QUEENSLAND PARLIAMENT

COMMITTEES

Report on subordinate legislation tabled on 29 April 2025

Health, Environment and Innovation Committee

Report No. 10

58th Parliament, July 2025

Overview

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled on 29 April 2025. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).[1]

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA)[2] and the human rights certificates tabled with the subordinate legislation.[3]

Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
19	Medicines and Poisons (Medicines) Amendment Regulation 2025	29 April 2025	27 August 2025
20	Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025	29 April 2025	27 August 2025
25	Health and Other Legislation Amendment Regulation 2025	29 April 2025	27 August 2025

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

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 reviewed 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 *Legislative Standards Act 1992*, Part 4 (LSA). See also, LSA s 4.

2 *Human Rights Act 2019*, s 8, 13 (HRA).

3 HRA, s 41.

1. SL No. 19 – Medicines and Poisons (Medicines) Amendment Regulation 2025

SL No. 19 amends the Medicines and Poisons (Medicines) Regulation 2021 (Medicines Regulation 2021) to ensure particular substances are made, sold, used and disposed of in an appropriate, effective and safe way and to ensure that health risks arising from the use of these substances are appropriately managed. [4]

The explanatory notes state that the Medicines Regulation 2021 requires updating to keep up with changes to Queensland Health policies and practices, and to improve access to high-quality health services throughout Queensland. These changes to the Medicines Regulation aim to address practical and operational issues that have been identified by stakeholders and operational areas within Queensland Health.[5]

SL No. 19 will:

- provide a low-risk exemption for the transfer of immunisation medicines between registered Immunisation Service Providers (ISP) from generic wholesaling and licensing requirements, such as buying, supplying or possessing stock of immunisation medicines
- authorise registered nurses to deal with scheduled medicines (possess, repackage, or give a treatment dose), for persons-in-custody of a custodial facility
- authorise pharmacists employed at a public sector health service facility or private health facility to prescribe medicines collaboratively with a medical practitioner or nurse practitioner in accordance with a collaborative prescribing protocol; and
- give effect to new versions of extended practice authorities (EPAs) to:
    - allow registered nurses to administer or give a treatment dose of certain first responder medicines when undertaking hospital-based ambulance activities;
    - allow first-contact emergency physiotherapy practitioners to prescribe and administer medicines in urgent care facilities, in addition to hospital emergency departments;
    - reflect the revised list of medicines in the updated Primary Clinical Care Manual;
    - allow health professionals to administer additional immunisation medicines; and
    - make other minor administrative amendments.[6]

1.1. Low risk ISP exemptions

ISPs are solely responsible for the delivery of the federal National Immunisation Program and state-funded immunisation programs in Queensland. There are over 2,700 Queensland Health Immunisation Program registered ISPs in Queensland of varying types including entities such as general practitioner clinics, pharmacies, Aboriginal and

4 SL No. 19, Explanatory Notes, p 1.
5 SL No. 19, Explanatory Notes, p 1.
6 SL No. 19, Explanatory Notes, p 2.

Torres Strait Islander Community Controlled Health Organisations, Hospital and Health Services (HHSs), some local government authorities, and other private providers. [7]

Under the current framework, if an ISP needs to transfer an immunisation medicine to another ISP — for example, to redistribute immunisations to communities where they are needed — wholesaling requirements apply.[8]

The explanatory notes state that removing these requirements will:

- reduce the risk of disruption to immunisation services, which may impact timeliness of immunisation and potentially increase the risk of transmission of immunisation-preventable diseases;
- reduce wastage of Government funded immunisation medicines; and
- reduce the significant regulatory and administrative burden on Queensland's constrained primary care sector with a process that is of little practical value in the absence of a financial transaction.[9]

1.2. Authorisation of registered nurses

The amendments to the Medicines Regulation will authorise and extend the scope for registered nurses to deal with scheduled medicines (possess, repackage, or give a treatment dose) for persons-in-custody at any custodial facility. The objective of these amendments is to reduce administrative burden and ensure there is consistency for registered nurses dealing with scheduled medicines across the different types of custodial facilities.[10]

1.3. Collaborative Pharmacist Medication Prescribing

The amendments to the regulation enable the implementation of a Collaborative Pharmacist Medication Prescribing (CPMP) model of care for pharmacists employed at a public sector health service facility or a private health facility. The CPMP model addresses service demands through the sustainable and collaborative optimisation of workforce scope of practice. The likely benefits of the CPMP model include early optimisation of medicines, reduced medication errors, improved patient flow through hospital services, and timely administration of medicines.[11]

Collaborative prescribing is within the existing scope of practice of a pharmacist, and these amendments provide that pharmacist prescribing may only occur under a collaborative prescribing protocol, which must meet legislated minimum standards. The requirements include that the protocol is made available for inspection and pharmacist prescribing only occurs in collaboration with a medical practitioner or nurse practitioner. This will allow the authorised pharmacist to prescribe medicines in line with the collaborative prescribing protocol without the need for another authorised prescriber's co-signature on each individual medicine prescription.[12]

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7 SL No. 19, Explanatory Notes, p 2.

8 SL No. 19, Explanatory Notes, p 2.

9 SL No. 19, Explanatory Notes, p 3.

10 SL No. 19, Explanatory Notes, p 3.

11 SL No. 19, Explanatory Notes, p 5.

12 SL No. 19, Explanatory Notes, p 4.

1.4. Fundamental Legislative Principles – External Documents

Subordinate legislation, and other documents made under delegated power, should only contain appropriate matters. SL No 19 allows for new versions of 'extended practice authorities' (EPA) to be made by the Chief Executive of Queensland Health which sets out the technical detail associated with an approved person carrying out a regulatory activity with a regulated substance.[13] An EPA may:

- state places or circumstances in which the approved person may handle a regulated substance
- impose conditions on dealing with regulated substance; and
- require the approved person to hold particular qualifications or training to deal with the registered substance.[14]

An EPA is a highly technical document and is considered industry best practice. It includes information such as dosage, quantity and substance-specific restrictions, including instructions on administering such substances.[15] The explanatory notes advise that EPAs are monitored and updated on a rolling basis when necessary, to ensure that they are in alignment with advice published on the Queensland Health website.[16]

Committee Comment

The committee is satisfied that any potential breach of fundamental legislative principles arising from the approval in SL No. 19 of the updated EPAs is justified, having regard to the technical nature of the detail within the documents. The committee also notes the opportunity for parliamentary oversight when the Medicine and Poisons (Medicines) Regulation 2021 is amended to approve new or amended EPAs, and that copies of the relevant versions of the EPAs were tabled in the Legislative Assembly.

[13] SL No. 19, Explanatory Notes, p 17. See also *Medicines and Poisons Act 2019* s 232.

[14] SL No. 19, Explanatory Notes, p 17. See also *Medicines and Poisons Act 2019* s 232.

[15] SL No. 19, Explanatory Notes, p 17.

[16] SL No. 19, Explanatory Notes, pp 17-18.

2. SL No. 20 – Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025

SL No. 20 amends the amends the Tobacco and Other Smoking Products Regulation 2021 and State Penalties Enforcement Regulation 2014 (SPE Regulation) to make amendments to:

- prescribe smoke-free places, and ensure that those places prescribed under the *Tobacco and Other Smoking Products Act 1998* (TOSP Act) are accurate
- prescribe nicotine pouches as illicit nicotine products; and
- create new penalty infringement notice (PIN) offences relating to illicit nicotine products and significantly increase the penalties for existing offences relating to illicit tobacco.

The purpose of these amendments is to:

- disrupt economic incentives arising from the profitable supply of illicit tobacco and illicit nicotine products and support the enforcement of relevant offences in the TOSP Act
- reduce the harms to public health caused by nicotine pouches; and
- ensure that the prescribed smoke-free places identified in the Tobacco and Other Smoking Products Regulation are accurate.[17]

2.1. Prescribing nicotine pouches as 'illicit nicotine products'

SL No 20. prescribes nicotine pouches as an 'illicit nicotine product'.[18] 'Illicit nicotine product' is defined in schedule 1 of the TOSP Act as 'vaping goods or another product containing nicotine or another substance detrimental to health prescribed by regulation for this definition.' Various provisions in the TOSP Act make the supply of, or display, promotion or advertising of, illicit nicotine products an offence.[19]

The explanatory notes provide that the ability to prescribe products by regulation ensures that novel nicotine and related products can be captured within the prohibition as they are developed, or as their use becomes commonplace in Queensland.[20] These products do not need to contain nicotine but can instead contain another substance detrimental to health. Notably, no products have been prescribed by regulation as illicit nicotine products to date.

Nicotine pouches are small pouches designed to be placed between the lip and gum which may contain nicotine, synthetic nicotine, a nicotine analogue, or another nicotine alternative or substitute.[21] Their inclusion in the regulation will ensure that the prohibition on the supply and possession of nicotine pouches can be effectively enforced under the TOSP Act.[22]

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17 SL No. 20, Explanatory Notes, p 4.

18 SL No. 20, s 6.

19 See for example TOSP Act ss 161A, 161B, 161C and 109A.

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

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

22 SL No. 20, Explanatory Notes, p 3.

A nicotine pouch will contain a 'relevant substance'[23] if it:

- actually contains one or more relevant substances (for example, where verified by testing)
- is labelled to contain one or more relevant substances (for example, on the label of the packaging)
- is claimed to contain one or more relevant substances (for example, on a manufacturer's or retailer's website); or
- is reasonably believed or commonly understood to contain one or more relevant substances (for example, whether a reasonable person having regard to the circumstances in which the product was being supplied or possessed for commercial purposes would believe the product contains a relevant substance).[24]

2.2. FLP Issue – Proportionate Penalties

To be consistent with the rights and liberties of individuals, the consequences, and penalties, in legislation should be relevant and proportionate, and consistent.[25]

SL No. 20 adds the following offences (and corresponding PIN penalties) to schedule 1 of the SPE Regulation:

- prohibition on display, and restrictions on advertising, of smoking products – individuals: 10 penalty units; corporations: 50 penalty units (an increase from 4 penalty units)[26]
- prohibition on display, advertising or promotion of illicit nicotine products– individuals: 10 penalty units; corporations: 50 penalty units (a new PIN offence)[27]
- prohibition on sale, supply and display of ice pipes – individuals: 10 penalty units; corporations: 50 penalty units (an increase from 4 penalty units)[28]
- prohibition on sale, supply and display of bongs – individuals: 10 penalty units; corporations: 50 penalty units (an increase from 4 penalty units)[29]
- prohibition on supply or possession of illicit tobacco as part of business activities– individuals: 200 penalty units for supply, 100 penalty units for possession; corporations: 1000 penalty units for supply, 500 penalty units for possession (an increase from 20 penalty units for individuals and 100 penalty units for corporations)[30]

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[23] Being: nicotine, 6-methylnicotine (a nicotine analogue), a substance known as synthetic nicotine, or a nicotine substitute, along with other substances such as sweeteners and flavours. 'Nicotine substitute' means a substance giving, or held out as giving, a similar or alternate experience to nicotine. This includes, for example, substances that are described as a 'nicotine alternative agent', a 'nicotine derivative' or a 'no-nicotine nicotine solution.' It also includes substances held out to be nicotine or tobacco free, zero nicotine or zero tobacco or as giving a 'nicotine-like experience, without the nicotine'. See SL No. 20, s 6. See also SL No. 20, Explanatory Notes, p 3.

[24] SL No. 20, Explanatory Notes, p 3.

[25] LSA, s4(2)(a).

[26] See TOSP Act, s 90.

[27] Explanatory notes, p 4. See TOSP Act, s 109A.

[28] See TOSP Act, s 158.

[29] See TOSP Act, s 159.

[30] See TOSP Act, s 161.

- prohibition on supply or possession of illicit nicotine products as part of business activities – individuals: 200 penalty units for supply, 100 penalty units for possession; corporations: 1000 penalty units for supply, 500 penalty units for possession (a new PIN offence)[31]
- non-compliance with a requirement to provide information about an offence to an authorised person – 4 penalty units (a new PIN offence);[32] and
- providing false or misleading information to an authorised person – 4 penalty units (a new PIN offence).[33]

The explanatory notes state that the penalties, while significant, are consistent with the economic incentives of illegal tobacco trade and are necessary to ensure that the profitability of trade does not outweigh the risk of enforcement action and penalties.[34]

2.3. FLP Issue - Restriction on Ordinary Business Activities

Legislation should not, without sufficient justification, unduly restrict ordinary activities.[35] The prescription of offences under the TOSP Act as 'PIN offences' will restrict the business activities of licensed tobacconists who sell nicotine pouches.[36] The explanatory notes justify this restriction on the basis of public health and the risk of harm to the community.[37]

Committee Comment

The committee is satisfied that any potential breach of fundamental legislative principles arising from increased penalties and a restriction on business activities is justified on the basis of public health needs and necessity to protect the community from risks associated with illicit tobacco.

2.4. Human Rights Act 2019

Assessment of SL No. 20's compatibility with the HRA identified issues with the following:

- A person must not be arbitrarily deprived of their property.[38]

SL No. 20 may limit the right to property by prohibiting the supply and commercial possession of nicotine pouches, and by authorising their seizure and forfeiture if they are likely to be used to commit further offences if returned to the owner.[39]

The purpose of the limitation is to protect public health, which is achieved by limiting access to nicotine pouches 'by deterring suppliers from possessing and supplying them and by physically removing them from the market through seizure and forfeiture powers.'

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31 See TOSP Act, s 161A.

32 SL No. 20, Explanatory Notes, p 3. See TOSP Act, s 215.

33 SL No. 20, Explanatory Notes, p 4.See TOSP Act, s 216.

34 SL No. 20, Explanatory Notes, p 8.

35 LSA, s 4(2)(a).

36 For example, s 161A of the TOSP Act penalises the supply or possession of illicit nicotine products as a part of business activities.

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

38 HRA, s 24.

39 SL No. 20, Human Rights Certificate, p 5.

The human rights certificate states that SL No. 20 will benefit the community, in terms of improved health outcomes and reduced health costs, with limitations primarily impacting 'individuals currently choosing to deliberately flout and obstruct existing laws designed to protect the community'.

Committee Comment

The committee is satisfied that the amendments strike an appropriate balance between competing rights that are reasonable and demonstrably justifiable in a free and democratic society.

The committee found that SL No. 20 is compatible with human rights.

2.5. Human Rights Certificate

The certificate contained a sufficient level of information to facilitate understanding of SL No. 20 in relation to its compatibility with human rights.

2.6. Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

3. SL No 25 – Health and Other Legislation Amendment Regulation 2025

SL No. 25 amends various legislation, including: [40]

- the Hospital and Health Boards Regulation 2023 (HHB Regulation) to recognise an agreement between the chief executives of Queensland Health and the Department of Transport and Main Roads (DTMR), allowing the disclosure of confidential information related to road crash data without having to obtain case-by-case written approval[41]
- the Hospital Foundations Regulation 2018, to rename the 'Ipswich Hospital Foundation' as the 'West Moreton Health Foundation'[42]
- the Mental Health Regulation 2017, to ensure references to corresponding laws of other States and Territories are current and accurate[43]
- the Public Health Regulation 2018 (PH Regulation), to:
    - prescribe timeframes for new notifications required to be made to the Queensland Cancer Register (QCR)
    - require the notification of certain skin cancers associated with high risks of morbidity and mortality
    - include Vibrio parahaemolyticus as a pathological diagnosis notifiable condition to improve detection of outbreaks and facilitate timely public health action to control outbreaks; and
    - replace 'monkeypox (MPX)' with 'mpox' in accordance with the World Health Organization's revised naming to destigmatise the disease;[44] and
- the State Penalties Enforcement Regulation 2014 to amend an inadvertent duplication of the penalty unit amounts prescribed in schedule 1 for offences under sections 161(1) and 161(2) of the TOSP Act.[45]

3.1. Right to privacy

Assessment of SL No. 25's compatibility with the HRA identified issues with the right to privacy.

3.1.1 Hospital and Health Boards Regulation 2023

SL No. 25 amends the HHB Regulation to allow the disclosure of confidential information related to road crash data without having to obtain case-by-case written approval. The amendment may infringe the privacy of persons whose confidential information is disclosed. The human rights certificate acknowledges the provision allows for the disclosure of patient information, including emergency department, emergency responder, morbidity, and mortality data.[46]

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40 SL No. 25, Explanatory Notes, pp 1-2.

41 SL No. 25, pt 2.

42 SL No. 25, pt 3.

43 SL No. 25, pt 4.

44 SL No. 25, pt 5.

45 SL No. 25, pt 6.

46 SL No. 25, Human Rights Certificate, p 3.

Section 142 of the *Hospital and Health Boards Act 2011* (HHB Act), already contains a general duty of confidentiality regarding information that identifies individuals receiving public sector health services (unless disclosure is required or permitted under the HHB Act). However, the following provisions in the HHB Act permit the sharing of confidential information:

- section 160(1) allows disclosure if the chief executive believes it is in the public interest, with written authorisation; and
- section 151(1)(b) permits disclosure to a State entity under a prescribed agreement, as long as the disclosure is in the public interest and authorised in writing by the chief executive.[47]

While the HHB Act allows for the sharing of road crash information it requires case-by-case written approval from the chief executive.[48]

The human rights certificate outlines that, by permitting the sharing of confidential road crash data without requiring individual approvals, SL No. 25:

> … alleviates administrative burden while enhancing Queensland Health's and DTMR's ability to analyse and respond to serious crash trends. The limitation on privacy is proportionate to the public health and safety benefits the amendment facilitates.[49]

The human rights certificate concludes that SL No. 25's impact on the right to privacy is minimal and justified given the amendment's role in improving road safety analysis and emergency response coordination.[50]

Committee Comment

The committee is satisfied that the streamlining of information sharing with regards to confidential road crash data is appropriately balanced with the need to manage administrative burdens and emergency response coordination.

3.1.2 Public Health Regulation 2018

The QCR maintains population-based cancer data critical for understanding the impact of cancer, assessing treatment outcomes, and addressing the burden of cancer.[51] The QCR is one of the largest population-based cancer registers in Australia. It is a unique data resource and brings together a comprehensive set of cancer data to provide an accurate picture of cancer in Queensland.[52]

Currently, the PH Regulation does not require notifications for some types of high-risk cancers including basal cell carcinoma (BCCs) and squamous cell carcinoma (SCCs). SL No. 25 amends the PH Regulation to require notification of these cancers where there is

47 SL No. 25, Explanatory Notes, p 2.
48 SL No. 25, Explanatory Notes, p 2.
49 SL No. 25, Human Rights Certificate, p 3.
50 SL No. 25, Human Rights Certificate, p 5.
51 SL No. 25, Explanatory Notes, p 4.
52 SL No. 25, Explanatory Notes, p 5.

perineural or lymphovascular invasion or metastasis.[53] The requirement for notification of these to the QCR will improve clinical management, treatment outcomes and research.[54]

The human rights certificate states:

> Any limitation on the right to privacy ensures diagnostic imaging practices, pathology laboratories, and hospitals can provide more accurate and timely information to the QCR. Enhanced data collection will support improved cancer monitoring, treatment evaluation, and the development of evidence-based cancer strategies and education programs.[55]

According to the human rights certificate, the *Public Health Act 2005* only permits 'the disclosure of confidential health data in clearly defined circumstances' and the QCR possesses strong privacy safeguards, as any information collected 'must be maintained in accordance with strict privacy and confidentiality obligations under the Information Privacy Act'.[56]

SL No. 25 also amends the PH Regulation to include Vibrio parahaemolyticus as a pathological diagnosis notifiable condition. The human rights certificate acknowledges that this amendment may limit the right to privacy 'by requiring doctors, persons in charge of a hospital, and directors of pathology laboratories to notify the chief executive of Queensland Health when a pathological diagnosis of vibrio parahaemolyticus is made'.[57]

The human rights certificate concludes that the amendment's minor impact on the right to privacy is justified by the benefits of tracking Vibrio parahaemolyticus cases effectively, as Queensland Health will be able to best protect the public from any further harm the bacteria may cause and limit the spread of the condition.[58]

3.2. Human rights certificate

The certificate contained a sufficient level of information to facilitate understanding of SL No. 25 in relation to its compatibility with human rights.

Committee Comment

The committee is satisfied that any limits on the right to privacy arising from additional notification requirements are justified in the circumstances.

[53] SL No. 25, Explanatory Notes, p5.
[54] SL No. 25, Explanatory Notes, p 5.
[55] SL No. 25, Human Rights Certificate, p 3.
[56] SL No. 25, Human Rights Certificate, p 4.
[57] SL No. 25, Human Rights Certificate, p 3.
[58] SL No. 25, Human Rights Certificate, p 5.

3.3. 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

Health, Environment and Innovation Committee

Chair	Mr Rob Molhoek MP, Member for Southport
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