

Legal Affairs and Community Safety Committee

Report No. 39, 56th Parliament

Subordinate legislation tabled between 27 February 2019 and 1 May 2019

1 Aim of this report

This report summarises the committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled between 27 February 2019 and 1 May 2019. It reports on issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992*.

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
43	Weapons Legislation Amendment Regulation 2019	30 April 2019	4 September 2019
44	Police Service Administration (Approved Agencies) Amendment Regulation 2019	30 April 2019	4 September 2019
45	Disaster Management (Extension of Far North Disaster District) Amendment Regulation 2019	30 April 2019	4 September 2019
49	Uniform Civil Procedure (Commercial Arbitration) Amendment Rule 2019	30 April 2019	4 September 2019
50	Uniform Civil Procedure (Service Outside Australia) Amendment Rule 2019	30 April 2019	4 September 2019
60	Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2019	30 April 2019	4 September 2019
62	Legal Profession (Society Rules) Amendment Notice (No. 2) 2019	1 May 2019	5 September 2019

3 Committee consideration of the subordinate legislation

Other than the matters discussed below, no significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified.

The explanatory notes tabled with the subordinate legislation comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

4 Weapons Legislation Amendment Regulation 2019

The objectives of the Weapons Legislation Amendment Regulation 2019 are to:

- prevent the risk of public harm caused by use of devices that attach to a firearm and use recoil generated by the firearm to increase the firearm's rate of fire (eg. 'bump stocks')¹
- facilitate the use of laser pointers for helicopter rescue activities by confirming helicopter search and rescue pilots and crew as recognised occupations to use these items
- enhance the security of firearms stored in private safes by creating offences for failing to take reasonable precautions to prevent a key or combination for a gun safe coming into the possession of unauthorised people, and
- streamline the importation of warfare items by museums and collectors by amending the provisions relating to making weapons permanently inoperable so as to incorporate additional customs requirements that may be made.

4.1 Fundamental legislative principle issues

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation have sufficient regard to the rights and liberties of individuals. In this regard, the following fundamental legislative principle issues were noted in relation to the Weapons Legislation Amendment Regulation 2019.

The explanatory notes recognise that restricting the possession of 'bump stock' type devices might impact a person's rights and liberties and provide the following justification:

*... [restricting the possession of bump stock devices] is consistent with the national prohibition on the possession of fully-automatic firearms as the use of such a device may replicate the firing speed of category R weapons. ... The public safety benefits in restricting possession of such devices in the community is seen to outweigh any infringement on personal liberties.*²

The explanatory notes also acknowledge that requiring firearm owners to safeguard the key or combination of a safe imposes a new obligation on licensees that could be considered an infringement on personal liberties,³ and offer the following justification:

*... this policy formalises a reasonable expectation of the responsible storage of a firearm. Again, the public interest in ensuring that firearms do not fall into the hands of unauthorised people outweighs any minor imposition on licensees.*⁴

Committee comment

On balance, the committee is satisfied that sufficient justification has been provided and considers that public safety considerations justify any infringement on an individual's rights and liberties in the limited range of circumstances contemplated by the regulation.

5 Police Service Administration (Approved Agencies) Amendment Regulation 2019

The objective of the Police Service Administration (Approved Agencies) Amendment Regulation 2019 is to include the Office of the Health Ombudsman (OHO) and the Australian Health Practitioner Regulation Agency (AHPRA) as approved agencies under s 67 of the Police Service Administration Regulation 2016 (PSAR).

¹ Increased firing speed may replicate that of higher category weapons, including fully-automatic weapons. The use of the device may result in a firearm having the firing speed of a weapon the person may be otherwise unauthorised to possess.

² Explanatory notes, p 4.

³ Explanatory notes, p 4.

⁴ Explanatory notes, p 4.

Section 10.2L of the *Police Service Administration Act 1990* authorises the commissioner to give to an approved agency information held in the Queensland Police Service (QPS) database. Agencies that are prescribed as approved agencies are listed in s 67 of the PSAR.

5.1 Fundamental legislative principle issues

The disclosure by the QPS of a person's confidential information and any subsequent use by OHO and AHPRA could be seen as breaching a person's rights and liberties. A person might reasonably expect that their confidential information that is held by the QPS would not be disclosed to, or used by, another agency.

The explanatory notes advise:

*The OHO and AHPRA regularly request information from the QPS about registered and non-registered health practitioners who have been charged with criminal offences to enable these agencies to determine if immediate action to protect the public from the practitioner is required.*⁵

.....

*Including the OHO and the AHPRA as approved agencies under section 67 of the PSAR will facilitate the timely and more efficient information sharing of QPS information assisting these agencies to more effectively fulfil their statutory responsibilities.*⁶

Committee comment

On balance, the committee considers that the infringement of individual rights caused by the disclosure of personal information is justified by community safety considerations.

6 Recommendation

The committee recommends that the House notes this report.



Peter Russo MP
Chair
June 2019

Legal Affairs and Community Safety Committee

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⁵ Explanatory notes, p 1.

⁶ Explanatory notes, p 2.