

## Community Support and Services Committee

### Report No. 18, 57th Parliament

#### Subordinate legislation tabled between 1 September 2021 and 15 March 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 1 September 2021 and 15 March 2022.

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 outlines the committee's consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificate tabled with the subordinate legislation.<sup>2</sup>

#### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
166 – 2021	Proclamation— <i>Child Protection and Other Legislation Amendment Act 2021</i>	30 November 2021	12 May 2022
16 - 2022	Proclamation – <i>Housing Legislation Amendment Act 2021</i>	15 March 2022	23 June 2022

\*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

The committee did not identify any issues regarding the policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation. The committee considers that the explanatory notes tabled with the subordinate legislation comply with the requirements of s 24 of the LSA.

The committee considers that both SL No. 166 of 2021 and SL No. 16 of 2022 raise no human rights issues.

A human rights certificate is not required to be tabled with a proclamation that fixes a single day for the commencement of all of the provisions of an Act that are not in force in accordance with s 41(4A)(a) of the HRA. Accordingly, no human rights certificates were tabled with the subordinate legislation, as both are proclamations.

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

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

#### **4 Proclamation—*Child Protection and Other Legislation Amendment Act 2021* (SL 166 of 2021)**

This proclamation fixes 29 November 2021 as the commencement date for the remaining provisions (part 3) of the *Child Protection and Other Legislation Amendment Act 2021* (the Amendment Act).

Part 3 of the Amendment Act makes amendments to the *Child Protection Act 1999* to:

- enhance the approach to permanency under the *Child Protection Act 1999*
- clarify that adoption is an option for achieving permanency for children in care, as part of the suite of alternative long-term care options available, and
- clarify the importance of and promote alternative permanency options for children subject to a child protection order granting long-term guardianship to the chief executive.<sup>3</sup>

The explanatory notes provide the following additional detail about Part 3 of the Amendment Act:

Part 3 of the *Child Protection and Other Legislation Amendment Act 2021* amends section 5BA(4) of the *Child Protection Act 1999* to provide that adoption is the third preference for deciding whether an action or order best achieves permanency for a child who is not an Aboriginal or Torres Strait Islander child. For an Aboriginal or Torres Strait Islander child, the amendment provides that adoption is the last preference after being cared for under the guardianship of the chief executive.

Part 3 of the *Child Protection and Other Legislation Amendment Act 2021* also inserts a new section 51VAA into the *Child Protection Act 1999* to require the chief executive to review the case plan for a child subject to a Child Protection Order granting long-term guardianship to the chief executive two years after the long-term order was made. The review must consider whether permanency for the child would be best achieved by an alternative arrangement as provided for in section 5BA(4).

Part 3 of the *Child Protection and Other Legislation Amendment Act 2021* implements the intent of the Deputy State Coroner’s findings of inquest into the death of Mason Jet Lee.<sup>4</sup>

##### **4.1 Fundamental legislative principle issues and explanatory notes**

The committee identified no issues regarding the subordinate legislation’s consistency with fundamental legislative principle or its lawfulness. The explanatory notes comply with part 4 of the LSA.

##### **4.2 Human rights considerations and certificate**

The committee considers that the subordinate legislation is compatible with human rights.

A human rights certificate was not required to be tabled with the proclamation.<sup>5</sup>

#### **5 Proclamation – *Housing Legislation Amendment Act 2021* (SL 16 of 2022)**

This proclamation fixes 1 October 2022 as the commencement date for the remaining provisions of the *Housing Legislation Amendment Act 2021* (HLA Act) that are not in force, which are chapter 2, part 3, sections 98 and 100 and schedule 1, part 2.

The explanatory notes provide the following additional information about the operation of the proclamation in relation to the HLA Act:

Amendments commencing by proclamation in chapter 2, part 3 enact Stage 1 rental law reforms, including provisions about ending tenancies fairly by removing ‘without grounds’ and introducing new grounds to end a tenancy; introducing a framework to encourage more pet-friendly rental accommodation, including reasonable grounds for refusal and deemed approval; and strengthened repair and maintenance obligations.

---

<sup>3</sup> Explanatory notes, p 1.

<sup>4</sup> Explanatory notes, pp 1-2.

<sup>5</sup> See s 41(4A)(a) of the HRA.

Sections 98 and 100 of the HLA Act insert the prescribed minimum housing standards in the *Residential Tenancies and Rooming Accommodation Regulation 2009* (RTRA Regulation).

Schedule 1, part 2 of the HLA Act contains consequential amendments to the *Residential Tenancies and Rooming Accommodation Act 2008*.<sup>6</sup>

### **5.1 Fundamental legislative principle issues and explanatory notes**

The committee identified no issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness. The explanatory notes comply with part 4 of the LSA.

### **5.2 Human rights considerations and certificate**

The committee considers that the subordinate legislation is compatible with human rights.

A human rights certificate was not required to be tabled with the proclamation.<sup>7</sup>

## **6 Recommendation**

The committee recommends that the House notes this report.



Ms Corrine McMillan MP

**Chair**

**April 2022**

### **Community Support and Services Committee**

<b>Chair</b>	Ms Corrine McMillan, Member for Mansfield
<b>Deputy Chair</b>	Mr Stephen Bennett, Member for Burnett
<b>Members</b>	Mr Michael Berkman, Member for Maiwar
	Ms Cynthia Lui, Member for Cook
	Dr Mark Robinson, Member for Oodgeroo
	Mr Robert Skelton, Member for Nicklin

---

<sup>6</sup> Explanatory notes, p 1.

<sup>7</sup> See s 41(4A)(a) of the HRA.