.⁸⁴

6.3.1 Freedom of Movement

SL No. 198 contains provisions which restrict the locations in which a person may use a recreational craft that they may be otherwise licensed to use and operate.⁸⁵ For example, the proposed amendments permit a conservation officer to direct a person to leave a protected area.⁸⁶ The purpose of the amendments is to preserve and safeguard cultural and natural resources, ensure public safety and maintain order over the use of camping and amenities.⁸⁷

The human rights certificate indicates education programs and signage will form part of the wider compliance framework and overall, that any limitations on the freedom of movement are moderate and will be applied in a proportionate manner.⁸⁸

6.3.2 Freedom of Expression

Section 271 of SL No. 198 provides that a person must not display or disseminate a notice or other document in a protected area without the written approval of the chief executive.⁸⁹ The human rights certificate provides that the provision may be seen as a restriction on the right

⁸² SL No. 198, Explanatory Notes, p 11-12.

⁸³ HRA, s 19.

⁸⁴ HRA, s 21.

⁸⁵ SL No. 198, s 243, 245, 246, 247, 248 and 249. See also SL No. 198, Explanatory Notes, p 6-7.

⁸⁶ SL No. 198, Explanatory Notes, p 6.

⁸⁷ SL No. 198, Explanatory Notes, p 7.

⁸⁸ SL No. 198, Explanatory Notes, p 7.

⁸⁹ SL No. 198, s 271.

to freedom of expression as it establishes a process which could restrict the sharing of ideas and information in public places.⁹⁰

The purpose of the limitation is to uphold the principles of public order, environmental protection and the responsible use of public spaces.⁹¹ The proposed amendments allow persons to display or disseminate a notice or document in a recreation area with the consent of the chief executive.⁹²

Committee Comment



The human rights certificate noted several rights which may be engaged by the provisions of the regulation. The committee concluded that the limitation on the dissemination of printed materials is proportionate and justified considering its intended purpose to maintain public order and protect the environment, when coupled with the mechanism to seek permission to do so. The committee is satisfied that SL No. 198 is compatible with human rights.

6.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. The statement contained a sufficient level of information to facilitate understanding of SL No. 198 in relation to its compatibility with human rights.

6.5 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

7 SL No. 199 – Recreation Areas Management Regulation 2024

The Recreation Areas Management Regulation 2024 (SL No. 199) repeals and replaces the 2017 iteration of the regulation.⁹³ The policy objective of SL No. 199 is to provide ongoing and improved management of recreation areas declared under the *Recreation Areas Management Act 2006*.⁹⁴ SL No. 199 includes provisions relating to:

- designations of recreation areas
- taking animals and plants into recreation areas and not taking or using plants for fires
- camping including displaying camping tags and tampering with camping tags in a recreation area
- management of vehicles, vessels and other craft in a recreation area
- waste and other damage in a recreation area

⁹⁰ SL No. 198, human rights certificate, p 10.

⁹¹ SL No. 198, human rights certificate, p 10.

⁹² SL No. 198, human rights certificate, p 11.

⁹³ SL No. 199, s 67. See also SL No. 199, Explanatory Notes, p 1.

⁹⁴ SL No. 199, Explanatory Notes, p 1.

- regulating conduct and activities in a recreation area including using compressors or generators or possessing weapons, explosives or traps
- records for particular permits, and
- statutory fees payable under the *Recreation Areas Management Act 2006*.⁹⁵

Recreation areas include Bribie Island, Fraser Island, Green Island, Inskip Peninsula, Moreton Island and the Cooloola and Minjerribah recreation areas.⁹⁶ The explanatory notes provide that the overlap of declared recreation areas and protected area lands necessitate a legislative framework with complementary provisions to ensure consistency in the approach to management.⁹⁷



7.1 Legislative Standards Act 1992

Assessment of SL No. 199's compliance with the LSA identified issues of proportionality of penalties. Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.⁹⁸ In the context of subordinate legislation, maximum penalties should be limited where possible (generally, limited to 20 penalty units).⁹⁹

7.1.1 Individual rights and liberties – proportionality of penalties

The maximum penalty for offences listed under SL No. 199 range from 10 penalty units (valued at \$1,613) to 20 penalty units (valued at \$3,226).¹⁰⁰

The explanatory notes do not consider the new offence provisions and maximum penalty in terms of their consistency with fundamental legislative principles.¹⁰¹

Committee Comment



While the committee is satisfied that SL No. 199 is compliant with fundamental legislative principles, we consider that it would have been useful for the explanatory notes to SL No. 199 to have provided detail in the assessment of the subordinate legislation's consistency with FLPs. The proposed penalties are proportionate to the offences, consistent with legislation and capped at 20 penalty units.



7.2 Human Rights Act 2019

Assessment of SL No. 199's compatibility with the HRA identified issues with the right to freedom of expression.

⁹⁵ SL No. 199, s 7-66. See also SL No. 199, Explanatory Notes, p 2-5.

⁹⁶ SL No. 199, s 5-6 and sch 1.

⁹⁷ SL No. 199, Explanatory Notes, p 2.

⁹⁸ LSA, s 4(2). See also OQPC, *FLP Notebook*, p 120.

⁹⁹ OQPC, *FLP Notebook*, p 150.

¹⁰⁰ SL No. 199, s 10, 15, 28, 32, 33 and 34.

¹⁰¹ SL No. 199, Explanatory Notes, p 7.

7.2.1 Freedom of Expression

Section 43 of SL No. 199 provides that a person must not display or disseminate a notice or other document in a recreation area without the written approval of the chief executive.¹⁰² The human rights certificate states that the provision may be seen as a limitation on the right to freedom of expression as it establishes a process that could restrict the sharing of ideas and information in public places.¹⁰³

The purpose of the limitation is to uphold the principles of public order, environmental protection and the responsible use of public spaces.¹⁰⁴ The proposed amendments allow persons to display or disseminate a notice or document in a recreation area with the consent of the chief executive.¹⁰⁵

Committee Comment



The human rights certificate noted several rights which may be engaged by the provisions of the regulation, and the committee concluded that the limitation on the dissemination of printed materials is proportionate and justified considering its intended purpose to maintain public order and protect the environment, when coupled with the mechanism to seek permission to do so. The committee is satisfied that SL No. 199 is compatible with human rights.

7.3 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. The statement contained a sufficient level of information to facilitate understanding of SL No. 199 in relation to its compatibility with human rights.

7.4 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.



Recommendation 1

The committee recommends that the Legislative Assembly note this report.

Rob Molhoek MP
Chair

¹⁰² SL No. 199, s 43.

¹⁰³ SL No. 199, human rights certificate, p 4.

¹⁰⁴ SL No. 199, human rights certificate, p 4-6.

¹⁰⁵ SL No. 199, human rights certificate, p 4-6.

Health, Environment and Innovation Committee

Chair	Mr Rob Molhoek MP, Member for Southport
Deputy Chair	Mr Joe Kelly MP, Member for Greenslopes
Members	Ms Sandy Bolton MP, Member for Noosa
	Ms Kerri-Anne Dooley MP, Member for Redcliffe
	Dr Barbara O’Shea MP, Member for South Brisbane
	Mr David Lee MP, Member for Hervey Bay