

Transport and Public Works Committee

Report No. 46, 56th Parliament

Subordinate legislation tabled between 12 August 2020 and 8 September 2020

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 12 August 2020 and 8 September 2020. 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

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.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
N/A ³	Rail Safety National Law National Regulations (Fees and Other Measures) Variation Regulations 2020 under Rail Safety National Law (South Australia) Act 2012	4/9/20	TBA
158	Proclamation No. 1 – Building Industry Fairness (Security of Payment) and other Legislation Amendment Act 2020 (commencing certain provisions)	8/9/20	TBA
159	Proclamation: Building Industry Fairness (Security of Payment) Act 2017	8/9/20	TBA
168	Proclamation – Transport Legislation (Disability Parking and Other Matters) Amendment Act 2020 (commencing remaining provisions)	8/9/20	TBA
185	Transport Legislation (Road Safety and Other Matters) Amendment (Postponement) Regulation 2020	8/9/20	TBA

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

³ Subordinate legislation numbers have not been issued because this item of subordinate legislation as the subordinate legislation is not drafted by the Office of Queensland Parliamentary Counsel (OQPC). It does not form part of the usual subordinate legislation series (and thus does not have an SL number).

No.	Subordinate legislation	Date tabled	Disallowance date*
186	Personalised Transport Ombudsman (Postponement) Regulation 2020	8/9/20	TBA

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change. The disallowance date is 14 sitting days after the tabling date. (See section 50 of the *Statutory Instruments Act 1992*.)

3 Rail Safety National Law National Regulations (Fees and Other Measures) Variation Regulations 2020 under *Rail Safety National Law (South Australia) Act 2012*

The Rail Safety National Law National Regulations (Fees and Other Measures) Variation Regulations 2020 (the amendment regulations) are made pursuant to the Rail Safety National Law (the National Law). The *Rail Safety National Law (Queensland) Act 2017* applies the National Law as law in Queensland and establishes the Office of the National Rail Safety Regulator (ONRSR) as the rail safety regulator in Queensland.

The National Law is set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012* (SA). Amendments to the Rail Safety National Law are made by the Parliament of South Australia and are automatically applied as law in Queensland.) Section 264 of the Rail Safety National Law (Queensland) allows the Governor of the State of South Australia to make national regulations.

The amendment regulations:

- increase the fees payable by rail transport operators, and
- clarify that a rail transport operator must give to the ONRSR an immediate verbal report of certain events (category A' occurrences).

(The amendment regulations also update a reference to a Northern Territory protocol, relating to interface coordination for rail infrastructure and private roads, but this amendment has no effect in Queensland.)

3.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

3.1.1 Explanatory notes comment

Explanatory notes were tabled with the amendment regulations. One criticism ought to be made. Under the heading *Consistency with fundamental legislative principles* this statement appears:

The amendments contained in the Amendment Regulation are generally consistent with the fundamental legislative principles set out in section 4 of the Legislative Standards Act 1992.

Such an imprecise statement as 'generally consistent' implies that the amendment regulations are not wholly consistent with the fundamental legislative principles. In this respect the statement does not meet the requirement in section 24(1)(i) of the *Legislative Standards Act 1992* that explanatory notes for a Bill include:

[A] brief assessment of the consistency of the legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.

To comply with this statutory requirement, explanatory notes should either (depending on the factual position) state that legislation is consistent with fundamental legislative principles, or set out any areas of inconsistency, with reasons for any inconsistency.

The explanatory notes otherwise comply with part 4 of the LSA.

3.2 Human Rights Act compliance

The regulations are national regulations applying in Queensland. The committee noted that the subordinate legislation does not contain any limitations on the human rights contained in the HRA.

4 Proclamation No. 1—Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020 (commencing certain provisions) (SL 158 of 2020)

The proclamation fixes the commencement dates for certain sections of the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020* assented to on 23 July 2020.

4.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

4.1.1 Explanatory notes comment

The explanatory notes comply with part 4 of the LSA.

4.2 Human Rights Act compliance

The subordinate legislation is compatible with human rights.

4.2.1 Human rights certificate

A human rights certificate was tabled with the subordinate. It provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

5 Proclamation: Building Industry Fairness (Security of Payment) Act 2017 (SL 159 of 2020)

The proclamation fixes commencement dates for certain sections of the *Building Industry Fairness (Security of Payment) Act 2017*.

5.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

5.1.1 Explanatory notes comment

The explanatory notes comply with part 4 of the LSA.

5.2 Human Rights Act compliance

The subordinate legislation is compatible with human rights.

5.2.1 Human rights certificate

A human rights certificate was tabled with the subordinate. It provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

6 Proclamation—Transport Legislation (Disability Parking and Other Matters) Amendment Act 2020 (commencing remaining provisions) (SL 168 of 2020)

The *Transport Legislation (Disability Parking and Other Matters) Amendment Act 2020* received assent on 21 July 2020. The proclamation fixes 31 August 2020 for the commencement of provisions in the Act relating to the disability parking scheme.

6.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

6.1.1 Explanatory notes comment

The explanatory notes comply with part 4 of the LSA.

6.2 Human Rights Act compliance

The subordinate legislation is compatible with human rights.

6.2.1 Human rights certificate

A human rights certificate was tabled with the subordinate. It provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

7 Transport Legislation (Road Safety and Other Matters) Amendment (Postponement) Regulation 2020 (SL 185 of 2020)

The objective is to postpone the automatic commencement of certain sections of the *Transport Legislation (Road Safety and Other Matters) Amendment Act 2019*. These provisions relate to the alcohol ignition interlock program and alcohol education programs for drink driving offenders and would otherwise commence on 13 September 2020.⁴ The postponement provides for the automatic commencement to occur on 10 September 2021, to allow further time to complete necessary implementation tasks.⁵

7.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

7.1.1 Explanatory notes comment

The explanatory notes comply with part 4 of the LSA.

7.2 Human Rights Act compliance

The subordinate legislation is compatible with human rights.

7.2.1 Human rights certificate

A human rights certificate was tabled with the subordinate. It provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

8 Personalised Transport Ombudsman (Postponement) Regulation 2020 (SL 186 of 2020)

The objective is to postpone the automatic commencement of certain sections of the *Personalised Transport Ombudsman Act 2019*. These provisions relate to the establishment of the Personalised Transport Ombudsman and would otherwise commence on 13 September 2020.⁶ The regulation provides for the automatic commencement to occur on 13 September 2021.

The explanatory notes record:

*Considerable progress has been made in implementing the PTO. However, as a result of the significant impacts of COVID-19 disruptions on the personalised transport industry over the last six months, it is not an appropriate time to introduce new regulation that will affect the industry.*⁷

8.1 Issues of fundamental legislative principle

No issues of fundamental legislative principle were identified.

8.1.1 Explanatory notes comment

The explanatory notes comply with part 4 of the LSA.

⁴ By virtue of section 15DA(2) of the *Acts Interpretation Act 1954*.

⁵ Explanatory notes, p 2.

⁶ By virtue of section 15DA(2) of the *Acts Interpretation Act 1954*.

⁷ Explanatory notes, p 1.

8.2 Human Rights Act compliance

The subordinate legislation is compatible with human rights.

8.2.1 Human rights certificate

A human rights certificate was tabled with the subordinate. It provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

9 Recommendation

In relation to the other subordinate legislation considered in this report, the committee recommends that the Legislative Assembly notes this report.



Shane King MP

Chair

September 2020

Transport and Public Works Committee

Chair	Mr Shane King MP, Member for Kurwongbah
Deputy Chair	Mr Ted Sorensen MP, Member for Hervey Bay
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