

Health and Environment Committee

Report No. 20, 57th Parliament

Subordinate legislation tabled between 16 March 2022 and 10 May 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 16 March 2022 and 10 May 2022.

It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles (FLPs) and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).¹

In addition, the report outlines the committee’s 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
19	Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022	29 March 2022	17 August 2022
26	Environmental Protection (ERA Standards) Amendment Regulation 2022	29 March 2022	17 August 2022
27	Wet Tropics (Rainforest Area) Amendment Management Plan 2022	29 March 2022	17 August 2022
37	Nature Conservation and Other Legislation Amendment Regulation 2022	10 May 2022	31 August 2022
40	Health Legislation (Fee Unit Conversion) Amendment Regulation 2022	10 May 2022	31 August 2022

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

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019* (HRA), s 41(1) to (3).

3 Committee consideration of the subordinate legislation

The committee identified no significant issues regarding the policy, consistency with FLPs, lawfulness or human rights implications of the subordinate legislation.

However, the committee considered potential FLP and human rights implications in relation to the Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, FLP implications in relation to the Environmental Protection (ERA Standards) Amendment Regulation 2022, and human rights implications in relation to the Wet Tropics (Rainforest Area) Amendment Management Plan 2022.

The committee considered that the explanatory notes tabled with the subordinate legislation comply with section 24 of the LSA. 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 its compatibility with human rights.³

Unless otherwise discussed below, the subordinate legislation considered in this report was lawfully made.⁴

4 Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022

On 29 January 2020, a public health emergency was declared, under section 319 of the *Public Health Act 2005* (Public Health Act), in response to the COVID-19 outbreak. A declared public health emergency activates a range of powers and functions under the Public Health Act, including granting *emergency officers* with the power to:

- enter premises, and
- compel persons to do, or refrain from, certain activities.

Prior to 7 February 2020, the Public Health Act provided that a declared public health emergency expired seven days after the day it was declared, unless extended by regulation.⁵

On 7 February 2020, the *Public Health (Declared Public Health Emergencies) Amendment Act 2020* amended the Public Health Act to provide that a declared public health emergency may be extended, by regulation, for periods of up to 90 days. The amendment was time-limited and expired on 7 February 2021.

On 8 March 2021, the *Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2021* reinstated the amendments to provide that a declared public health emergency may be extended for up to 90 days by regulation. On 9 September 2021, the *Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act 2021* extended the effect of this provision until 30 April 2022.⁶

The *Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2022*, which was passed by the Legislative Assembly on 31 March 2022, extended the expiry of this power to 31 October 2022, or an earlier day if the Minister ends the declared public health emergency under section 324 of the Public Health Act.⁷

³ HRA, s 41.

⁴ *Parliament of Queensland Act 2001*, s 93(1)(c).

⁵ *Public Health Act 2005*, ss 322 and 323.

⁶ *Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act 2021*, ss 49 – 51.

⁷ *Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2022*, s 25.

The committee notes that the declared public health emergency has been extended by regulation multiple times.⁸

The Public Health (Further Extension of Declared Public Health Emergency – COVID-19) Regulation 2022 (the Regulation) further extends the period of a declared public health emergency to allow for emergency powers to be used to reduce the risk of COVID-19 spreading. The Regulation extends the declared public health emergency for a further period of 90 days (until the end of 24 June 2022).

The explanatory notes state:

A flexible and risk-mitigating approach that balances public health objectives with the essential and ongoing needs of the community remain a critical element of Queensland’s response to COVID-19 to manage the current scenario and the uncertain outlook. Therefore, it is critical that Queensland’s policy levers continue to be available to enable the rapid introduction of protective measures as the need arises.

Queensland Health considers extension of the public health emergency is necessary and appropriate to manage the ongoing public health risk.⁹

The committee considers that the Regulation raises the same FLP and human rights issues as previous extension regulations. The committee’s assessment of these issues is outlined below.

4.1 Fundamental legislative principle issues

4.1.1 Rights and liberties of individuals - emergency powers

The LSA provides that legislation must have sufficient regard to the rights and liberties of individuals.¹⁰

The committee considers that the right to personal liberty is the most elemental and important of all common law rights¹¹, and entry without consent, into any place where a person lives requires the highest justification.¹² An individual would normally expect to be able to enjoy freedom of movement and any removal of this right must be fully justified.¹³

The effect of declaring (and also of extending) a public health emergency is that a number of powers in the Public Health Act are vested in an *emergency officer*. These powers include the power to require a person to:

- not enter, or not to remain within, a place
- stop using a place for a stated purpose
- go to, or stay in, a stated place
- answer questions.¹⁴

An *emergency officer* also has the power to enter a place to save a human life, prevent or minimise serious adverse effects on human health, or do anything else to relieve suffering or distress. Reasonable force is permitted to be used to enter a place.¹⁵

⁸ See SL Nos 7, 8, 13, 75, 154, 249 and 260 of 2020, and SL Nos 26, 77, 148 of 2021.

⁹ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, p 3.

¹⁰ LSA, s 4(2)(a).

¹¹ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: the OQPC Notebook*, p 96.

¹² OQPC, *Fundamental Legislative Principles: the OQPC Notebook*, p 45.

¹³ OQPC, *Fundamental Legislative Principles: the OQPC Notebook*, p 99.

¹⁴ *Public Health Act 2005*, s 345.

¹⁵ *Public Health Act 2005*, s 343.

The *emergency officer* must make a reasonable attempt to seek consent for entry, but need not do so if the officer believes on reasonable grounds that immediate entry is required.¹⁶

The explanatory notes provide the following advice regarding protections to limit the exercise of the powers of emergency officers:

The powers of emergency officers are discretionary and are only expected to be exercised if there are significant risks to public health. Additionally, the Public Health Act includes protections to limit the exercise of emergency officers' powers. For example:

- emergency officers can only enter places to save human life, prevent or minimise serious adverse effects on human health, or do anything else to relieve suffering or distress. Emergency officers are also required to make a reasonable attempt to seek an occupier's consent to the entry (section 344);
- certain powers can only be exercised with the written approval of the chief executive (section 345(2));
- a person must be given the opportunity to voluntarily comply with a detention order before it is enforced against them (section 353); and
- a person who is detained must be given the opportunity of receiving medical treatment including by a doctor chosen by the person (section 354(4)).¹⁷

The explanatory notes offer this justification for the breaches of fundamental legislative principle:

... it is considered that any potential impact the Regulation has on the rights and liberties of individuals in this context is justified, given the need to protect the health of the public by managing the impact of COVID-19.¹⁸

Committee comment

Given the ongoing nature of the COVID-19 pandemic, the committee considers the breaches of fundamental legislative principle which arise from the restrictions on a person's rights and liberties are justified in the circumstances.

4.1.2 Institution of Parliament - matters appropriate to subordinate legislation

Subordinate legislation should contain only matters appropriate to that level of legislation. This issue is the corollary of the issue that a Bill should allow the delegation of legislative power in appropriate cases and to appropriate persons.¹⁹

Generally, the greater the level of political interference with individual rights and liberties, or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.

The explanatory notes acknowledge that there is a potential breach of the fundamental legislative principle that legislation has sufficient regard to the institution of Parliament, given the extensive powers enlivened when a public health emergency is declared or extended.²⁰ It is regulations, not Acts of Parliament, which have generally been the mechanism by which the public health emergency has been extended.

¹⁶ *Public Health Act 2005*, s 344.

¹⁷ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, pp 5-6.

¹⁸ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, p 6.

¹⁹ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 165.

²⁰ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, p 6.

The explanatory notes offer the following justification:

The potential breach is considered justified given the need to protect the health of the Queensland community by being able to respond swiftly to manage the ongoing evolving public health risk from COVID-19. The power to extend by Regulation rather than an Act of Parliament allows the Government to discharge its key responsibility of protecting the health and safety of the public.

A Regulation extending the declared public health emergency may be made only if the Minister is satisfied it is necessary for a purpose of the Public Health Act. Having the ability to respond at short notice to an evolving epidemiological situation will continue to help ensure the public health objectives of the Public Health Act can be met.²¹

The explanatory notes also highlight that the amendments made to the *Public Health Act 2005* that provide a power to make a regulation to extend the public health emergency by up to 90 days are time limited.²²

Committee comment

Given the ongoing nature of the COVID-19 public health emergency, the committee considers the breaches of FLPs relating to the institution of Parliament are justified in the circumstances.

4.2 Explanatory notes

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

4.3 Human rights considerations

The committee has identified the following human rights issues in relation to the Regulation:

- Freedom of movement (section 19 of the HRA) - the Regulation provides that *emergency officers* have the power to: require a person to not enter or not remain within a place; stay in a stated place and stop using a place for a stated purpose.
- Freedom of thought, conscience, religion and belief (section 20 of the HRA) - the Regulation provides *emergency officers* with the power to order a person to self-isolate or to otherwise restrict a person's or group's movements. This may limit the ability of people to publicly demonstrate and practise their religion or beliefs.
- Right to peaceful assembly and freedom of association (section 22 of the HRA) - the restriction on a person's movements contained in the Regulation may limit their ability to assemble peacefully.
- Right to enjoy cultural and practise religion and hold distinct cultural rights (sections 27 and 28 of the HRA) - the HRA also recognises that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights.²³ The Regulation provides *emergency officers* with the power to order a person to self-isolate or to otherwise restrict a person's or group's movements. This may limit the ability of people to publicly demonstrate and practise their religion or beliefs.

The restrictions on a person's movement could also limit a person's cultural rights to engage with community and their traditionally owned or otherwise occupied lands and waters.

- Right to take part in public life (section 23 of the HRA) - the restrictions on a person's movement or ability to interact with other persons contained in the Regulation may impact on a person's right to take part in public life.

²¹ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, p 6.

²² Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, explanatory notes, p 6. See also *Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act 2021*, ss 49 - 51.

²³ HRA, s 28.

- Property rights (section 24 of the HRA) - the Regulation provides *emergency officers* with the power to: demolish structures or other property; remove an animal, substance or thing from a place; dispose of an animal, substance or thing at a place; destroy animals at a place or remove animals for destruction at another place or take action in relation to property. All these actions will impact on a person's property rights and will deprive them of their property.
- Right to privacy (section 25 of the HRA) - the power under the Regulation to compel a person to provide their name and address and to answer questions limits their right to privacy.
- Right to liberty and security of person (section 29 of the HRA) - the Regulation provides powers to *emergency officers* to restrict a person's movements, including requiring a person to self-isolate at home or another premises. This may limit the right to liberty and security because preventing people from leaving their homes or other premises may constitute detention.
- Protection of families and children (section 26 of the HRA) - the power contained in the Regulation to restrict a person's movement may impact children through restriction of movement, contact with other people or restricting access to facilities, such as schools, and events.
- Humane treatment when deprived of liberty (section 30 of the HRA) - under the Regulation, *emergency officers* (medical) have the power to order the detention of a person if that person has or may have a serious disease or illness. The use of force to enforce self-isolation or other directions could limit the right to human treatment when deprived of liberty.²⁴
- Right to education (section 36 of the HRA) - a child has the right to access primary and secondary education appropriate to their needs. A child's educational activities may be limited due to restrictions on movement.

The Minister provided the following collective justification for all these limitations on human rights:

The limitation of human rights is necessary to ensure that public health officials can implement effective ongoing measures to respond to the COVID-19 pandemic. These measures will help to minimise transmission to COVID-19 and respond to developments in the pandemic, including new variants of concern or particular outbreaks.²⁵

The Minister further stated:

The benefits of significantly reducing Queenslanders' exposure to disease and preserving access to emergency and life-sustaining treatment for persons who develop serious health complications as a result of a COVID-19 outbreak substantially outweigh the limitations on human rights.

Although the Regulation potentially limits many rights, these limitations are minor in nature and the need to protect the right to life for all Queenslanders substantially outweighs any limitation on human rights.²⁶

The Minister also noted these safeguards:

The Public Health Act states that the Regulation can extend the declared public health emergency and related powers of emergency officers for a period of no more than 90 days. This requirement is an important safeguard as it places an obligation on the Queensland Government to repeatedly assess the

²⁴ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, human rights certificate, p 9.

²⁵ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, human rights certificate, p 10.

²⁶ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, human rights certificate, p 11.

need for the declared public health emergency to continue, based on the current threat of COVID-19 in Queensland.²⁷

Committee comment

Given the imperative to protect the health of Queenslanders from the COVID-19 pandemic, the committee is satisfied that any limitation to human rights in the regulation is reasonable and justifiable in the circumstances.

4.4 Human rights certificate

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

5 Environmental Protection (ERA Standards) Amendment Regulation 2022

The objective of the Environmental Protection (ERA Standards) Amendment Regulation 2022 (Amendment Regulation) is to prescribe version 2 of the agricultural environmentally relevant activity (ERA) standards for beef cattle grazing, banana cultivation, and the prescribed methodology for sugarcane cultivation.

The Amendment Regulation also makes minor amendments to ensure ERA standards listed in Schedule 7 of the Environmental Protection Regulation 2019 (EP Regulation) have effect. It also corrects the title of the prescribed methodology for banana cultivation.

The explanatory notes advise, that to date, agricultural ERA standards have been prescribed for banana cultivation, sugarcane cultivation and beef cattle grazing under Schedule 7, Part 1 of the EP Regulation. Sections 23 and 24 of the EP Regulation also include reference to the prescribed methodologies for banana and sugarcane cultivation.²⁸

Further, under section 318 of the *Environmental Protection Act 1994* (EP Act), the chief executive may make an ERA standard. Version 2 of the agricultural ERA standards for beef cattle grazing, banana cultivation, and sugarcane cultivation and prescribed methodology for sugarcane cultivation have been made in accordance with sections 318A and 318B of the EP Act.²⁹

The explanatory notes state:

Version 2 of these documents contain small administrative updates from version 1 that remove duplication and clarify existing requirements to make it easier for producers to comply with the requirements.³⁰

The explanatory notes provide details of the consultation process and advise that stakeholders did not raise any substantial concerns with the proposed updates.³¹

²⁷ Public Health (Further Extension of Declared Public Health Emergency—COVID-19) Regulation 2022, human rights certificate, p 11.

²⁸ Environmental Protection (ERA Standards) Amendment Regulation 2022, explanatory notes, p 2.

²⁹ Environmental Protection (ERA Standards) Amendment Regulation 2022, explanatory notes, p 2.

³⁰ Environmental Protection (ERA Standards) Amendment Regulation 2022, explanatory notes, p 2.

³¹ Wet Tropics (Rainforest Area) Amendment Management Plan 2022, explanatory notes, p 4.

5.1 Fundamental legislative principle issues and explanatory notes

The committee identified no FLP issues in relation to the Amendment Regulation. The explanatory notes comply with part 4 of the LSA.

5.2 Consideration of human rights compatibility and human rights certificate

The committee considers that the Amendment Regulation raises no human rights issues. A human rights certificate was tabled with the Amendment Regulation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

6 Wet Tropics (Rainforest Area) Amendment Management Plan 2022

The objective of the Wet Tropics (Rainforest Area) Amendment Management Plan 2022 (Amendment Management Plan) is to correct an error in the definition of *rainforest area* in order to reinstate protections over the Wet Tropics of Queensland World Heritage Area that were unintentionally lost during the last amendment to the Wet Tropics Management Plan 1998 (the Plan).

According to the explanatory notes, the definition of *rainforest area* is key in determining whether an activity under the Plan is within a *rainforest area*. The definition is used predominantly for *allowed* activities under sections 27, 27A and 27B of the Plan, and to a limited extent for permits.³²

In addition, the Amendment Management Plan will reinstate the long-standing, and intended, limitations on burning, grazing and the keeping of dogs, cats and honey bees within the sensitive and irreplaceable rainforest areas of the world heritage area.³³

6.1 Fundamental legislative principle issues and explanatory notes

The committee identified no FLP issues in relation to the subordinate legislation. The explanatory notes comply with part 4 of the LSA.

6.2 Consideration of human rights compatibility

6.2.1 Cultural rights of Aboriginal peoples and Torres Strait Islander Peoples - section 28 of the HRA

The definition of *rainforest area* results in restrictions on burning and the keeping of dogs in those areas. In the human rights certificate, the Minister states the amendment engages the cultural rights of Aboriginal peoples and Torres Strait Islander Peoples (under section 28 of the HRA), on the basis that 'burning is a cultural activity and keeping of dogs is a cultural activity held by some First Nations peoples.'³⁴

In considering the balance between the importance of the purpose of the limitation on such rights and the importance of preserving the human right, the Minister concludes:

The benefits of protecting the values of the Area are considered to outweigh the limited extent to which Aboriginal cultural rights might be affected or limited by the amendment. Any limitation is expected to be minor and the outcome for the global community very significant, particularly the protection of the evolutionary history represented in the area. These values are irreplaceable and one of the best examples in the world.³⁵

³² Wet Tropics (Rainforest Area) Amendment Management Plan 2022, explanatory notes, p 2.

³³ Wet Tropics (Rainforest Area) Amendment Management Plan 2022, explanatory notes, p 2.

³⁴ Wet Tropics (Rainforest Area) Amendment Management Plan 2022, human rights certificate, p 2.

³⁵ Wet Tropics (Rainforest Area) Amendment Management Plan 2022, human rights certificate, p 3.

Committee comment

The committee is satisfied that the limitation of human rights is reasonable and demonstrably justifiable in the circumstances.

6.3 Human rights certificate

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

7 Nature Conservation and Other Legislation Amendment Regulation 2022

The Nature Conservation and Other Legislation Amendment Regulation 2022 (Amendment Regulation) amends:

- the Nature Conservation (Animals) Regulation 2020 (Animals Regulation) and the Nature Conservation (Plants) Regulation 2020 to update the conservation status of native flora and fauna species
- the Environmental Offsets Regulation 2014 to provide for the new version of the Queensland Environmental Offsets Policy
- the State Penalties Enforcement Regulation 2014 (SPE Regulation) to enable conservation officers to undertake enforcement and compliance actions for koala-related offences under the *Planning Act 2016* (Planning Act)
- the Animals Regulation to allow a person to keep or use a newly protected animal (eg certain crayfish that are currently used as aquaculture brood stock and were recently categorised as ‘protected’ wildlife under the *Nature Conservation Act 1992* (NC Act) are able to be kept and used under a modified ‘Farming Licence’ and ‘Permit to Keep’ framework, where previously they were regulated under the *Fisheries Act 1994*)
- various pieces of subordinate legislation under the NC Act to correct typographical errors, references, and make consequential and minor administrative amendments.³⁶

According to the explanatory notes, the species reclassification amendments are administrative and reflect the scientific assessment by the Species Technical Committee.³⁷

The explanatory notes outline the external consultation that was conducted with aquaculture permit holders and the Australia New Guinea Fishes Association Queensland Incorporated to determine the level of commercial and recreational keep and use of the recently prescribed crayfish species.

The explanatory notes advise that the outcomes of the consultation supported the proposed amendments and indicated that both a “Farming Licence” and “Permit to Keep” were appropriate for the existing commercial and recreational keep and use of the animals.³⁸

³⁶ Nature Conservation and Other Legislation Amendment Regulation 2022, explanatory notes, pp 1-4; human rights certificate, p 1.

³⁷ Nature Conservation and Other Legislation Amendment Regulation 2022, explanatory notes, p 6. The STC is a panel of experts responsible for undertaking independent scientific assessments to determine the classification of wildlife under the NC Act and making recommendations to the responsible Minister. SL No. 37, explanatory notes, p 2.

³⁸ Nature Conservation and Other Legislation Amendment Regulation 2022, explanatory notes, p 7.

7.1 Fundamental legislative principle issues

7.1.1 Rights and liberties of individuals - penalties

The Amendment Regulation amends the SPE Regulation to enable conservation officers to undertake enforcement and compliance actions for koala-related offences under the Planning Act.³⁹ It does this by introducing infringement notice offences fines into the SPE Regulation for certain activities involving interfering with koala habitat. For example, if assessable development involves interfering with koala habitat, the fines are 20 penalty units (\$2,757) for an individual and 100 penalty units (\$13,785) for a corporation.⁴⁰

Penalties have the potential to impact the rights and liberties of individuals. As such, they should be proportionate to the offence and consistent with each other.⁴¹

The penalties introduced by the Amendment Regulation are equal to the highest penalties in the SPE Regulation for infringement notice offences under the Planning Act.⁴²

The explanatory notes do not address the issue of penalties in the context of fundamental legislative principles but they provide background on the amendment:

In 2020, the *Nature Conservation and Other Legislation (Koala Protection) Amendment Regulation 2020* provided increased protection to koala habitat areas in South East Queensland. As a result of these changes, DES [Department of Environment and Science] received an enforcement authority to undertake compliance and enforcement action under the Planning Act for offences relating to koala habitat. However, on receipt of the enforcement authority, it was recognised that complementary action to amend schedule 1 of the SPE Regulation, which stipulates the administering authorities for Penalty Infringement Notices (PINs) offences under different legislation, had not been progressed. Consequentially, conservation officers under the NC Act were not authorised under the SPE Regulation in relation to the koala regulatory changes introduced on 7 February 2020. The proposed amendments will include conservation officers under schedule 1 of the SPE Regulation to enable the officers to issue PINs for offences under the Planning Act in relation to koala habitat and make other related minor amendments to schedule 2.⁴³

The human rights certificate advises that the amendment to the SPE Regulation does not change the scope of offences or increase penalty infringement notice fines:

Currently, koala provisions exist within the general non-specific offences in the SPE Regulation. The proposal merely delegates the power to issue these PINs to conservation officers under the NC Act and clearly identify their powers extending only to koala habitat offences under the Planning Act. The amendment regulation ... does not create new PINs, increase PIN fines, or change scope of offences. These amendments merely delegate the power to issue these specific PINs to a different group of Queensland Government employees and gives DES a greater range of options to deal with contraventions in a proportionate manner.⁴⁴

³⁹ Nature Conservation and Other Legislation Amendment Regulation 2022 explanatory notes, p 4.

⁴⁰ Nature Conservation and Other Legislation Amendment Regulation 2022, Part 8. From 1 July 2022, the value of a penalty unit will rise from \$137.85 to \$143.75 meaning the fines will be \$2,875 and \$14,375 respectively.

⁴¹ Office of the Queensland Parliamentary Counsel, *Fundamental legislative principles: the OQPC notebook*, January 2008, p 120.

⁴² See State Penalties Enforcement Regulation 2014, sch 1.

⁴³ Nature Conservation and Other Legislation Amendment Regulation 2022, explanatory notes, p 3.

⁴⁴ Nature Conservation and Other Legislation Amendment Regulation 2022, human rights certificate, p 3.

Committee comment

The committee considers any inconsistency with fundamental legislative principles is justified on the basis that the amendments simply enable conservation officers under the NC Act to issue these penalty infringement notices.

7.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

7.3 Consideration of human rights compatibility and human rights certificate

The committee considers that the subordinate legislation raises no human rights issues. A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

8 Health Legislation (Fee Unit Conversion) Amendment Regulation 2022

In 2021, the *Acts Interpretation Act 1954* (AI Act) was amended to introduce a fee unit model 'to streamline the annual process of indexing regulatory fees'.⁴⁵

Under the AI Act, the amount of a fee is the number of dollars obtained by multiplying the value of a fee unit by the number of fee units.⁴⁶ The AI Act provides that the value of a fee unit is \$1 unless another amount is prescribed.⁴⁷

The Health Legislation (Fee Unit Conversion) Amendment Regulation 2022 (Amendment Regulation) commences on 1 July 2022.⁴⁸ Its objective is to convert the fees and charges prescribed in regulations made under the following Acts from dollar amounts to the number of fee units:

- *Ambulance Service Act 1991*
- *Food Act 2006*
- *Medicines and Poisons Act 2019*
- *Private Health Facilities Act 1999*
- *Radiation Safety Act 1999*.⁴⁹

The Amendment Regulation does not change the amount of any of fees or charges.

From 1 July 2022, the value of a fee unit will be \$1.025 except under specified legislation, including the Medicines and Poisons (Medicines) Regulation 2021, the Medicines and Poisons (Poisons and Prohibited Substances) Regulation 2021, the Private Health Facilities Regulation 2016 and the Radiation Safety Regulation 2021.⁵⁰ The value of a fee unit for these regulations will rise from \$1 to \$1.025 on 1 October 2022.⁵¹

8.1 Fundamental legislative principle issues and explanatory notes

The committee identified no FLP issues in relation to the Amendment Regulation. The explanatory notes comply with part 4 of the LSA.

⁴⁵ Debt Reduction and Savings Bill 2021, explanatory notes, p 1.

⁴⁶ *Acts Interpretation Act 1954*, s 48C.

⁴⁷ *Acts Interpretation Act 1954*, s 48B.

⁴⁸ Environmental Protection (ERA Standards) Amendment Regulation 2022, s 2.

⁴⁹ Environmental Protection (ERA Standards) Amendment Regulation 2022, explanatory notes, pp 2-3.

⁵⁰ Acts Interpretation (Fee Unit) Regulation 2022, s 2, schedule 1.

⁵¹ Acts Interpretation (Fee Unit) Regulation 2022, s 3, schedule 1.

8.2 Consideration of human rights compatibility and human rights certificate

The committee considers that the subordinate legislation raises no human rights issues. A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

Recommendation

The committee recommends that the House notes this report.



Aaron Harper MP

Chair

Health and Environment Committee

Chair	Mr Aaron Harper MP, Member for Thuringowa
Deputy Chair	Mr Robert (Rob) Molhoek MP, Member for Southport
Members	Mr Stephen (Steve) Andrew MP, Member for Mirani
	Ms Ali King MP, Member for Pumicestone
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