



Education, Employment and Small Business Committee

Report No. 32, 56th Parliament

Subordinate legislation tabled between 5 February 2020 and 17 March 2020

1 Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 5 February 2020 and 17 March 2020. 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*.

The report identifies any issues identified by the committee in its consideration of the human rights certificate tabled with the subordinate legislation in accordance with the *Human Rights Act 2019*.

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
24	Building and Construction Industry (Portable Long Service Leave) (Levy Changes) Amendment Regulation 2020	17 March 2020	16 September 2020

*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

No significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified.

The explanatory notes tabled with the regulations comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

4 Building and Construction Industry (Portable Long Service Leave) (Levy Changes) Amendment Regulation 2020 – SL 24

The objectives of the Building and Construction Industry (Portable Long Service Leave) (Levy Changes) Amendment Regulation 2020 (Amendment Regulation) are to remove the tiered levy structure which currently provides discounted levy rates to very large projects and replace it with a single levy rate for leviable matters, and increase the portable long service leave levy from 0.25 percent to 0.35 percent.

The *Building and Construction Industry (Portable Long Service Leave) Act 1991* (the PLSL Act) establishes a system of portable long service leave (PLSL) for eligible workers in the building and construction industry.¹

¹ Explanatory notes, p 1.

Section 72(1) of the PLSL Act provides a regulation may prescribe percentages of the cost of building and construction work as the amount imposed for the following—

- (a) building and construction industry training levy;
- (b) long service leave levy; and
- (c) work health and safety (WHS) levy.²

Actuarial advice to QLeave is that while the scheme is currently financially sound, under the existing levy arrangements the scheme's projected accrued benefit liabilities will not be covered by its assets from the 2021-22 financial year onwards.³

The Amendment Regulation seeks to improve the financial position and viability of Queensland's building and construction PLSL scheme by proposing a number of levy changes.⁴

As set out in the explanatory notes, the Amendment Regulation achieves this by:

1. *amending section 6 of the PLSL Regulation to remove arrangements which permit the current tiered levy structure and replace it with a single percentage rate for each of the three leviable matters. The percentages applied to the training levy and the WHS levy will be the same as those that currently apply to column 2 of Schedule 1 of the PLSL Regulation, that is 0.1% and 0.125% respectively;*
2. *increasing the prescribed rate for the long service leave levy column 2 of Schedule 1 of the PLSL Regulation from 0.25% to 0.35%; and*
3. *omitting Schedule 1 of the Regulation.*⁵

The explanatory notes state the changes will result in an increase to costs for building work, however in accordance with independent actuarial advice, this is necessary to ensure the ongoing financial viability of the PLSL scheme.⁶

A Consultation Regulatory Impact Scheme (RIS) on changes to the QLeave levies for the building and construction industry PLSL levy scheme was released on 3 May 2019. Submissions closed on 30 May 2019 and a total of 44 responses were received from various stakeholders. Results of the consultation process were published in the subsequent Decision RIS.⁷

4.1 Consideration of human rights compatibility

Section 8 of the *Human Rights Act 2019* (HRA) provides that a statutory provision is compatible with human rights if it 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 that Act.

Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

² Explanatory notes, p 2.

³ Explanatory notes, p 1.

⁴ Explanatory notes, p 2.

⁵ Explanatory notes, p 2.

⁶ Explanatory notes, p 2.

⁷ Explanatory notes, p 3.

In the human rights certificate accompanying the subordinate legislation, the Minister states:

I consider that the Building and Construction Industry (Portable Long Service Leave) (Levy Changes) Amendment Regulation 2020 is compatible with the Human Rights Act 2019 because it does not raise a human rights issue.⁸

The committee considers that the subordinate legislation raises no human rights issues.

4.2 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation.

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.

5 Recommendation

The committee recommends that the Legislative Assembly note this report.



Ms Leanne Linard MP
Chair
May 2020

Education, Employment and Small Business Committee

Chair	Ms Leanne Linard MP, Member for Nudgee
Deputy Chair	Mr Jim McDonald MP, Member for Lockyer
Members	Mr Bruce Saunders MP, Member for Maryborough Mrs Simone Wilson MP, Member for Pumicestone Mr Michael Healy MP, Member for Cairns Mr Nick Dametto MP, Member for Hinchinbrook

⁸ Hon Grace Grace MP, Minister for Education and Minister for Industrial Relations Human Rights Certificate, Building and Construction Industry (Portable Long Service Leave) (Levy Changes) Amendment Regulation 2020, p 2.