

Health and Environment Committee

Report No. 39, 57th Parliament

Subordinate legislation tabled between 19 April 2023 and 23 May 2023

1 Aim of this report

This report summarises the findings of the Health and Environment Committee (committee) following its examination of the subordinate legislation within its portfolio areas tabled between 19 April 2023 and 23 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 (FLPs),¹ its compatibility with human rights,² and its lawfulness.³ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),⁴ and the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
–	Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022	11 May 2023	10 October 2023
–	Health Practitioner Regulation National Law Amendment Regulation 2022	11 May 2023	10 October 2023
37	Proclamation – <i>Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022</i>	23 May 2023	11 October 2023

* 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 significant issues regarding the policy, consistency with fundamental legislative principles, human rights compatibility or lawfulness of the subordinate legislation.

The committee is satisfied that the explanatory notes tabled with the subordinate legislation comply with part 4 of the LSA, and the accompanying human rights certificates provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

¹ *Legislative Standards Act 1992*, s 4.

² *Human Rights Act 2019*, s 8.

³ *Legislative Standards Act 1992*, Part 4.

⁴ *Legislative Standards Act 1992*, Part 4.

⁵ *Human Rights Act 2019*, s 41.

A brief overview of the subordinate legislation is provided in the following sections.

3.1 Health Practitioner Regulation National Law

The Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022 (see section 4 below) and the Health Practitioner Regulation National Law Amendment Regulation 2022 (see section 5 below) both amend the Health Practitioner Regulation National Law Regulation 2018 (National Law Regulation).⁶

These regulations were made by Ministerial Council⁷ under the Health Practitioner Regulation National Law (National Law).⁸ The National Law is applied (with modifications) as a law of Queensland by the *Health Practitioner Regulation National Law Act 2009* and is set out in the schedule to that Act.

Under the National Law, a regulation must be tabled in, or notice of its making given to, the Parliament of each participating jurisdiction.⁹ A regulation may be disallowed by the Parliament of a participating jurisdiction in the usual manner as applies in that jurisdiction,¹⁰ but does not cease to have effect unless it is disallowed in a majority of participating jurisdictions, in which case it ceases to have effect in all participating jurisdictions.

4 Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022

4.1 Objective

The Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022 amends the National Law Regulation to update an accepted qualification for registration in paramedicine.¹¹

The National Law establishes a National Registration and Accreditation Scheme for the health professions.¹² The explanatory notes state that, ordinarily, to be qualified for general registration under the National Law, an individual must hold an approved qualification,¹³ which must be obtained by completing an approved program of study for the profession. The explanatory notes continue:

However, section 312 [of the National Law] creates an exception for an individual who holds a Diploma of Paramedical Science issued by the Ambulance Service of New South Wales. Under section 312, a person who holds this diploma is qualified for general registration in paramedicine for the purposes of section 52(1)(a). A Diploma of Paramedical Science is defined in section 312(5) and includes a qualification, prescribed by regulation, that has replaced the Diploma of Paramedical Science and that is issued by the Ambulance Service of New South Wales.¹⁴

⁶ Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022, s 3; Health Practitioner Regulation National Law Amendment Regulation 2022, s 3.

⁷ The Ministerial Council is constituted of Australia's Health Ministers (Health Practitioner Regulation National Law, s 5).

⁸ See s 245 of the Health Practitioner Regulation National Law (Queensland) for the Ministerial Council's power to make national regulations.

⁹ The regulations do not form part of the usual numbered subordinate legislation series.

¹⁰ In Queensland, tabling and disallowance procedures are set out in the *Statutory Instruments Act 1992*.

¹¹ Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022, explanatory notes, p 1.

¹² Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022, explanatory notes, p 1.

¹³ Health Practitioner Regulation National Law, s 53(a). Section 52(1)(a) of the National Law includes a requirement that an individual be qualified for general registration in the relevant health profession, as one of several criteria for that individual to be eligible for general registration in that health profession.

¹⁴ Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022, explanatory notes, pp 1-2.

According to the explanatory notes, the Diploma of Paramedical Science has been superseded by the Diploma of Emergency Health Care, which is issued by the Ambulance Service of New South Wales.¹⁵ The Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022 amends the National Law Regulation to reflect this change.

4.2 Consistency with fundamental legislative principles

The committee is satisfied that the subordinate legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

4.1 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

4.2 Compatibility with human rights

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

4.3 Human rights certificate

The human rights certificate tabled with SL No. 37 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

5 Health Practitioner Regulation National Law Amendment Regulation 2022

5.1 Objective

The Health Practitioner Regulation National Law Amendment Regulation 2022 amends the National Law Regulation to:

- empower the National Health Practitioner Ombudsman (NHPO) to manage complaints to:
 - the Ombudsman about external accreditation authorities' processes
 - the Privacy Commissioner about the use of personal information and alleged breaches of privacy by external accreditation authorities
- make consequential changes to reflect recent amendments to the National Law,¹⁶ by replacing references to Australian Health Practitioner Regulation Agency's (Ahpra's) governing body to reflect its name change¹⁷ and removing references to the now-dissolved Australian Health Workforce Advisory Council.¹⁸

According to the explanatory notes:

Extending the NHPO's oversight to external accreditation authorities and other entities that perform accreditation functions under the National Law will provide greater accountability and transparency over the processes followed by these entities. It will also promote a more consistent approach to oversight of administrative decisions under the National Scheme by treating external accreditation entities in the same way as other National Scheme entities, including Ahpra and National Boards.¹⁹

5.2 Consistency with fundamental legislative principles

The committee is satisfied that the subordinate legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

¹⁵ Health Practitioner Regulation National Law Amendment (Paramedicine Qualification) Regulation 2022, explanatory notes, p 2.

¹⁶ By the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022*, see Health Practitioner Regulation National Law Amendment Regulation 2022, explanatory notes, p 2.

¹⁷ The name of Ahpra's governing body changed from the 'Agency Management Committee' to the 'Agency Board', see Health Practitioner Regulation National Law Amendment Regulation 2022, explanatory notes, p 2.

¹⁸ Health Practitioner Regulation National Law Amendment Regulation 2022, explanatory notes, pp 2-3.

¹⁹ Health Practitioner Regulation National Law Amendment Regulation 2022, explanatory notes, p 3.

5.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

5.4 Compatibility with human rights

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

5.5 Human rights certificate

The human rights certificate tabled with SL No. 37 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

6 SL No. 37 – Proclamation – Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022

6.1 Objective

The Proclamation made under the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (SL No. 37) fixes 15 May 2023 for the commencement of certain provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022*.

The provisions commenced by the Proclamation enact amendments to the National Law which include:

- allowing National Boards to take certain actions, such as –
 - withdrawing a practitioner’s registration if it was improperly obtained because of the provision of false or misleading information or documents
 - taking disciplinary action against persons who continue to practice or use a protected title after their registration has lapsed
- requiring registered health practitioners and students to report charges and convictions related to regulated medicines and poisons to the relevant National Board
- removing barriers to information sharing to protect the public and improve resolution of notifications
- aligning the maximum penalties for prohibition orders and interim prohibition orders issued under the *Health Ombudsman Act 2013* with those in the Health Practitioner Regulation National Law
- empowering the Health Ombudsman and national regulators to issue public statements about persons whose conduct poses a serious risk to public health and safety
- amending show cause processes to remove the ability for National Boards to waive a show cause process when proposing to take certain disciplinary actions, and allowing National Boards, after undertaking a show cause process, to take the most appropriate regulatory action.²⁰

6.2 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified by the committee.

6.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

6.4 Compatibility with human rights

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

²⁰ SL No. 37 of 2023, explanatory notes, p 2.

6.5 Human rights certificate

The human rights certificate tabled with SL No. 37 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

7 Recommendation

The committee recommends that the House notes this report.



Aaron Harper MP

Chair

September 2023

Health and Environment Committee

Chair

Deputy Chair

Members

Mr Aaron Harper MP, Member for Thuringowa

Mr Robert (Rob) Molhoek MP, Member for Southport

Mr Stephen (Steve) Andrew MP, Member for Mirani

Ms Ali King MP, Member for Pumicestone

Mr James Martin MP, Member for Stretton

Mr Andrew Powell MP, Member for Glass House