

## Legal Affairs and Safety Committee

### Report No. 52, 57th Parliament

#### Subordinate legislation tabled between 29 April 2023 and 9 May 2023

#### 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 29 April 2023 and 9 May 2023. 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).<sup>1</sup>

The report also 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.<sup>2</sup>

#### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
29	<i>Proclamation – Casino Control and Other Legislation Amendment Act 2022</i>	9 May 2023	13 September 2023
30	<i>Collections (Deemed Registration) Amendment Regulation 2023</i>	9 May 2023	13 September 2023
31	<i>Public Trustee (Interest Rate) Amendment Regulation (No. 4) 2023</i>	9 May 2023	13 September 2023
34	<i>Legal Profession (Society Rules) Amendment Notice 2023</i>	9 May 2023	13 September 2023

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

<sup>1</sup> LSA, Part 4.

<sup>2</sup> HRA, s 41.

### 3 Committee consideration of the subordinate legislation



The committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, human rights compatibility or lawfulness of the subordinate legislation.

The committee considers that:

- the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of s 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 their compatibility with the HRA.

The following sections provide a brief overview of the subordinate legislation and any relevant considerations of fundamental legislative principles and human rights.

### 4 Proclamation – Casino Control and Other Legislation Amendment Act 2022 (SL No. 29)

#### 4.1 Policy objective

The Proclamation made under the *Casino Control and Other Legislation Amendment Act 2022* (SL No. 29) fixes 1 May 2023 as the commencement date for sections 21 to 24 and part 5 of the *Casino Control and Other Legislation Amendment Act 2022* (COLA Act).

SL No. 29 provides for the commencement of sections of the COLA Act which amend:

- the *Casino Control Act 1982* to provide for chief executive approval of payment methods for chip purchase vouchers, deposits into player accounts and the redemption of cheques, and make consequential amendments relating to section references<sup>3</sup>
- the *Collections Act 1966* (Collections Act) to introduce a nationally agreed cross-border recognition scheme and remove a public objection process relating to applications for registration as a charity.<sup>4</sup>

### 5 Collections (Deemed Registration) Amendment Regulation 2023 (SL No. 30)

#### 5.1 Policy objective

Part 5 of the COLA Act amended the Collections Act to introduce a nationally agreed cross-border recognition scheme under which a charity registered with the Australian Charities and Not for Profits Commission is deemed to be registered as a charity in Queensland.<sup>5</sup>

The Collections (Deemed Registration) Amendment Regulation 2023 (SL No. 30) amends the *Collections Regulation 2008* (Collections Regulation) to support commencement of the cross-border recognition scheme, by excluding certain provisions of the Collections Regulation from applying to deemed registrants.<sup>6</sup>

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<sup>3</sup> SL No. 29 commences ss 21 to 24 of the *Casino Control and Other Legislation Amendment Act 2022*, which amends the *Casino Control Act 1982*; SL No. 29, explanatory notes, p 1.

<sup>4</sup> SL No. 29 commences part 5 of the *Casino Control and Other Legislation Amendment Act 2022*, which amends the *Casino Control Act 1982*; SL No. 29, explanatory notes, p 1.

<sup>5</sup> SL No. 30, explanatory notes, p 2.

<sup>6</sup> See SL No. 30, ss 10, 11; *Collections Act 1966*, s 23L. The excluded provisions provide for public access to a range of information filed with the chief executive and requires charities to make their financial statements

Other objectives of SL No. 30 are to:

- make consequential and supporting amendments to the Collections Regulation arising from the removal of public objections to registration of a charity under Part 5 of the Act
- remove certain financial record-keeping, accounting and reporting requirements no longer considered necessary for charities registered under the Collections Act (including deemed registrants).<sup>7</sup>

## 6 Public Trustee (Interest Rate) Amendment Regulation (No. 4) 2023 (SL No. 31)

### 6.1 Policy objective

The objective of the Public Trustee (Interest Rate) Amendment Regulation (No. 4) 2023 (SL No. 31) is to amend the *Public Trustee Regulation 2012* (PT Regulation) to increase the interest rates payable on amounts held in the Public Trustee's common fund from 1 May 2023, as follows:<sup>8</sup>

Funds held for	Current Interest Rate from 1 March 2023	Proposed Interest Rate from 1 April 2023
<b>Class 2(c) and Class 3 amounts:</b> Financial Management Customers and Enduring Powers of Attorney Accounts	0.86%	0.99%
<b>Term Deposit amounts:</b> Term Investment Accounts	1.28%	1.34%

The interest rates are determined by the Public Trustee through an analysis of ‘the market return of a comparative set of competitive financial products and prevailing economic conditions’.<sup>9</sup> In the review of the interest rates payable under the PT Regulation, the Public Trustee applied the methodology endorsed by the Public Trust Office Investment Board.<sup>10</sup>

### 6.2 Compatibility with human rights

The committee is satisfied that the subordinate legislation is compatible with human rights.<sup>11</sup> Property rights are discussed further in the section below.

#### 6.2.1 Property rights

All persons have the right to own property alone or in association with others. A person must not be arbitrarily deprived of the person’s property.<sup>12</sup>

The human rights certificate notes that property could include a person’s interest in trust funds held by the Public Trustee and that although SL No. 31 ‘restrains the ability of a person beneficially interested in the money in the common fund to derive profits from their property, the interest rate that is set reflects the market rate of return of a comparative set of competitive financial products and prevailing economic conditions’.<sup>13</sup>

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available for inspection (s 37); and require the registered charity to give notice to the chief executive of the establishment of a new branch (s 39). SL No. 30, explanatory notes, pp 1, 2.

<sup>7</sup> SL No. 30, explanatory notes, p 1.

<sup>8</sup> SL No. 31, explanatory notes, p 1.

<sup>9</sup> SL No. 31, explanatory notes, p 1.

<sup>10</sup> SL No. 31, explanatory notes, p 2.

<sup>11</sup> S 8 of the HRA relevantly provides that a statutory provision is compatible with human rights if the provision does not limit a human right or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of the HRA. S 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

<sup>12</sup> HRA, s 24.

<sup>13</sup> SL No. 31, human rights certificate, p 2.

In the view expressed in the human rights certificate, although SL No. 31 limits property rights, that limitation is reasonable and demonstrably justified:

The Regulation strikes the appropriate balance between management of the common fund, on the one hand, and limiting certain human rights on the other. Although people with an interest in monies in the common fund are not free to invest the monies as they choose, they receive a comparable market rate of return.<sup>14</sup>

## 7 Legal Profession (Society Rules) Amendment Notice 2023 (SL No. 34)

### 7.1 Policy objective

The *Legal Profession Act 2007* (Legal Profession Act) provides for the Queensland Law Society (QLS) to make rules (society rules) for various purposes, including to fix fees, levies and subscriptions in relation to QLS membership.<sup>15</sup> Under the Legal Profession Act, society rules have no effect unless the Minister notifies the making of the rules. The notice is subordinate legislation.<sup>16</sup> The society rules made and notified to date are consolidated in the Legal Profession (Society) Rules 2007.<sup>17</sup>

The purpose of the Legal Profession (Society Rules) Amendment Notice 2023 (SL No. 34) is to give notice of the making of the Legal Profession (Society) Amendment Rule (No. 1) 2023 by the QLS Council.

The explanatory notes state that the Legal Profession (Society) Amendment Rule (No. 1) 2023 amends the Legal Profession (Society) Rules 2007 to set the annual membership fees for the financial year commencing 1 July 2023 and to make other minor amendments.<sup>18</sup>

## 8 Recommendation

The committee recommends that the House notes this report.



Peter Russo MP

**Chair**  
**August 2023**

### Legal Affairs and Safety Committee

<b>Chair</b>	Mr Peter Russo MP, Member for Toohey
<b>Deputy Chair</b>	Mrs Laura Gerber MP, Member for Currumbin
<b>Members</b>	Ms Sandy Bolton MP, Member for Noosa
	Ms Jonty Bush MP, Member for Cooper
	Mr Jason Hunt MP, Member for Caloundra
	Mr Jon Krause MP, Member for Scenic Rim

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<sup>14</sup> SL No. 31, human rights certificate, p 3.

<sup>15</sup> *Legal Profession Act 2007*, s 696(1).

<sup>16</sup> *Legal Profession Act 2007*, s 697(2).

<sup>17</sup> SL No. 34, explanatory notes, p 1.

<sup>18</sup> SL No. 34, explanatory notes, p 1.