

## Legal Affairs and Community Safety Committee

Report No. 69, 56<sup>th</sup> Parliament

### Subordinate legislation tabled between 23 April 2020 and 19 May 2020

#### 1 Aim of this report

This report summarises the Legal Affairs and Community Safety Committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled between 23 April 2020 and 19 May 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*.<sup>1</sup>

The report examines issues identified by the committee in its consideration of the human rights certificates tabled with the subordinate legislation.<sup>2</sup>

#### 2 Subordinate legislation examined

The committee examined the subordinate legislation listed in the table.

| No. | Subordinate legislation  | Date tabled | Disallowance date* |
|-----|--|-------------|--------------------|
| 61  | Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020                       | 19 May 2020 | 10 September 2020  |
| 62  | Legal Profession (Society Rules) Amendment Notice 2020   | 19 May 2020 | 10 September 2020  |
| 64  | Working with Children (Risk Management and Screening) and Other Legislation Amendment (Postponement) Regulation 2020 | 19 May 2020 | 10 September 2020  |
| 72  | Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Regulation 2020                       | 19 May 2020 | 10 September 2020  |
| 73  | Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 3) 2020                       | 19 May 2020 | 10 September 2020  |

\*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

No significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified, with the exception of SL 61, SL 72 and SL 73 as outlined below. The committee considers explanatory notes tabled with the subordinate legislation comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

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

<sup>2</sup> *Human Rights Act 2019*, s 41.

The committee considers that SL 62 and SL 64 are compatible with human rights. SL 61, SL 72 and SL 73 raise human rights issues as detailed below. The human rights certificate tabled with each piece of subordinate legislation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.<sup>3</sup>

### **3.1 Human rights considerations**

Section 8 of the *Human Rights Act 2019* (Human Rights Act/HR Act) provides that a statutory provision is compatible with human rights if it 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 that Act.

Section 13 of the Human Rights Act provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

## **4 Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020 (SL 61)**

The objective of the Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020 (further extension regulation No. 2) is to further extend the period of the disaster situation declared for the whole of Queensland (and notified by extraordinary gazette) on 22 March 2020, and since extended by regulation on 2 and 16 April 2020.

Unless extended by regulation under section 72 of the *Disaster Management Act 2003* (Disaster Management Act), or by declaration pursuant to section 72A of the Disaster Management Act, a disaster situation ends 14 days after the day it was declared.

### **4.1 Fundamental legislative principle issues**

The committee notes that the below analysis of issues, arising from the further extension regulation No. 2, has been set out (in virtually identical terms) in the committee's report number 68, 56th Parliament, *Subordinate legislation tabled between 18 March 2020 and 22 April 2020*, in discussing SL 49 of 2020, the Disaster Management (Extension of Disaster Situation—COVID-19) Regulation 2020.

The further extension of the declaration extends the duration of the availability of a number of powers under the Disaster Management 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.

#### **4.1.1 Rights and liberties of individuals – *Legislative Standards Act 1992*, section 4(2)(a)**

The reasonableness and fairness of treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals. The use of powers under the Disaster Management Act impacts significantly on a person's rights and liberties.

The explanatory notes state that the further extension regulation No. 2 is consistent with fundamental legislative principles, and the explanatory notes do not address the issues of fundamental legislative principle that arise. (This might be on the basis that the powers are contained in the principal Act itself.) The explanatory notes do state:

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<sup>3</sup> *Human Rights Act 2019*, s 41.

*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 appropriately address risk to the health of the Queensland community.<sup>4</sup>*

Committee comment

The committee is satisfied that the impacts on a person's rights and liberties are justified, given the COVID-19 public health emergency.

#### **4.2 Human rights issues**

In the human rights certificate accompanying the further extension regulation No. 2, the Minister states his opinion that the amendment regulation 'is compatible with the HR Act because it limits, restricts or interferes with human rights, only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act'.<sup>5</sup>

The committee notes that the below analysis of issues, arising from the further extension regulation, has been set out (in virtually identical terms) in the committee's report number 68, 56th Parliament, *Subordinate legislation tabled between 18 March 2020 and 22 April 2020*, in discussing the Disaster Management (Extension of Disaster Situation—COVID-19) Regulation 2020 (SL 49).

##### **4.2.1 Freedom of movement – Human Rights Act 2019, section 19**

In general, every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave it.

The further extension regulation No. 2 allows for powers to be exercised that include controlling the movement of persons into, out of, or around, the declared area for the disaster situation.

The Minister states:

*... The limitation of human rights is necessary to ensure that officials can implement effective containment and mitigation measures in response to the COVID-19 pandemic. These measures will protect Queenslanders where possible from exposure to COVID-19 and, in the event of significant community exposure, slow the rate of transmission, particularly to vulnerable persons.<sup>6</sup>*

Committee comment

The committee considers the limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

##### **4.2.2 Peaceful assembly and freedom of association – Human Rights Act 2019, s 22**

The declaration of a disaster situation and the powers under the Disaster Management Act limit the peaceful assembly of people. Under the Human Rights Act, every person has the right of peaceful assembly.

The Minister provides this justification:

*Limiting the right to assemble peacefully would reduce the risk of human to human transmission of COVID-19 and be in line with multi-tier government requirements relating to mass gatherings during COVID-19 response.<sup>7</sup>*

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<sup>4</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, explanatory notes, p 1.

<sup>5</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 6.

<sup>6</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 2.

<sup>7</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 3.

Committee comment

The committee considers the limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

**4.2.3 Property rights – Human Rights Act 2019, section 24**

The Disaster Management Act provides powers, which among other things, allow entry into a place, removal of things from a place, and directing a person to leave or not enter an area. The exercise of the powers is triggered by the declaration.

Under the Human Rights Act, a person must not be arbitrarily deprived of their property.

The Minister states:

*The purpose of any deprivation of a person of their property under the relevant powers is to minimise the risk of transmission of COVID-19 to vulnerable persons.*<sup>8</sup>

Committee comment

The committee considers the limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

**4.2.4 Privacy and reputation – Human Rights Act 2019, section 25**

The Disaster Management Act provides for the entry into places and other powers related to the entry, including the removal of things and directing a person to leave or not to enter a place.

Under the Human Rights Act, a person must not have their privacy, family or home unlawfully or arbitrarily interfered with.

The Minister provides the following justification:

*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 and life outweighs the harm caused to [a] person's right to privacy under the circumstances.*<sup>9</sup>

Committee comment

The committee considers the limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

**4.2.5 Right to liberty and security – Human Rights Act 2019, section 29**

The Disaster Management Act provides a power to direct a person to leave, or not to enter, an area in or near a place.

Under the Human Rights Act a person has the right not to be subjected to arbitrary arrest or detention or to be deprived of their liberty.

The Minister states:

*The purpose of depriving a person of their liberty is to limit persons identified with or suspected of having COVID-19 from circulating freely amongst the general public, in order to reduce the risks of transmission of the virus.*<sup>10</sup>

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<sup>8</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 4.

<sup>9</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 5.

<sup>10</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 2) 2020, human rights certificate, p 5.

Committee comment

The committee considers the limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

## 5 Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Regulation 2020 (SL 72)

The objective of the Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Regulation 2020 (wills and enduring documents regulation) is to prescribe modified requirements or arrangements (to apply in addition to existing requirements) for the making, signing and witnessing of wills under the *Succession Act 1981* and enduring documents under the *Powers of Attorney Act 1988*. The aim is to reduce the need for physical contact between persons during the COVID-19 emergency. This regulation will expire on 31 December 2020.

### Background – regulations made in reliance on the *COVID-19 Emergency Response Act 2020*

The wills and enduring documents regulation is made in reliance, in part, on section 9 of the *COVID-19 Emergency Response Act 2020* (Emergency Response Act).<sup>11</sup> That Act contains a range of regulation-making powers to deal with matters arising from the COVID-19 public health emergency. In broad terms, section 9 (in part) imports into any Act dealing with the making, signing, and witnessing of documents, a power to make a regulation to make provision about a relevant matter required or permitted under that Act, or required or permitted under a contract or common law rule, by:

- prescribing modified requirements or arrangements, or
- suspending requirements or arrangements.

Such a regulation is an ‘extraordinary regulation’ and an Act to which an extraordinary regulation applies is an ‘affected Act’.<sup>12</sup>

In relation to an extraordinary regulation:

- A Minister administering an affected Act may recommend to the Governor in Council the making of an extraordinary regulation *only if* the Minister is satisfied the regulation is necessary for a purpose of the Emergency Response Act.
- An extraordinary regulation may be inconsistent with the affected Act, and any other Act (other than the Human Rights Act), to the extent necessary to achieve a purpose of the Emergency Response Act.
- To the extent a person’s act or omission complies with an extraordinary regulation made under an affected Act, the person does not incur civil or criminal liability under the affected Act for the act or omission.
- A regulation must declare it is made under the relevant additional regulation-making provision.
- An additional regulation-making provision does not limit any other regulation-making power conferred under an affected Act.<sup>13</sup>

An extraordinary regulation must be tabled within 14 days of notification (rather than the usual 14 sitting days).<sup>14</sup>

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<sup>11</sup> See section 2. The explanatory notes (at p 1) state the authorising law as being the *Powers of Attorney Act 1998* in reliance on section 9 of the *COVID-19 Emergency Response Act 2020* and the *Succession Act 1981* in reliance on section 9 of the *COVID-19 Emergency Response Act 2020*.

<sup>12</sup> See *COVID-19 Emergency Response Act 2020*, s 5(1) – (3).

<sup>13</sup> See generally *COVID-19 Emergency Response Act 2020*, s 5(4) – (8), and s 4.

<sup>14</sup> See *COVID-19 Emergency Response Act 2020*, s 5(9), and contrast s 49(1) of the *Statutory Instruments Act 1992*.

The wills and enduring documents regulation was notified on 15 May 2020 and tabled on 19 May 2020. Section 2 declares that the regulation is made under section 9 of the *COVID-19 Emergency Response Act 2020*. (As noted above, the regulation-making power in section 9 creates a regulation-making power regarding the making, signing, and witnessing of documents.)

It might be noted that section 8 of the Emergency Response Act, in part, imports into any Act requiring or permitting a person to physically attend a place or meeting for a particular purpose or particular matter, a regulation-making power to make provision about how the purpose or matter can be achieved or otherwise dealt with in a modified way, including by:

- (a) providing the person may attend the place or meeting for the purpose or matter in a way that does not involve physical attendance, including, for example, using communication technology

This wills and enduring documents regulation has been amended by the Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020 (SL 78 of 2020) (amendment regulation). The amendment regulation extends the declaration in section 2 of the regulation itself to include reliance on section 8 of the Emergency Response Act, in addition to section 9. The explanatory notes for the amendment regulation note:

*As for the making of wills and enduring powers of attorney, the making, signing and witnessing of affidavits, declarations, deeds, particular mortgages and general powers of attorney also usually requires the physical presence of signatories and witnesses.*<sup>15</sup>

(The amending regulation extends the scope of the wills and enduring documents regulation, including by adding provisions dealing with the making, signing and witnessing of affidavits, declarations, oaths and affirmations, deeds, general powers of attorney, and certain mortgages.)

### **Background – effect of the Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Regulation 2020**

The wills and enduring documents regulation prescribes the following modified arrangements in relation to wills or enduring documents:

- Any requirement for the presence of a witness, signatory or other person in relation to a document is satisfied if that person is present by audio visual (AV) link.
- A document may be witnessed by AV link only if the witness or at least one of the witnesses is a special witness and the general requirements for using an AV link under the regulations are met.

A special witness is an Australian legal practitioner, a justice or commissioner for declarations, or a notary public. Further, for a will, a public trustee is a special witness, and for an enduring document where it is prepared by the public trustee – a justice or commissioner for declarations who is an employee of the public trustee.

#### **5.1 Fundamental legislative principle issues**

##### **5.1.1 Privacy – *Legislative Standards Act 1992*, section 4(2)(a)**

Reasonableness and fairness of treatment of individuals is relevant to deciding whether legislation has sufficient regard to rights and liberties of individuals. This includes the reasonable and fair treatment of an individual's personal information and regard for a person's right to privacy.

The introduction of the modified arrangements using an AV link, arguably might increase the risk of breach of privacy and confidentiality and also arguably might increase the potential for fraud, undue influence and unconscionable dealing.

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<sup>15</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, explanatory notes, p 1.

The explanatory notes state:

*These provisions are also considered reasonable and justified to facilitate the execution of important personal documents (i.e. wills, EPAs and AHDs) associated with end of life decision-making and estate planning.*<sup>16</sup>

Committee comment

Given the overall objective and the unique situation of COVID-19 and the limited duration of this regulation, the committee is satisfied that any breach of fundamental legislative principle is justified.

**5.1.2 Natural justice – Legislative Standards Act 1992, s 4(3)(b)**

Legislation should be consistent with the principles of natural justice. These amendments may be seen to affect certain disadvantaged groups who live in remote locations and do not have the same access to technology.

The explanatory notes provide this justification:

*These arrangements are considered justified given the extraordinary nature of the COVID-19 emergency and are in the interests of public health and safety. The Regulation will provide alternative arrangements which will apply in addition to existing requirements and will reduce physical contact between persons during the COVID-19 emergency.*<sup>17</sup>

These provisions add to the existing arrangements in relation to wills and enduring documents. Although some disadvantaged people might not be able to access the arrangements under the new provisions, the new provisions are not detrimental. They add to the options available.

Committee comment

The committee is satisfied that any breach of fundamental legislative principle has been justified.

**5.2 Human rights issues**

In the human rights certificate accompanying the wills and enduring documents regulation, the Attorney-General states her opinion that the wills and enduring documents regulation is compatible:

- with the human rights protected by the Human Rights Act, and
- to the extent that the wills and enduring documents regulation does limit, restrict or interfere with human rights, the limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

During the COVID-19 public health emergency, physical distancing requirements made it difficult for people to comply with existing requirements for witnessing wills, powers of attorney, and enduring documents (enduring powers of attorney (EPAs) and advance health directives (AHDs)). Witness availability also became an issue with the closure of the Justices of the Peace (JPs) in the Community Program. Those existing requirements typically required the physical presence of witnesses.

This regulation prescribes modified requirements or arrangements, which will apply in addition to existing requirements (which are unaltered), in relation to the making, signing, and witnessing of wills and enduring documents.

The availability of the alternative witnessing arrangements is time limited, with the regulation to expire on 31 December 2020.

A number of human rights issues arise as a result of these substitute arrangements.

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<sup>16</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, explanatory notes, p 5. An EPA is an enduring power of attorney. An AHD is an advance health directive.

<sup>17</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, explanatory notes, p 5.

The Attorney-General states that the wills and enduring documents regulation enhances human rights in some respects:

*The Regulation protects several human rights by enabling wills and enduring documents to continue to be made without breaching social distancing requirements associated with the COVID-19 emergency.*<sup>18</sup>

The Attorney-General notes that while the wills and enduring documents regulation will protect and promote certain rights:

*... it is possible that a number of rights could also be limited by the modified arrangements, for example in the event that there is fraudulent or coercive behaviour involved in the making of a will or enduring document.*<sup>19</sup>

The certificate then details those possible limitations, and these issues are set out below. The various rights that are arguably limited or affected are set out in the human rights certificate, and are then addressed collectively in terms of the following factors set out in section 13 of the Human Rights Act:

- s 13(d) - whether there are any less restrictive and reasonably available ways to achieve the purpose
- s 13(g) - the balance between the importance of the purpose of the provisions, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation.

For ease of reference, that approach has been adopted in this report.

#### **5.2.1 Right to recognition and equality before the law – Human Rights Act 2019, section 15**

Every person has the right to recognition as a person before the law and to have protection from discrimination.

Access to the different arrangements may be limited to certain groups that are more advantaged. Further, these arrangements may impact vulnerable groups where language and communication barriers are exacerbated by electronic communication.

#### **5.2.2 Right to life – Human Rights Act 2019, section 16**

Every person has the right to life and has the right not to be arbitrarily deprived of life.

An EPA or an AHD which has been improperly procured could limit a person's right to life as it could be used to make decisions in relation to life sustaining treatments or withdrawal of treatments.

#### **5.2.3 Right to privacy and reputation – Human Rights Act 2019, section 25**

A person has the right not to have their privacy unlawfully or arbitrarily interfered with.

The modified arrangements may make it more difficult to maintain the confidentiality of private discussions between persons involved in the witnessing process.

#### **5.2.4 Property rights – Human Rights Act 2019, section 24**

A person must not be arbitrarily deprived of their property.

It could be argued that the modified arrangements may be used to procure a document such as a will or EPA improperly, which could be used to deal unfairly with a person's property.

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<sup>18</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, human rights certificate, p 3, where the Attorney-General proceeds to expand on how these rights are enhanced, including protecting the right to life 'by avoiding the need for persons, including persons at greatest risk of danger to their health from the virus, to attend in person in order to make a will or enduring document.'

<sup>19</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, human rights certificate, p 3.



### **5.2.5 Protection of families and children – *Human Rights Act 2019*, section 26**

Every child has the right to the protection that is needed by the child and is in the child's best interests.

An EPA or will which has been improperly procured could be used to make decisions to deprive a child of a legitimate claim to the estate or financial support.

### **5.2.6 Right to health services – *Human Rights Act 2019*, section 37**

Every person has the right to access health services without discrimination.

An enduring document which has been improperly procured could be used to make decisions in relation to access to health services that is detrimental to the person's rights and interests.

### **5.2.7 Protection from torture and cruel, inhuman and degrading treatment – *Human Rights Act 2019*, section 17**

A person must not be subjected to medical or scientific experimentation or treatment without their full, free and informed consent.

An improperly procured enduring document could be used to make decisions in relation to medical treatment in a way that is detrimental to the person's rights and interests.

The Attorney-General addresses section 13(d) of the Human Rights Act:

*To overcome the need for persons to sign or witness documents in the physical presence of others there are no less restrictive and reasonably available alternatives other than to allow witnessing of documents via an AV link. Where modified arrangements are used, the Regulation provides that they are subject to strict safeguards to ensure that the rights and liberties of the individuals are protected, to mitigate against the risk that improper or fraudulent documents will be made, in particular for vulnerable persons.*

*To minimise potential risks associated with using the modified arrangements, the Regulation will, in addition to existing witness eligibility requirements under the Succession Act 1981 and Powers of Attorney Act 1998, further restrict who may witness a document using an AV link to a category of special witnesses, defined as:*

- *an Australian legal practitioner; a Justice of the Peace (JP) or Commissioner for Declarations (CD) approved by the chief executive; a JP/CD employed by a law practice or a notary public;*
- *for a will, prepared by the public trustee, an employee of the public trustee; and*
- *for an enduring document prepared by the public trustee, a JP or CD employed by the public trustee.*

...

*In addition, persons who witness these documents will be required to satisfy themselves of particular matters, including the identity of the signatory and that the signatory is making the document freely and voluntarily. Special witnesses must also sign a certificate that is kept with the document and confirms a number of matters, including the steps the witness took to verify the identity of the signatory and document and process followed for signing and witnessing the document which they must then record in a certificate and keep with the document.<sup>20</sup>*

Further, the Attorney-General states regarding Human Rights Act section 13(g):

*On balance the need to provide flexible alternative arrangements to allow witnessing of documents via audio/visual communication is considered to outweigh any impact on a person's human rights identified above, including rights to recognition and equality before the law, rights to privacy. The Regulation will have a positive impact for some persons who would otherwise be*

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<sup>20</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, human rights certificate, pp 6 and 7.

*unable or unwilling to access in person witnessing services because of health and safety concerns, including persons in quarantine, to have important documents prepared and witnessed using alternative witnessing arrangements.*<sup>21</sup>

Committee comment

Although there appears to be a number of potential human rights limitations, the committee is satisfied that any such limits on human rights are reasonable and demonstrably justified, given the public health emergency and the overall objective of the regulation.

## **6 Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 3) 2020 (SL 73)**

The objective of the Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 3) 2020 (further extension regulation No. 3) is to further extend the period of the disaster situation declared for the whole of the State of Queensland for a further 14 days until 28 May 2020.

The explanatory notes state that the further extension regulation No. 3 is consistent with fundamental legislative principles, and the explanatory notes do not address the issues of fundamental legislative principle that arise. (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 appropriately address risk to the health of the Queensland community.*<sup>22</sup>

### **6.1 Fundamental legislative principle issues**

The further extension regulation No. 3 raises the same issues regarding impacts on rights and liberties of individuals as with the previous extension and further extensions. The analysis, set out above, regarding the previous further extension regulation - SL 61 of 2020 - applies here.

### **6.2 Human rights issues**

The further extension regulation No. 3 raises the same issues, regarding impacts on human rights, as the further extension regulation No. 2 (SL 61) and the analysis (set out above) regarding that regulation applies here.

## **7 Recommendation**

The committee recommends that the House notes this report.



Peter Russo MP

**Chair**

**June 2020**

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<sup>21</sup> Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020, human rights certificate, p 8.

<sup>22</sup> Disaster Management (Further Extension of Disaster Situation—COVID-19) Regulation (No. 3) 2020, explanatory notes, p 1.

**Legal Affairs and Community Safety Committee**

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|---------------------|---|
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