

Legal Affairs and Safety Committee

Report No. 57, 57th Parliament

Subordinate legislation tabled between 14 June 2023 and 22 August 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 14 June 2023 and 22 August 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).¹

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.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
59	<i>Associations Incorporation and Other Legislation Amendment Regulation 2023</i>	22 August 2023	16 November 2023
60	<i>Justice Legislation (Allowances and Other Matters) Amendment Regulation 2023</i>	22 August 2023	16 November 2023
61	<i>Uniform Civil Procedure (Offers to Settle) Amendment Rule 2023</i>	22 August 2023	16 November 2023
63	<i>Proclamation – Police Service Administration and Other Legislation Amendment Act 2023</i>	22 August 2023	16 November 2023
69	<i>Fire and Emergency Services (Annual Contributions) Amendment Regulation 2023</i>	22 August 2023	16 November 2023
72	<i>Uniform Civil Procedure and Other Rules Amendment Rule 2023</i>	22 August 2023	16 November 2023
73	<i>Magistrates Regulation 2023</i>	22 August 2023	16 November 2023
74	<i>Gaming Machine Amendment Regulation 2023</i>	22 August 2023	16 November 2023
79	<i>Legal Profession (Society Rules) Amendment Notice (No. 2) 2023</i>	22 August 2023	16 November 2023

¹ LSA, Part 4.

² HRA, s 41.

84	<i>Legal Profession (Interest on Fidelity Fund Claims) Amendment Regulation 2023</i>	22 August 2023	16 November 2023
85	<i>Police Service Administration (Ranks of Officers) Amendment Regulation 2023</i>	22 August 2023	16 November 2023
87	<i>Domestic and Family Violence Protection Regulation 2023</i>	22 August 2023	16 November 2023
94	<i>Proclamation made under the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023</i>	22 August 2023	16 November 2023
95	<i>Criminal Practice Amendment Rule 2023</i>	22 August 2023	16 November 2023
96	<i>Domestic and Family Violence Protection Amendment Rule 2023</i>	22 August 2023	16 November 2023
97	<i>Public Trustee (Interest Rate) Amendment Regulation (No. 6) 2023</i>	22 August 2023	16 November 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 considers that:

- the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA
- the human rights certificates tabled with the subordinate legislation, where relevant, 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 Associations Incorporation and Other Legislation Amendment Regulation 2023 (SL No. 59)

4.1 Policy objective

The Associations Incorporation and Other Legislation Amendment Regulation 2023 (SL No. 59) amends the *Associations Incorporation Regulation 1999* (AI Regulation) to:³

- prescribe the default grievance procedure that incorporated associations must observe,⁴ unless the association's rules provide for a compliant alternative procedure⁵

³ SL No. 59, explanatory notes, p 2.

⁴ Pursuant to section 47A of the *Associations Incorporation Act 1981* (AI Act).

⁵ That is, compliant with section 47A of the AI Act.

- prescribe the details that incorporated associations must disclose to their annual general meeting (AGM) regarding remuneration paid to management committee members, senior staff and their relatives (and how those details are to be disclosed)
- remove the existing prescriptive lists of financial records that must be retained by incorporated associations, to allow such matters to be determined by associations⁶ (with the assistance of regulator guidance)
- change the financial (revenue and audit) thresholds that define the size of incorporated associations, and consequently define the financial reporting burden for associations.

SL No. 59 also amends the model rules in schedule 4 of the AI Regulation to:⁷

- provide a process for the transfer or distribution of assets on the winding-up of an association that has been endorsed as a deductible gift recipient, to meet Australian Taxation Office requirements
- expressly provide in the rules that no part of an association's income or property is to be distributed, paid or transferred by way of a bonus, dividend or other similar payment to the association's members.⁸

Additionally, SL No. 59 amends the *Collections Regulation 2008* (Collections Regulation) to:

... insert a similarly tiered reporting framework (based on annual revenue only) to that of incorporated associations into the Collections Regulation, in place of the existing mandatory audit requirement under the Collections legislative framework.⁹

4.2 Consistency with fundamental legislative principles

4.2.1 Rights and liberties of individuals - model rule grievance procedure

Fundamental legislative principles require legislation to have sufficient regard to the rights and liberties of individuals.¹⁰

The *Associations Incorporation Act 1981* (AI Act) provides that the rules of an incorporated association may set out a grievance procedure for dealing with a dispute under the rules,¹¹ and sets out the relevant requirements.¹² An association may adopt proposed rules by resolution passed at a meeting of the association, by the votes of at least three quarters of the association's members who are present and entitled to vote on the resolution.¹³

If the rules of an incorporated association do not set out a grievance procedure consistent with the AI Act's requirements, the rules are taken to include the provisions of the model rules providing for the grievance procedure.¹⁴

⁶ In accordance with the requirement of s 59 of the AI Act.

⁷ SL No. 59, explanatory notes, pp 2-3.

⁸ The explanatory notes (p 3) state that this amendment addresses the requirement of section 149C(5) of the *Taxation Administration Act 2001* (Qld) for associations that seek registration under that Act as a charitable institution in Queensland.

⁹ SL No. 59, explanatory notes, p 3.

¹⁰ *Legislative Standards Act 1992* (LSA), s 4(2).

¹¹ Being a dispute between: a member and another member, or a member and the management committee, or a member and the association. AI Act, s 47A(1).

¹² AI Act, ss 47A(2) to (5).

¹³ AI Act, s 6.

¹⁴ AI Act, s 47A(6).

The explanatory notes advise that associations and members will be required to make reasonable attempts to resolve their dispute under the grievance procedure in the rules prior to seeking the intervention of the Supreme Court.¹⁵

In addressing fundamental legislative principles, the explanatory notes state that:

... section 47A(6) of the AI Act (and by extension the model rule grievance procedure prescribed for [that] section ...) can have the effect of replacing previous rules that were voted on and supported by the association's members.

This ... is considered justified as the amendment is intended to ensure that the members of an incorporated association have access to a fair dispute resolution process, without subjecting incorporated associations to the burden of having to change their rules. Individual associations retain the ability to amend their rules if another grievance process is preferred.¹⁶

Committee comment

The committee is satisfied that SL No. 59 has sufficient regard to the rights and liberties of individuals given SL No. 59 provides for the model rule grievance procedure that is authorised by the AI Act to be prescribed by subordinate legislation, the model rule grievance procedure applies where the association does not already have an appropriate alternative procedure in its rules, and that the intention is to potentially alleviate associations of administrative burden and to provide a fair dispute resolution process for members.

4.2.2 Subdelegation of power – chief executive to determine other qualifications

The LSA provides that whether legislation has sufficient regard to the institution of Parliament depends on whether, for example, the subordinate legislation allows the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons, and if authorised by an Act.¹⁷

The explanatory notes acknowledge a potential inconsistency with fundamental legislative principles in relation to the subdelegation of powers under the *Collections Act 1966* (Collections Act):

The sub delegation issue relates to the chief executive's discretion to determine that a person has appropriate qualifications or experience to verify an authorised fundraiser's annual financial statement, despite the person not having the specific qualifications listed in the legislation.¹⁸

The explanatory notes state that:

- the Collections regulatory framework has for many decades provided for this subdelegation¹⁹
- section 17 of SL No. 59 retains the ability of the chief executive to determine other qualifications or experience.²⁰

According to the explanatory notes, the new risk-based (tiered) reporting scheme introduced into the Collections Act by SL No. 59²¹ means 'it is less likely that the chief executive will need to consider the suitability of financial statements being verified by persons with alternative qualifications other than those specified'.²²

¹⁵ SL No. 59, explanatory notes, p 5.

¹⁶ SL No. 59, explanatory notes, p 5.

¹⁷ LSA, s 4(5)(e).

¹⁸ SL No. 59, explanatory notes, p 5.

¹⁹ Originally in the Collections Act and later in regulation.

²⁰ SL No. 59, explanatory notes, pp 5, 6.

²¹ See SL No. 59, s 17 (Collections Regulation 2008, new ss 30C-30CB).

²² SL No. 59, explanatory notes, p 6.

The explanatory notes conclude that the subdelegation is justified, and state that:

As engagement with a finance professional is only mandatory when annual revenue exceeds \$150,000, the costs of verification are less likely to substantially consume a significant proportion of fundraising revenue.

However, there may still be particular situations in which the chief executive may consider that a person other than a person who currently holds the specified qualifications should be authorised to verify a financial statement. Allowing the chief executive this discretion enables a more responsive approach to the regulation of fundraising in Queensland.²³

Committee comment

The committee is satisfied that, in the circumstances, the subdelegation of legislative power to the chief executive has sufficient regard to the institution of Parliament, such that it is not inconsistent with fundamental legislative principles.

4.3 Compatibility with human rights

4.3.1 Right to privacy and reputation - disclosure of remuneration and other benefits

Under the HRA, a person has the right:

- not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with
- not to have the person's reputation unlawfully attacked.²⁴

Section 70D of the AI Act requires incorporated associations to disclose to the association's AGM the prescribed details of remuneration paid, or other benefits given, to management committee members and senior staff (and their relatives). SL No. 59 provides the details to be prescribed.

The explanatory notes for the Associations Incorporation and Other Legislation Bill 2019 (Bill),²⁵ sought to justify the disclosure requirement by providing that it:

... is intended to facilitate greater transparency and accountability within associations by giving association members who are not on the committee the information necessary to determine whether the remuneration or benefit provided is an appropriate use of the association's funds.²⁶

Although the explanatory notes concede that SL No. 59 may infringe the right to privacy, they contend that the:

... concerns are somewhat reduced by [SL No. 59's] requirement that incorporated associations need only disclose an aggregate of all remuneration and benefits paid by the association.

The approach is considered to balance the intent of the primary legislation (that association members be informed as to how the [association] uses its funds in respect of the remuneration of management committees and other personnel) with the privacy concerns of relevant individuals.²⁷

The human rights certificate concludes that no human right is newly engaged by these provisions and identifies them as 'consequential to policies that already exist in primary legislation or are advisory in nature'.²⁸

²³ SL No. 59, explanatory notes, p 6.

²⁴ HRA, s 25.

²⁵ Which inserted the disclosure requirement at section 70D of the AI Act.

²⁶ SL No. 59, explanatory notes, p 4.

²⁷ SL No. 59, explanatory notes, p 4.

²⁸ SL No. 59, human rights certificate, p 2.

Committee comment

The committee is satisfied that the subordinate legislation is compatible with human rights.²⁹

5 Justice Legislation (Allowances and Other Matters) Amendment Regulation 2023 (SL No. 60)

5.1 Policy objective

The Justice Legislation (Allowances and Other Matters) Amendment Regulation 2023 (SL No. 60), which commenced on 1 July 2023:

- applies the government indexation rate of 3.4 per cent for the 2023-24 financial year to allowances and remuneration prescribed by the:
 - *Criminal Code (Animal Valuers) Regulation 2014* (CCAV Regulation)
 - *Criminal Practice (Fees and Allowances) Regulation 2021* (CPFA Regulation)
 - *Jury Regulation 2017*
 - *Queensland Civil and Administrative Tribunal Regulation 2019* (QCAT Regulation)
 - *Uniform Civil Procedure (Fees) Regulation 2019* (UCPF Regulation)³⁰
- makes minor and technical amendments to the specified regulations,³¹ to replace references to the repealed *Public Service Act 2008* with the *Public Sector Act 2022*³²
- amends the *Recording of Evidence Regulation 2018* to replace the example for the prescribed rounding rules for fees.³³

6 Uniform Civil Procedure (Offers to Settle) Amendment Rule 2023 (SL No. 61)

6.1 Policy objective

The Uniform Civil Procedure (Offers to Settle) Amendment Rule 2023 (SL No. 61) amends the *Uniform Civil Procedure Rules 1999* (UCPR), in accordance with the *Supreme Court of Queensland Act 1991* (SCQ Act),³⁴ to:

- amend rules 360 and 361 to clarify the costs implications for parties to a proceeding resulting from offers to settle
- insert a new rule 361A to outline the costs implications resulting from an offer to settle where the plaintiff's proceeding is dismissed

²⁹ Section 8 of the *Human Rights Act 2019* (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 section 13 of the HRA. Section 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.

³⁰ The indexed amounts are rounded in accordance with the prescribed rounding rules or otherwise adjusted where required for administrative purposes. SL No. 60, explanatory notes, pp 1, 2.

³¹ Specifically, the CCAV Regulation, CPFA Regulation, QCAT Regulation, UCPF Regulation and Recording of Evidence Regulation 2018. SL No. 60, explanatory notes, p 1.

³² SL No. 60, explanatory notes, p 2.

³³ SL No. 60, explanatory notes, p 2.

³⁴ Section 85(1)(a) of the SCQ Act empowers the Governor in Council to make rules of court for the practices and procedures of the Supreme Court, the District Court or the Magistrates Courts or their registries. Section 85(2) of the SCQ Act states that such a rule made by the Governor in Council may only be made with the consent of the Rules Committee.

- provide transitional arrangements.³⁵

The explanatory notes state that provisions regarding costs implications for parties to a proceeding resulting from offers to settle are ‘aimed at encouraging parties to civil matters to attempt to resolve their cases before trial’.³⁶

7 Proclamation - Police Service Administration and Other Legislation Amendment Act 2023 (SL No. 63)

7.1 Policy objective

The Proclamation made under the *Police Service Administration and Other Legislation Amendment Act 2023* (SL No. 63) fixes 1 July 2023 for the commencement of the provisions of the Act that are not yet in force.³⁷

The provisions amend the *Disaster Management Act 2003*, *Fire and Emergency Services Act 1990* and *Police Service Administration Act 1990* and relate to the operations of Queensland Police Service and Queensland Fire and Emergency Service.³⁸

7.2 Human rights certificate

No human rights certificate was required to be tabled with the proclamation.³⁹

8 Fire and Emergency Services (Annual Contributions) Amendment Regulation 2023 (SL No. 69)

8.1 Policy objective

The Fire and Emergency Services (Annual Contributions) Amendment Regulation 2023 (SL No. 69) amends the *Fire and Emergency Services Regulation 2011* (Regulation) to apply annual indexation,⁴⁰ by increasing the fees and charges by 3.4 per cent from 1 July 2023.⁴¹

SL No. 69 also amends the date of the levy district map in section 7 of the Regulation, to reflect the levy districts and geographical boundaries for the current year.⁴²

Additionally, SL No. 69 makes the following amendments, from 1 July 2023, to the levy district map:

- removes the levy district name of Jimboomba
- prescribes a new levy district named Logan
- prescribes the levy district class A for the Logan Levy District.⁴³

³⁵ SL No. 60, human rights certificate, p 1.

³⁶ SL No. 61, explanatory notes, p 2.

³⁷ Being, part 2, division 3 of part 3, division 3 of part 5 and part 2 of schedule 1 of the Amendment Act. SL No. 63, explanatory notes, p 2.

³⁸ For detail on the specific provisions, see SL No. 63, explanatory notes, pp 1, 2.

³⁹ See HRA, s 41(4A).

⁴⁰ In accordance with the Queensland ‘s Government Indexation Policy.

⁴¹ Indexation is intended to maintain the value of a fee or charge over time, relative to the anticipated increase in associated costs. SL No. 69, explanatory notes, p 1.

⁴² SL No. 69, explanatory notes, p 1.

⁴³ SL No. 69, explanatory notes, p 2.

9 Uniform Civil Procedure and Other Rules Amendment Rule 2023 (SL No. 72)

9.1 Policy objective

The Uniform Civil Procedure and Other Rules Amendment Rule 2023 (SL No. 72) amends the scales of costs in the UCPR and the Domestic and Family Violence Protection Rules 2014 (DFVP Rules).

The explanatory notes elaborate:

[SL No. 72] adjusts the scales of costs for the Supreme, District and Magistrates Courts under the UCPR in line with a formula developed for the indexation of the scales of costs in the federal courts (the formula) based on movements in the consumer price index and wage price index since the scales were last increased in 2022.

[SL No. 72] increases the current scales of costs by 4.99% from 1 July 2023. Due to the effect of rounding certain amounts will be slightly more or less than an exact increase of 4.99%. ...

As the DFVP Rules scale of costs is based on schedule 2, part 3 of the UCPR, this scale of costs is also updated by [SL No. 72].⁴⁴

10 Magistrates Regulation 2023 (SL No. 73)

10.1 Policy objective

The Magistrates Regulation 2023 (SL No. 73) repeals and replaces the *Magistrates Regulation 2013*. The oaths and affirmations for magistrates, acting magistrates, judicial registrars and acting judicial registrars in SL No. 73 reflect the recent change of sovereign.⁴⁵

11 Gaming Machine Amendment Regulation 2023 (SL No. 74)

11.1 Policy objective

Generally, when category 1 licensed premises (commercial hotels and most commercial special facilities) sell a gaming machine operating authority, they must pay 33 per cent of the sale price to the Government's consolidated fund.⁴⁶ However, on 30 June 2022 the *Gaming Machine Regulation 2002* was amended to reduce the proportion of the sale price to 15 per cent for a trial period of 12 months. The objectives of the amendment were to encourage commercial hotel and commercial special facility licensees to offer unwanted operating authorities for sale and to support economic development in the hospitality sector.⁴⁷

The Gaming Machine Amendment Regulation 2023 (SL No. 74) extends the reduced sales commission period by 12 months to 30 June 2024. This is to provide additional time for the Queensland Government to 'complete a comprehensive evaluation of the effect of the reduced sales commission on the transfer of these operating authorities'.⁴⁸

12 Legal Profession (Society Rules) Amendment Notice (No. 2) 2023 (SL No. 79)

12.1 Policy objective

The Legal Profession (Society Rules) Amendment Notice (No. 2) 2023 (SL No. 79) gives notice of the making of the Legal Profession (Society) Amendment Rule (No. 2) 2023 (Amendment Rule) by the

⁴⁴ SL No. 72, explanatory notes, p 2.

⁴⁵ SL No. 73, human rights certificate, p 1; SL No.73, explanatory notes, p 1.

⁴⁶ Sales are by competitive tender, conducted by the Public Trustee of Queensland: *Gaming Machine Regulation 2002*, ss 10AB, 10B; *Gaming Machine Act 1991*, ss 109B, 109E; SL No. 74, explanatory notes, p 1.

⁴⁷ SL No. 74, explanatory notes, pp 1-2; SL No. 74, human rights certificate, p 1.

⁴⁸ SL No. 74, explanatory notes, p 1.

Queensland Law Society Council (Council).⁴⁹ The Notice is made at the request of the Queensland Law Society (QLS).⁵⁰

The explanatory notes provide that the Amendment Rule changes:

- a. the voting methodology to be adopted for Council elections requiring members to vote for exactly the number of ordinary member positions required to be elected; and
- b. the process for appointments to casual vacancies in the offices of ordinary members on Council occurring within the first 18 months of the ordinary member's term, removing the requirement to give QLS members the option to requisition an election for such vacancies and instead providing for a fair and flexible process for Council to make such appointments.⁵¹

13 Legal Profession (Interest on Fidelity Fund Claims) Amendment Regulation 2023 (SL No. 84)

13.1 Policy objective

The Legal Practitioners' Fidelity Guarantee Fund (Fund) was established to provide compensation for persons who have lost trust money or property due to a dishonest default by a law practice.⁵²

The objective of the Legal Profession (Interest on Fidelity Fund Claims) Amendment Regulation 2023 (SL No. 84) is 'to prescribe a rate of interest for claims against the Fund which more accurately reflects commercial rates available in the marketplace at the time the claim is made'.⁵³ The explanatory notes advise that '[i]mplementing [SL No. 84] will ... assist in preserving the corpus of the Fund for future claims by ensuring the rate of interest payable to claimants is aligned with the rate of returns which the Fund can reasonably achieve'.⁵⁴

To the extent a regulation does not provide for a rate of interest, the *Legal Profession Act 2007* provides that interest is to be calculated at 5 per cent per annum.⁵⁵

Under SL No. 84, the rate of interest prescribed is the rate equal to the bank bill yield rate for the day on which the claim was made. The 'bank bill yield rate' is defined as the monthly average yield of 3-month bank accepted bills published by the Reserve Bank of Australia for the month of May in the financial year immediately preceding the financial year in which the day occurs.⁵⁶

The rate of interest is fixed at the date of the claim and applies prospectively, so for claims already made, but not yet decided, interest will accrue at the rate of 5 per cent per annum.⁵⁷

14 Police Service Administration (Ranks of Officers) Amendment Regulation 2023 (SL No. 85)

14.1 Policy objective

Consequential to amendments made by the *Police Powers and Responsibilities and Other Legislation Amendment Act (No. 1) 2023* to establish a new category of special constables (State officer), the Police Service Administration (Ranks of Officers) Amendment Regulation 2023 (SL No. 85) expands the

⁴⁹ SL No. 79, explanatory notes, p 1. SL No. 79 amends the Legal Profession (Society Rules) Notice 2017.

⁵⁰ SL No. 79, explanatory notes, p 2.

⁵¹ SL No. 79, explanatory notes, pp 1-2.

⁵² SL No. 84, explanatory notes, p 1.

⁵³ SL No. 84, explanatory notes, p 1.

⁵⁴ SL No. 84, explanatory notes, p 2.

⁵⁵ *Legal Profession Act 2007*, s 384(3).

⁵⁶ SL No. 84, s 3 (Legal Profession Regulation 2017, new s 75A).

⁵⁷ SL No. 84, human rights certificate, p 1.

list of police officers in schedule 1 (Ranks and categories of officer) of the *Police Service Administration Regulation 2016* to include special constable (State officer).⁵⁸

15 Domestic and Family Violence Protection Regulation 2023 (SL No. 87)

15.1 Policy objective

The Domestic and Family Violence Protection Regulation 2023 (SL No. 87) repeals and replaces the *Domestic and Family Violence Protection Regulation 2012*. The explanatory notes advise that SL No. 87 is in 'substantially the same form' as the *Domestic and Family Violence Protection Regulation 2012*.⁵⁹

SL No. 87:

- prescribes the circumstances in which certain information relating to proceedings is permitted to be published
- declares interstate and foreign orders as recognised interstate orders, maintaining consistency across states and territories under the national recognition scheme for domestic and family violence orders
- prescribes how the clerk of the court may register New Zealand orders.⁶⁰

15.2 Compatibility with human rights

15.2.1 Right to privacy and reputation

Under the HRA, a person has the right:

- not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with
- not to have the person's reputation unlawfully attacked.⁶¹

SL No. 87 limits the right to privacy and reputation because, in specified circumstances, it permits the publication of information that identifies, or is likely to lead to the identification of, a person as a party, or a witness, or a child concerned in a proceeding under the *Domestic and Family Violence Protection Act 2012* (DFVP Act). The human rights certificate does not address this limitation on the right to privacy.

There are substantial penalties under the DFVP Act for publishing information given in evidence in a proceeding under the DFVP Act or information that identifies (or is likely to lead to the identification of) a person as a party or a witness or a child concerned with a proceeding. However, there are exceptions set out in the DFVP Act, including if the publication is permitted under a regulation.⁶²

Section 2 of SL No. 87 provides that information given in evidence in a proceeding under the DFVP Act or information that identifies (or is likely to lead to the identification of) a person as a party to, a witness in, or a child concerned in a proceeding, under the DFVP Act may be published if the information relates to:

- a proceeding that relates to a matter in the public domain, or

⁵⁸ SL No. 85, explanatory notes, pp 1-2. A special constable (State officer) is a person with policing experience who can be employed at short notice, on a basis other than part-time or full-time.

⁵⁹ SL No. 87, explanatory notes, p 2.

⁶⁰ SL No. 87, explanatory notes, p 2.

⁶¹ HRA, s 25.

⁶² DFVP Act 2012, s 159. The maximum penalty for an individual is 100 penalty units (\$15,480) or 2 years imprisonment, or for a corporation is 1,000 penalty units (\$154,800).

- a proceeding in which the community has a legitimate interest.

This provision, which is substantially the same as that under the replaced regulation, details when these circumstances apply.⁶³

The explanatory notes identify publication of information relating to proceedings being allowed in certain limited circumstances as a benefit of SL No. 87.⁶⁴

Committee comment

The committee is satisfied that the subordinate legislation is compatible with human rights.⁶⁵

16 Proclamation made under the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023 (SL No. 94)

16.1 Policy objective

The Proclamation made under the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* (SL No. 94) fixes 1 August 2023 for the commencement of the remaining uncommenced provisions of the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* (DFVPOLA Act).

The provisions commenced by SL No. 94:

- give effect to certain recommendations in the first report of the Women’s Safety and Justice Taskforce, *Hear her voice: Addressing coercive control and domestic and family violence in Queensland*
- modernise sexual offence terminology throughout the Criminal Code
- amend the *Youth Justice Act 1992* to provide specific mitigatory circumstances relating to domestic violence
- make consequential amendments to existing legislation.⁶⁶

The explanatory notes advise that commencement of the provisions relating to the Women’s Safety and Justice Taskforce first report:

... is likely to increase demands for courts, police and the legal profession due to the increase in numbers of matters coming before the courts, as well as an increase in the complexity of the matters being heard. This demand will be monitored and any costs impacts will be assessed and included in future budget processes.⁶⁷

16.2 Human rights certificate

No human rights certificate was required to be tabled with the proclamation.⁶⁸

⁶³ See Domestic and Family Violence Protection Regulation 2012, s 3.

⁶⁴ SL No. 87, explanatory notes, p 2.

⁶⁵ Section 8 of the *Human Rights Act 2019* (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 section 13 of the HRA. Section 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.

⁶⁶ SL No. 94, explanatory notes, p 1.

⁶⁷ SL No. 94, explanatory notes, p 2.

⁶⁸ See HRA, s 41(4A).

17 Criminal Practice Amendment Rule 2023 (SL No. 95)

17.1 Policy objective

The Criminal Practice Amendment Rule 2023 (SL No. 95) amends a number of forms in the *Criminal Practice Rules 1999* to reflect provisions of the Criminal Code amended by the DFVPOLA Act.

The amendments made to the Criminal Code by the DFVPOLA Act which are reflected in the amended forms, include:

- replacing the term ‘carnal knowledge’ with ‘penile intercourse’ in all offences in which that term appears
- replacing the title of the section 229B offence of ‘maintaining a sexual relationship with a child’ to ‘repeated sexual conduct with a child’
- renaming the offence of ‘unlawful stalking’ as it appears throughout Chapter 33A of the Criminal Code to ‘unlawful stalking, intimidation, harassment or abuse’
- creating a circumstance of aggravation under section 359F of the Criminal Code where a previous domestic violence offence has occurred.⁶⁹

18 Domestic and Family Violence Protection Amendment Rule 2023 (SL No. 96)

18.1 Policy objective

The Domestic and Family Violence Protection Amendment Rule 2023 (SL No. 96) amends the DFVP Rules⁷⁰ to support the operation of the amendments made by the DFVPOLA Act to the DFVP Act. It also addresses minor technical issues that had been identified in the DFVP Rules.⁷¹

The human rights certificate sets out how SL No. 96 supports the operation of the amendments:

- requiring a police officer to file an affidavit of attempted personal service if an application for a substituted service order is made under the DFVP Act in relation to personal service of a document on a respondent
- requiring a police officer to file a statement of substituted police service with the registry of the DFVP court, unless the court orders otherwise, if the police officer serves a document on a respondent under a substituted service order
- allowing the DFVP court to issue a direction to the police commissioner to provide the court a copy of the respondent’s criminal history and domestic violence history, unless this is not reasonable in the circumstances
- requiring the police commissioner to provide identical copies of the criminal history and domestic violence history to the respondent
- making technical changes to relevant language to ensure consistency across the DFVP Rules.⁷²

⁶⁹ SL No. 95, explanatory notes, p 1; SL No. 95, human rights certificate, p 1.

⁷⁰ The DFVP Rules apply to a proceeding in a DFVP court under the DFVP Act, and a registry of a DFVP court in relation to a proceeding under the DFVP Act. The DFVP Rules do not apply to an appeal under the DFVP Act. SL No. 96, explanatory notes, p 1.

⁷¹ SL No. 96, explanatory notes, p 1.

⁷² SL No. 96, human rights certificate, pp 1-2.

19 Public Trustee (Interest Rate) Amendment Regulation (No. 6) 2023 (SL No. 97)

19.1 Policy objective

The Public Trustee (Interest Rate) Amendment Regulation (No. 6) 2023 (SL No. 97) amends 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 August 2023, as follows:

Funds held for	Current Interest Rate	Proposed Interest Rate from 1 Aug 2023
Class 2(c) and Class 3 amounts: Financial Management Customers and Enduring Powers of Attorney Accounts	1.23%	1.48% ⁷³
Term Deposit amounts: Term Investment Accounts	1.35%	1.48% ⁷⁴

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'.⁷⁵ 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.⁷⁶

20 Recommendation

The committee recommends that the House notes this report.

Peter Russo MP

Chair

October 2023

Legal Affairs and Safety Committee

Chair

Deputy Chair

Members

Mr Peter Russo MP, Member for Toohey

Mrs Laura Gerber MP, Member for Currumbin

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

⁷³ SL No. 97, s 5; SL No. 97, explanatory notes, p 1.

⁷⁴ SL No. 97, s 4; SL No. 97, explanatory notes, p 1.

⁷⁵ SL No. 97, explanatory notes, p 1.

⁷⁶ SL No. 97, explanatory notes, p 2.