

## Legal Affairs and Safety Committee

### Report No. 25, 57th Parliament

## Subordinate legislation tabled between 7 December 2021 and 22 February 2022

### 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 7 December 2021 and 22 February 2022. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).<sup>1</sup>

In addition, the report notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificates tabled with the subordinate legislation.<sup>2</sup>

### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
Other	Takeaway Liquor Notice 28	14/01/22	25/05/22
Other	Takeaway Liquor Notice 29	01/02/22	25/05/22
Other	Takeaway Liquor Notices 30 and 31	08/02/22	25/05/22
170	Agents Financial Administration Amendment Regulation 2021	22/02/22	26/05/22
171	COVID-19 Emergency Response and Other Legislation Amendment (Postponement) Regulation 2021	22/02/22	26/05/22
172	Gaming Machine Amendment Regulation 2021	22/02/22	26/05/22
184	Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021	22/02/22	26/05/22
185	Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 4) 2021	22/02/22	26/05/22
190	Proclamation - <i>Police Powers and Responsibilities and Other Legislation Amendment Act 2021</i>	22/02/22	26/05/22

<sup>1</sup> *Legislative Standards Act 1992*, Part 4.

<sup>2</sup> HRA, s 41.

192	Professional Standards (The Queensland Law Society Professional Standards Scheme) Notice 2021	22/02/22	26/05/22
1	Professional Standards (Law Society of South Australia Professional Standards Scheme) Notice 2022	22/02/22	26/05/22
4	Proclamation No. 1 – <i>Justice and Other Legislation Amendment Act 2021</i> (commencing certain provisions)	22/02/22	26/05/22
5	Fair Trading (Funeral Pricing) Regulation 2022	22/02/22	26/05/22

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

### 3 Committee consideration of the subordinate legislation

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

The committee considers the explanatory notes tabled with the subordinate legislation comply with the requirements of section 24 of the LSA. The committee also considers 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 human rights.

In addition, the committee considered several Takeaway Liquor Authority Notices<sup>3</sup> (Nos 28, 29, 30 and 31). The committee did not identify any issues from a technical scrutiny perspective. As these notices are not subordinate legislation,<sup>4</sup> there is no requirement to table explanatory notes or a human rights certificate with them.<sup>5</sup>

### 4 Agents Financial Administration Amendment Regulation 2021 (SL No. 170 of 2021)

The policy objective of the regulation is to amend the Agents Financial Administration Regulation 2014 (AFA regulation) to modify trust account record keeping requirements for agents to cater for payments from trust accounts which are made using bill payment platforms (such as BPAY).<sup>6</sup>

These amendments arose out of the digital transformation project of the Residential Tenancies Authority, which proposed to enable property agents to lodge multiple rental bonds with the authority using BPAY.<sup>7</sup> According to the explanatory notes, the current AFA regulation:

... will likely not cater for payments using bill payment platforms, such as BPAY, given the information that is required to be recorded does not align with the information generated via such platforms.<sup>8</sup>

The regulation also makes minor editorial corrections to section 9 of the AFA regulation, which relates to the particular information contained in a completed trust account receipt form.<sup>9</sup>

<sup>3</sup> The Notices are issued by the Commissioner for Liquor and Gaming under s 235 of the *Liquor Act 1992*. Although these notices are not subordinate legislation (and do not form part of the usual numbered subordinate legislation series), they are subject to disallowance.

<sup>4</sup> *Liquor Act 1992*, s 235(2).

<sup>5</sup> *Liquor Act 1992*, s 235(4).

<sup>6</sup> SL No. 170, explanatory notes, p 1.

<sup>7</sup> SL No. 170, explanatory notes, p 1.

<sup>8</sup> SL No. 170, explanatory notes, p 2.

<sup>9</sup> SL No. 170, s 4. These changes correct a punctuation error and an incorrect reference.

#### **4.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

#### **4.2 Compatibility with human rights**

The subordinate legislation is compatible with human rights.<sup>10</sup>

### **5 COVID-19 Emergency Response and Other Legislation Amendment (Postponement) Regulation 2021 (SL No. 171 of 2021)**

The regulation extends a temporary exemption from certain restrictions on liquor sales by distillers to 4 December 2022. As part of a range of measures, the *COVID-19 Emergency Response and Other Legislation Amendment Act 2020* (Amendment Act)<sup>11</sup> amended the *Liquor Act 1992* to provide an exemption from existing restrictions which prevent distillers with a producer/wholesaler licence from selling liquor to the public in amounts exceeding 2.5% of total sales (2.5% exemption).<sup>12</sup>

The 2.5% exemption enables artisan distiller producer/wholesaler licensees<sup>13</sup> to sell their own liquor products in unlimited amounts to the general public, predominantly through tasting rooms and onsite bars catering for visitors and tourists. The 2.5% exemption was intended as a temporary measure until more comprehensive reforms could be established.<sup>14</sup> As such, the Amendment Act provided for the removal of the 2.5% exemption on a date to be fixed by proclamation (through an omitting provision).

Under the *Acts Interpretation Act 1954* (AIA), the omitting provision is considered a postponed law, which means that it should commence the following day after the relevant Act receives assent – in this case, 5 December 2021.<sup>15</sup>

However, according to the explanatory notes, it is necessary to extend the time frame of the 2.5% exemption for a further year to allow time for the affected licensees to transition to the new artisan producer licences.<sup>16</sup>

The AIA allows a regulation to postpone the period of commencement to a date not more than two years from the date of assent, being 4 December 2022.<sup>17</sup>

The COVID-19 Emergency Response and Other Legislation Amendment (Postponement) Regulation 2021 extends the commencement of the omitting provision to 5 December 2022. This has the effect that the 2.5% exemption will be available up to 4 December 2022.<sup>18</sup>

#### **5.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

#### **5.2 Compatibility with human rights**

The subordinate legislation is compatible with human rights.

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<sup>10</sup> 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 section 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.

<sup>11</sup> The Amendment Act was passed on 1 December 2020 and received assent on 4 December 2020.

<sup>12</sup> SL No. 171, explanatory notes, p 1.

<sup>13</sup> Those producing between 400,000 and 450,000 litres of spirits annually.

<sup>14</sup> SL No. 171, explanatory notes, p 1.

<sup>15</sup> AIA, ss 45(2), 15DA.

<sup>16</sup> SL No. 171, explanatory notes, p 2. The new licences became available on 4 May 2021.

<sup>17</sup> AIA, s 15DA(3).

<sup>18</sup> SL No. 171, s 2.

## 6 Gaming Machine Amendment Regulation 2021 (SL No. 172 of 2021)

The regulation amends the Gaming Regulation 2002 to provide gaming machine licensees with the ability to make gaming machine payments (of gaming machine winnings, credits and tokens) by electronic funds transfer (EFT).<sup>19</sup> The regulation also clarifies that licensed monitoring operators may make gaming machine payments by cheque or EFT.<sup>20</sup> The amendments also provide that a licensee must make an EFT in a way that the amount above the cash limit (the cash limit being not more than \$5,000) is not available to the player until after the gaming period for the relevant licence premises ends.<sup>21</sup> A similar provision applies to licensed monitoring operators.<sup>22</sup>

### 6.1 Consistency with fundamental legislative principles

#### *General rights and liberties of individuals*

Legislation should have sufficient regard to the rights and liberties of individuals.<sup>23</sup> This includes the rights of individuals to have access to their legitimate winnings from gambling.

The regulation might be regarded as breaching the fundamental legislative principle that legislation have sufficient regard to the rights and liberties of individuals by delaying an individual's access to a portion of their legitimate winnings until the end of the gaming period (being the end of the trading day of the venue at which the winnings were gained).

The explanatory notes acknowledge that restricting or delaying a person's access to their winnings potentially breaches this fundamental legislative principle, and state that the breach is considered reasonable and justified as it reduces the risk of gambling related harm.<sup>24</sup> Specifically:

The intent is to reduce the risk of gambling-related harm by creating a cooling off period in which the player may decide whether to use large winnings to continue gambling.<sup>25</sup>

The Office of the Queensland Parliamentary Counsel (OQPC) notes that organised gambling activities have historically been extensively regulated by legislation:

Gambling is a lucrative and sometimes addictive activity. The reasons for legislative control include the need to prevent exploitation of gamblers, fraud, inappropriate commercial arrangements and criminal involvement. Restrictions on rights and liberties of individuals may be more easily justifiable than in other circumstances.<sup>26</sup>

#### **Committee comment**

The committee is satisfied that any breach of the fundamental legislative principle that legislation have sufficient regard to the rights and liberties of individuals is justified, having regard to the policy intent of reducing the risk of gambling-related harm.

### 6.2 Compatibility with human rights

#### *Property rights*

A person must not be arbitrarily deprived of their property.<sup>27</sup>

<sup>19</sup> SL No. 172, explanatory notes, p 1; SL No. 172, s 6.

<sup>20</sup> SL No. 172, explanatory notes, p 1; SL No. 172, s 4.

<sup>21</sup> SL No. 172, ss 6, 7.

<sup>22</sup> SL No. 172, s 4.

<sup>23</sup> LSA, s 4(2)(a).

<sup>24</sup> SL No. 172, explanatory notes, p 3.

<sup>25</sup> SL No. 172, explanatory notes, p 1.

<sup>26</sup> OQPC, *Fundamental Legislative Principles: the OQPC Notebook*, p 119.

<sup>27</sup> HRA, s 24.

Delaying access by/of a person to their legitimate gambling winnings limits, albeit temporarily, their right to property.

The human rights certificate justifies the limitation on the following basis:

The limitation balances the need to modernise gaming machine payments for the convenience of players while addressing the risk of introducing EFT which is a potentially instantaneous payment method. In these circumstances, the temporary deprivation of property (created by obligating licensees and LMOs [licensed monitoring operators] to make certain EFT payments in a way that delays access to the funds) is not arbitrary and is considered to strike a fair balance between the protection of human rights and preventing gambling related harm.<sup>28</sup>

#### **Committee comment**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **7 Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021 (SL No. 184 of 2021)**

The amendment rule amends the Uniform Civil Procedure Rules to allow for preliminary disclosure orders to be made in the Supreme Court of Queensland. A preliminary disclosure order is a mechanism by which a prospective applicant can obtain relevant documents prior to the commencement of substantive proceedings in order to assess the merits of the potential claim and/or to identify the proper defendant. A similar procedure already exists at the Federal Court level.<sup>29</sup>

#### **7.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

#### **7.2 Compatibility with human rights**

The human rights certificate discusses the right to privacy and reputation and the right to a fair hearing, which are addressed below.

##### ***Right to privacy and reputation***

A person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and not to have their reputation unlawfully attacked.<sup>30</sup>

In requiring a potential defendant to disclose relevant documents prior to the commencement of substantive proceedings, the amendment rule might increase the risk of confidential information being made available to a prospective applicant.

In requiring a person to disclose relevant information about the identity or whereabouts of the proper defendant, the amendment rule will also limit the proper defendant's right to privacy.<sup>31</sup>

##### ***Right to a fair hearing***

A person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.<sup>32</sup>

The amendment rule might arguably limit a potential defendant's right to a fair hearing if they are required to disclose relevant documents prior to the commencement of substantive proceedings.<sup>33</sup>

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<sup>28</sup> SL No. 172, human rights certificate, p 3.

<sup>29</sup> SL No. 184, explanatory notes, p 1.

<sup>30</sup> HRA, s 25.

<sup>31</sup> SL No. 184, human rights certificate, p 2.

<sup>32</sup> HRA, s 31.

<sup>33</sup> SL No. 184, human rights certificate, p 2.

The human rights certificate notes the purpose of the provisions, as being:

... to assist in the effective and expeditious completion of court business by ensuring that meritorious claims proceed against the proper defendant. This is consistent with a free and democratic society based on human dignity, equality and freedom.<sup>34</sup>

The human rights certificate provides the following justification for these limitations:

On balance, the need to strengthen the court process outweighs any impact on a person's human rights, taking into account the safeguards provided under the Amendment Rules in relation to security for costs and privilege.<sup>35</sup>

#### **Committee comment**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **8 Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 4) 2021 (SL No. 185 of 2021)**

The objective of the regulation is to further extend the period of the disaster situation declared for the whole of Queensland on 22 March 2020.<sup>36</sup> The regulation extended the disaster situation for a further 90 days to 26 March 2022.<sup>37</sup>

### **8.1 Consistency with fundamental legislative principles**

#### ***Rights and liberties of individuals***

The further extension of the declaration extends the duration of the availability of a number of powers under the *Disaster Management Act 2003* (DM Act). Some of these powers include:

- the control and movement of persons, animals or vehicles within the declared area
- giving a direction to a person to regulate the movement of a person, animal or vehicle into or out of a declared area
- entering a place or area
- removing, dismantling or demolishing or destroying a vehicle, or a building or other structure in the declared area.

The reasonableness and fairness of treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals.<sup>38</sup> The exercise of the powers listed above can involve quite significant restrictions on the rights and liberties of an individual.

The explanatory notes state that the regulation is consistent with fundamental legislative principles, and they do not address the issues of fundamental legislative principle that arise.<sup>39</sup> (This might be on the basis that the powers are contained in the principal Act itself.) The explanatory notes do state:

A further extension is required due to the longer-term nature of COVID-19 and its potential impacts. Extension of the period of the disaster situation is necessary to ensure powers are available to rapidly and appropriately address risk to the health of the Queensland community.<sup>40</sup>

#### **Committee comment**

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<sup>34</sup> SL No. 184, human rights certificate, p 2.

<sup>35</sup> SL No. 184, human rights certificate, p 3.

<sup>36</sup> Previously extended by regulation on 2, 16 and 30 April 2020, 14 and 28 May 2020, 27 August 2020, 1 October 2020, 10 December 2020, 18 March 2021, 17 June 2021 and 17 September 2021.

<sup>37</sup> SL No. 185, explanatory notes, pp 1-2. See also, *Disaster Management Act 2003*, Parts 4 and 12A.

<sup>38</sup> See OQPC, *Fundamental legislative principles: the OQPC notebook*, p 133; LSA, s 4.

<sup>39</sup> SL No. 185, explanatory notes, p 2.

<sup>40</sup> SL No. 185, explanatory notes, pp 1-2.

Given the COVID-19 public health emergency, the committee considers the breaches of fundamental legislative principle which arise from the restrictions on a person's rights and liberties are justified.

## **8.2 Compatibility with human rights**

### ***Freedom of movement***

Every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave it.<sup>41</sup>

The regulation limits a person's right of freedom of movement because it allows for the exercise of powers that support border restriction controls and the closing of roads to traffic, which can result in persons being prevented from entering Queensland from another state or territory, particularly declared COVID-19 hotspots.<sup>42</sup>

The Minister notes that the restriction on movement also has ancillary impacts on other human rights,<sup>43</sup> but provides this justification:

On the basis of the nature of the health emergency, protecting the health and safety of the community by preventing or slowing the spread of COVID-19 by controlling the movement of persons, the potential limitations are considered reasonable and justifiable.<sup>44</sup>

...

On balance, having regard to the nature and extent of the limitation on the right ... the importance of achieving the protection of a person's, or the public's, health outweighs the harm caused by the limitations on the human rights.<sup>45</sup>

### ***Peaceful assembly and freedom of association***

Every person has the right to peaceful assembly and freedom of association.<sup>46</sup>

The regulation limits a person's right to peaceful assembly and freedom of association because it allows for the exercise of powers to control movement of persons (as outlined above) which may result in the dispersal of groups of persons, such as those engaging in peaceful assemblies.<sup>47</sup>

The Minister provides this justification:

The purpose of limiting the rights to freedom of movement, peaceful assembly and freedom of association and right to liberty and security is to protect the health and safety of the community by preventing or slowing the spread of COVID-19 by controlling the movement of persons.<sup>48</sup>

### ***Right to liberty and security***

A person has the right not to be subjected to arbitrary arrest or detention or to be deprived of their liberty.<sup>49</sup>

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<sup>41</sup> HRA, s 19.

<sup>42</sup> SL No. 185, human rights certificate, p 5.

<sup>43</sup> SL No. 185, human rights certificate, p 9, specifically the right to equality before the law (HRA, s 15), the right to freedom of thought, conscience, religion and belief (HRA, s 20), the right to peaceful assembly and freedom of association (HRA, s 22), the right to take part in public life (HRA, s 23), the right to property (HRA, s 24), the right to privacy and reputation (HRA, s 25), the cultural rights of Aboriginal and Torres Strait Islander persons (HRA, s28) and the right to education (HRA, s 36).

<sup>44</sup> SL No. 185, human rights certificate, p 9.

<sup>45</sup> SL No. 185, human rights certificate, p 9.

<sup>46</sup> HRA, s 22.

<sup>47</sup> SL No. 185, human rights certificate, pp 6-7.

<sup>48</sup> SL No. 185, human rights certificate, p 7.

<sup>49</sup> HRA, s 29.

The extension of the disaster situation limits a person's right to liberty and security because it allows for powers to be exercised that include controlling the movement of persons into, out of, or around the declared area. The exercise of these powers may result in a person being deprived of their liberty for a period of time.<sup>50</sup>

With respect to the limitations on the rights to freedom of movement (and the ancillary impacts flowing from this right), peaceful assembly and freedom of association and the right to liberty and security, the Minister states:

Due to the human to human transfer of the virus, there are no less restrictive and reasonably available ways to achieve the purpose other than by extending the declared disaster situation for a further 90 days. The extension is necessary to ensure disaster officers have these powers under the DM Act. The powers under the DM Act are a necessary element to give effect to the government's obligation to take appropriate steps and adopt positive measures to protect life during the COVID-19 pandemic.<sup>51</sup>

### ***Property rights***

A person must not be arbitrarily deprived of their property.<sup>52</sup>

The regulation extends the duration of the availability of various powers, including powers to enter a place, remove things from a place, and remove, dismantle, demolish or destroy a building in the declared area.

The Minister notes that the right to property is engaged and observes:

The declared disaster powers are broad, to reflect the fact that they may be used to respond to a range of disaster situations, including natural disasters.<sup>53</sup>

The Minister adds:

It is not considered to be reasonably foreseeable that the powers relating to property will be exercised in relation to the COVID-19 disaster.<sup>54</sup>

This statement can be accepted as accurate. Nonetheless, these powers do remain available for use under the legislation and so there is potential for property rights to be limited.

### ***Right to privacy and reputation***

A person must not have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.<sup>55</sup>

The further extension of the disaster situation may limit a person's right to privacy, as it allows for powers to be exercised that include entering a place in the declared area. The exercise of this power may interfere with a person's home or privacy.

The Minister provides this justification:

The purpose of limiting the right to a person's privacy is to protect the health and safety of the community by preventing or slowing the spread of COVID-19 by ensuring compliance with public health directions such as those relating to social distancing.<sup>56</sup>

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<sup>50</sup> SL No. 185, human rights certificate, p 7.

<sup>51</sup> SL No. 185, human rights certificate, p 8.

<sup>52</sup> HRA, s 24.

<sup>53</sup> SL No. 185, human rights certificate, p 5.

<sup>54</sup> SL No. 185, human rights certificate, p 5.

<sup>55</sup> HRA, s 25.

<sup>56</sup> SL No. 185, human rights certificate, p 10.

The limitation helps achieve the purpose by reducing the risk of transmission of COVID-19, by limiting community contact and proximity to persons identified with, or suspected of having, the virus. This will minimise instances of human to human contact to reduce exposure and the risk of spread of the virus.<sup>57</sup>

...

On balance, having regard to the nature and extent of the limitation on the right and the information detailed above, the importance of achieving the protection of a person's, or the public's, health outweighs the harm caused to a person's right to privacy under these circumstances.<sup>58</sup>

### **Committee comment**

Given the COVID-19 public health emergency and the aim of protecting public health, the committee is satisfied that the subordinate legislation is compatible with human rights.

## **9 Proclamation - Police Powers and Responsibilities and Other Legislation Amendment Act 2021 (SL No. 190 of 2021)**

The proclamation fixed 6 December 2021 as the commencement date for certain sections of the *Police Powers and Responsibilities and Other Legislation Amendment Act 2021* (s 11(3) (Decision of parole board), s 21 (Temporary periods to decide particular parole applications) and s 23(2) (Amendment of Schedule 4 - dictionary). The explanatory notes state:

[Parole Board Queensland] is presently experiencing a significant increase in demand resulting in delays in parole decisions. As one measure to assist in managing these delays, the commencing provisions aim to support the efficiency and effectiveness of the Board's operations by providing a temporary six-month extension to the timeframes for deciding parole applications. This additional time to make each decision recognises the current volume of matters while ensuring the protection of a legislated timeframe is maintained for the prisoner.<sup>59</sup>

### **9.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

### **9.2 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **10 Professional Standards (The Queensland Law Society Professional Standards Scheme) Notice 2021 (SL No. 192 of 2021)**

The objective is to give notice of the approval of The Queensland Law Society Professional Standards Scheme by the Professional Standards Council of Queensland.<sup>60</sup> The explanatory notes state:

... the Scheme will limit the occupational liability of full and honorary members of The Queensland Law Society (QLS) and independent legal practices who meet the necessary criteria. The Scheme provides for monetary ceilings (caps) based on the annual turnover of members. The Scheme also provides a discretionary authority for the QLS to specify a higher cap.<sup>61</sup>

### **10.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

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<sup>57</sup> SL No. 185, human rights certificate, p 10.

<sup>58</sup> SL No. 185, human rights certificate, p 12.

<sup>59</sup> SL No. 199, explanatory notes, p 1.

<sup>60</sup> A copy of the scheme was tabled in Parliament on 22 February 2022 by Hon Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence.

<sup>61</sup> SL No. 192, explanatory notes, pp 1-2.

## **10.2 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **11 Professional Standards (Law Society of South Australia Professional Standards Scheme) Notice 2022 (SL No. 1 of 2022)**

The objective is to give notice of the approval of the Law Society of South Australia Professional Standards Scheme by the Professional Standards Council of South Australia.<sup>62</sup> The explanatory notes state:

The Scheme limits the liability of ‘admitted’ and ‘company’ members of the Law Society of South Australia (the Society), who are entitled to practise law and who hold professional indemnity insurance. Directors of ‘company’ members must also hold ‘admitted’ membership of the Society in an individual capacity.<sup>63</sup>

### **11.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

### **11.2 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **12 Proclamation No. 1 – Justice and Other Legislation Amendment Act 2021 (SL No. 4 of 2022)**

The proclamation fixed 31 January 2022 as the commencement date for Part 5 of the *Justice and Other Legislation Amendment Act 2021*, which amends the *Liquor Act 1992*.

Under the provisions in Part 5, licensed restaurant operators can apply to the Commissioner for Liquor and Gaming for a condition of licence authorising the sale of 1.5 litres of takeaway wine (two bottles) with a takeaway meal up to 10pm.

### **12.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

### **12.2 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **13 Fair Trading (Funeral Pricing) Regulation 2022 (SL No. 5 of 2022)**

The regulation:

- requires a funeral director to display upfront funeral price information in relation to the goods and services offered by the funeral director, at the funeral director’s place of business and online if the business has a website
- requires a funeral director to provide a person that asks about the funeral director’s goods and services with information about the goods and services:
  - within 48 hours after the person asked for the information (or a longer period if agreed), and
  - prior to an agreement being entered into for the supply of goods and services

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<sup>62</sup> A copy of the scheme was tabled in *Parliament* on 22 February 2022 by Hon Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence.

<sup>63</sup> SL No. 192, explanatory notes, pp 1-2.

- prohibits funeral directors from entering into agreements with a person in relation to the supply of goods and services for the burial or cremation of a body, unless information about the price of each of the goods and services; the costs of any disbursements that will be payable; and the total amount payable by the person have been provided to the person.<sup>64</sup>

The explanatory notes state that the regulation will increase price transparency in the funeral market and empower consumers by improving access to upfront, itemised prices for funeral goods and services.<sup>65</sup>

### **13.1 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified.

### **13.2 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

## **14 Recommendation**

The committee recommends that the House notes this report.



Peter Russo MP

**Chair**

**April 2022**

### **Legal Affairs and Safety Committee**

**Chair**

**Deputy Chair**

**Members**

Mr Peter Russo MP, Member for Toohey

Mrs Laura Gerber MP, Member for Currumbin

Ms Sandy Bolton MP, Member for Noosa

Ms Jonty Bush MP, Member for Cooper

Mr Jason Hunt MP, Member for Caloundra

Mr Jon Krause MP, Member for Scenic Rim

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<sup>64</sup> SL No. 5, ss 4, 5; explanatory notes, p 2.

<sup>65</sup> SL No. 5, explanatory notes, p 1.