

Legal Affairs and Community Safety Committee

Report No. 57, 56th Parliament

Subordinate legislation tabled between 21 August 2019 and 15 October 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 21 August 2019 and 15 October 2019. 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*.

2 Subordinate legislation examined

The committee examined the subordinate legislation listed in the table below.

No.	Subordinate legislation	Date tabled	Disallowance date
163	Proclamation No. 2 made under the <i>Queensland Civil and Administrative Tribunal and Other Legislation Amendment Act 2019</i> (commencing remaining provisions)	3 September 2019	28 November 2019
164	Queensland Civil and Administrative Tribunal Regulation 2019	3 September 2019	28 November 2019
165	Motor Dealers and Chattel Auctioneers and Other Legislation Amendment Regulation 2019	3 September 2019	28 November 2019
166	Queensland Civil and Administrative Tribunal Amendment Rule 2019	3 September 2019	28 November 2019
167	Dispute Resolution Centres Regulation 2019	3 September 2019	28 November 2019
168	Uniform Civil Procedure (Fees) Regulation 2019	3 September 2019	28 November 2019
185	Police Service Administration (NDIS Worker Screening) Amendment Regulation 2019	17 September 2019	6 February 2020
191	Fire and Emergency Services (Levy Groups) Amendment Regulation (No. 2) 2019	15 October 2019	20 February 2020
194	Public Trustee (Interest Rate) Amendment Regulation 2019	15 October 2019	20 February 2020

199	Professional Standards (Chartered Accountants Australia and New Zealand Professional Standards Scheme) Notice 2019	15 October 2019	20 February 2020
200	Liquor (Prescribed Quantity for Palm Island) Amendment Regulation 2019	15 October 2019	20 February 2020

3 Committee consideration of the subordinate legislation

No significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified, apart from those discussed below.

The explanatory notes tabled with the subordinate legislation comply with the requirements of s 24 of the *Legislative Standards Act 1992* (LSA), apart from those discussed below.

4 Police Service Administration (NDIS Worker Screening) Amendment Regulation 2019

Part 3 of the *Disability Services and Other Legislation (Worker Screening) Amendment Act 2018* expanded Part 10, Division 1B of the *Police Service Administration Act 1990* to allow the Queensland Police Service (QPS) to exchange criminal history information (potentially including spent convictions, pending charges and non-conviction charge information) with prescribed interstate screening units for the purpose of disability-related employment screening.

Section 70 of the *Police Service Administration Regulation 2016* (PSAR) currently prescribes the 'interstate screening units' with which the QPS can exchange criminal history information for child-related employment screening purposes.

The *Police Service Administration (NDIS Worker Screening) Amendment Regulation 2019* amended the PSAR to reference criminal history information exchange for both child-related and disability-related employment screening. It also prescribed an additional interstate screening unit for exchange of criminal history information, being 'the Screening Agency under the *National Disability Insurance Scheme (Worker Checks) Act 2018* (NSW)'. The amendment enables the QPS to exchange criminal history information for disability-related employment screen purposes with that agency.

4.1 Fundamental legislative principle issues

The LSA provides that legislation should have sufficient regard to the rights and liberties of individuals. This includes a right to privacy of personal information.

The information to be disclosed to, and exchanged with, prescribed interstate screening units will extend to criminal history information, including spent convictions, pending charges, and non-conviction charge information (thus overriding restrictions in the *Criminal Law (Rehabilitation of Offenders) Act 1986*).

As such, there is a breach of the fundamental legislative principle that requires legislation to have sufficient regard to the rights and liberties of individuals, including privacy and confidentiality.

The explanatory notes for the *Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018* stated that the Bill's amendments were justified:

*... given the information is being made available to worker screening units for the purposes of employment screening of people working with people with disability. Worker screening units have specialist expertise in assessing such information and the purpose is to safeguard persons vulnerable to abuse, neglect and exploitation.*¹

¹ Explanatory notes, *Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018*, p 4.

In reporting on its consideration of the Bill, the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee stated on this issue:

The committee considers that, on balance, the breaches of privacy are justified given the objectives of the amendments to enhance the protection of often vulnerable persons.²

On balance, the committee takes a similar view with respect to the Police Service Administration (NDIS Worker Screening) Amendment Regulation 2019.

4.2 Explanatory notes

The explanatory notes make no mention of the fundamental legislative principle canvassed above. The committee notes that this could be because the substantive provisions that impact on the right to privacy are contained in the Act itself rather than in this Amendment Regulation.

The explanatory notes otherwise comply with part 4 of the *Legislative Standards Act 1992*.

5 Recommendation

The committee recommends that the House notes this report.



Peter Russo MP

Chair

November 2019

Legal Affairs and Community Safety Committee

Chair	Mr Peter Russo MP, Member for Toohey, Chair
Deputy Chair	Mr James Lister MP, Member for Southern Downs, Deputy Chair
Members	Mr Stephen Andrew MP, Member for Mirani
	Mr Jim McDonald MP, Member for Lockyer
	Mrs Melissa McMahon MP, Member for Macalister
	Ms Corrine McMillan MP, Member for Mansfield

² Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee *Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018* Report No. 5, 56th Parliament, May 2018, p 8.