

## Economics and Governance Committee

### Report No. 7, 57th Parliament

## Subordinate legislation tabled between 27 November 2020 and 23 March 2021

### 1 Aim of this report

This report summarises the findings of the Economic and Governance Committee (committee) following its examination of the subordinate legislation within its portfolio areas tabled between 27 November 2020 and 23 March 2021. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, its consistency with fundamental legislative principles (FLPs),<sup>1</sup> its compatibility with human rights,<sup>2</sup> and its lawfulness.<sup>3</sup> It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),<sup>4</sup> and the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).<sup>5</sup>

### 2 Subordinate legislation examined

The committee examined the subordinate legislation listed in the table below.

| No. | Subordinate legislation  | Date tabled   | Disallowance date* |
|-----|--|---------------|--------------------|
| 018 | First Home Owner Grant and Other Home Owner Grants Regulation 2021 | 23 March 2021 | 17 June 2021       |
| 019 | Land Tax Regulation 2021   | 23 March 2021 | 17 June 2021       |

\* The disallowance date is 14 sitting days after the tabling date. (See section 50 of the *Statutory Instruments Act 1992*.) 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> Section 4 of the *Legislative Standards Act 1992* (LSA) states that FLPs are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to: a) rights and liberties of individuals, and b) the institution of Parliament.

<sup>2</sup> 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 s 13 of the HRA. 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 determining whether a limit on a human right is reasonable and justifiable.

<sup>3</sup> *Parliament of Queensland Act 2001*, s 93.

<sup>4</sup> LSA, Part 4. Section 24 sets out the information that must be included in the explanatory note for subordinate legislation which is required to be tabled in the Legislative Assembly with the subordinate legislation (LSA, s 22).

<sup>5</sup> Section 41(4) of the HRA provides that the portfolio committee responsible for examining subordinate legislation may, in examining the legislation, also consider the human rights certificate prepared by the responsible Minister for the subordinate legislation. The human rights certificate, which must be tabled in the Legislative Assembly with the subordinate legislation, must state: a) whether, in the responsible Minister’s opinion, the subordinate legislation is compatible with human rights, and if so, how it is compatible; and b) if, in the responsible Minister’s opinion, a part of the subordinate legislation is not compatible with human rights, the nature and extent of the incompatibility (see HRA, s 41(1)-(3)).

### 3 Committee consideration of the subordinate legislation

No significant issues were identified by the committee regarding the policy, consistency with FLPs, human rights compatibility, or lawfulness of the subordinate legislation.

The committee considered that the explanatory notes tabled with the two items of subordinate legislation comply with the requirements of part 4 of the LSA. Further, the human rights certificates tabled with the regulations provide a sufficient level of information to facilitate understanding of the regulations in relation to their compatibility with the HRA.

A brief overview of the regulations is provided below.

### 4 SL No. 18 of 2021 – First Home Owner Grant and Other Home Owner Grants Regulation 2021

The First Home Owner Grant and Other Home Owner Grants Regulation 2021 (SL No. 18 of 2021) replaces the First Home Owner Grant and Other Home Owner Grants Regulation 2010 (2010 Regulation), which was due to expire on 31 August 2021. The 2010 Regulation contained provisions necessary to support the First Home Owner Grant scheme, including provisions to determine whether a grant was payable and methods for repaying grants under the *First Home Owner Grant and Other Home Owner Grants Act 2000* (Act).

The replacement regulation is substantially the same in content as the 2010 Regulation, but contains minor changes to update cross-references to legislation and to expand the methods for making repayments under the Act (to include electronic payment methods such as direct debit and BPay).<sup>6</sup>

### 5 SL No. 19 of 2021 – Land Tax Regulation 2021

The Land Tax Regulation 2021 (SL No. 19 of 2021) replaces the Land Tax Regulation 2010, which was due to expire on 31 August 2021. The previous regulation contained provisions necessary to support the *Land Tax Act 2010* (Land Tax Act), including prescribing:

- primary production activities for the purposes of the primary production exemption
- ways to apply for a land tax clearance certificate and the associated fees
- matters relating to elections by taxpayers to pay land tax by instalments.<sup>7</sup>

SL No. 19 of 2021 largely replicates the content of the previous regulation. As mentioned in the explanatory notes, one exception is that the previous regulation permitted written applications for clearance certificates to be made either by mail or at particular offices of the department or state government, whereas SL No. 19 of 2021 provides that such applications may only be made by mail, as counter services are no longer offered for land tax matters.<sup>8</sup> There are also ‘minor changes necessary to facilitate the remake’ of the regulation.<sup>9</sup>

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<sup>6</sup> First Home Owner Grant and Other Home Owner Grants Regulation 2021 (SL No. 18 of 2021), explanatory notes, pp 2-3.

<sup>7</sup> SL No. 18 of 2021, explanatory notes, p 1.

<sup>8</sup> See SL No. 18 of 2021, s 3; SL No. 18 of 2021, explanatory notes, p 2. Clearance applications can also be made online (see SL No. 18 of 2021, s 3(1)(a)).

<sup>9</sup> SL No. 19 of 2021, explanatory notes, p 1.

## 6 Recommendation

The committee recommends that the House notes this report.



Linus Power MP

**Chair**

**April 2021**

### **Economics and Governance Committee**

|              |   |
|--------------|---|
| Chair        | Linus Power MP, Member for Logan  |
| Deputy Chair | Ray Stevens MP, Member for Mermaid Beach  |
| Members      | Michael Crandon MP, Member for Coomera<br>Melissa McMahon MP, Member for Macalister<br>Dan Purdie MP, Member for Ninderry<br>Adrian Tantari MP, Member for Hervey Bay |