

State Development and Regional Industries Committee

Report No. 25, 57th Parliament

Subordinate legislation tabled between 30 March and 24 May 2022

1 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
35	Rural and Regional Adjustment (Variation of Tourism Business Professional Advice Rebate Scheme) Amendment Regulation 2022	10 May 2022	31 August 2022
36	Rural and Regional Adjustment (Variation of Tourism and Hospitality Sector Hardship Grants Scheme) Amendment Regulation 2022	10 May 2022	31 August 2022
38	State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022	10 May 2022	31 August 2022
52	Agriculture and Fisheries Legislation (Fee Unit Conversion) Amendment Regulation 2022	10 May 2022	31 August 2022
54	Rural and Regional Adjustment (Rural Agricultural Development Grants Scheme) Amendment Regulation 2022	24 May 2022	14 September 2022

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

2 Summary of committee considerations

The committee examined subordinate legislation within its portfolio areas tabled between 30 March and 24 May 2022, with the exception of SL 45 of 2022 which will be considered in a separate report of the committee.

The committee did not identify any issues regarding the policy to be given effect, the fundamental legislative principles, or the lawfulness of the subordinate legislation. All explanatory notes accompanying the subordinate legislation complied with the requirements of section 24 of the *Legislative Standards Act 1992*.

The committee also considered compliance of the subordinate legislation with the *Human Rights Act 2019*. The committee was satisfied that the subordinate legislation is compatible with human rights, and that all human rights certificates provided a sufficient level of information to facilitate understanding of the subordinate legislation's compatibility with human rights.

A summary of the committee's examination of each item of subordinate legislation is discussed in the remainder of this report.

3 Rural and Regional Adjustment (Variation of Tourism Business Professional Advice Rebate Scheme) Amendment Regulation 2022 – SL No. 35

3.1 Overview

In response to the loss of income for tourism businesses as a result of the COVID-19 pandemic, the Queensland Government announced a \$2 million Queensland Tourism Business Financial Counselling Service (the Counselling Service) to assist tourism businesses.

The scheme was established in June 2021. Eligible businesses in the tourism industry were able to access a rebate to offset the cost of obtaining eligible professional advice on financial, legal and/or human resource matters.¹

The purpose of this amendment regulation is to provide ‘for a greater uptake of assistance and therefore provide benefit to more Queensland tourism businesses’ and will enable an expanded number of eligible tourism businesses to participate in the scheme.

Specifically, SL No. 35 amends:

- the scheme to include additional Australian and New Zealand Standard Industrial Classification (ANZSIC) codes of tourism industries to allow more eligible tourism businesses to apply for the rebate²
- the date for applications to be received by the Queensland Rural and Industry Development Authority (QRIDA), from 30 June 2022 to 31 December 2022, to provide more time for tourism business owners to lodge applications.³

The subordinate legislation also enables QRIDA to directly pay the professional service provider instead of requiring eligible businesses to pay for the cost of professional services up-front and then apply to receive a rebate from QRIDA.⁴

The sole reference to consultation in the explanatory notes is that the Department of Agriculture and Fisheries (DAF) consulted the Office of Best Practice Regulation (OBPR) which advised there are no significant adverse impacts beyond the financial impacts on the state in providing the rebate, and that no further regulatory impact analysis is required.⁵

3.2 Consistency with fundamental legislative principles

Fundamental legislative principles include requiring that legislation has sufficient regard to the institution of Parliament.⁶

Whether subordinate legislation has sufficient regard to the institution of Parliament depends on factors such as whether the subordinate legislation allows the subdelegation of a power delegated by an Act only: if authorised by an Act; or in appropriate cases and to appropriate persons.⁷

An external document, such as the ANZSIC code, that is not reproduced in full in subordinate legislation may not come to the attention of the House. In such circumstances, it may be argued that the document (and the process by which it is incorporated into the legislative framework) has insufficient regard to the institution of Parliament.

¹ SL No. 35, explanatory notes, p 1.

² SL No. 35, s 6.

³ SL No. 35, s 9; explanatory notes, p 2.

⁴ SL No. 35, explanatory notes, p 2.

⁵ SL No. 35, explanatory notes, p 3.

⁶ LSA, s 4(2).

⁷ LSA, s 4(5)(e).

When considering whether it is appropriate for such matters to be dealt with by an external document, committees typically take into account the importance of the subject matter dealt with and matters such as the practicality or otherwise of including those matters entirely in subordinate legislation.⁸

The explanatory notes acknowledge the potential breach of fundamental legislative principle, and provide the following justification:

It is desirable to refer to this document because applicants already identify their activities by reference to the ANZSIC codes in their dealings with government about various matters. The classifications are well understood and their use will assist businesses and organisations to more readily determine if they are eligible.⁹

Further, the ANZSIC code is published on the Australian Bureau of Statistics (ABS) website.

Committee comment

The committee is satisfied that the incorporation of an external document by SL No. 35 is justified, noting the wide usage of ANZSIC and that it is freely available online.

3.3 Explanatory notes

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992* (LSA).

3.4 Human rights considerations

The committee is satisfied that SL No. 35 is compatible with human rights.

3.4.1 Human rights certificate

The human rights certificate tabled with SL No. 35 provides a sufficient level of information to facilitate understanding of the compatibility with human rights.

4 Rural and Regional Adjustment (Variation of Tourism and Hospitality Sector Hardship Grants Scheme) Amendment Regulation 2022 – SL No. 36

4.1 Overview

The Tourism and Hospitality Sector Hardship Grants scheme (the scheme) was established to support Queensland tourism and hospitality businesses that were highly impacted by the COVID-19 pandemic. The scheme was open to eligible employing tourism and hospitality businesses and not-for-profit organisations and is jointly funded by the Commonwealth and Queensland governments.

The objective of the Rural and Regional Adjustment (Variation of Tourism and Hospitality Sector Hardship Grants Scheme) Amendment Regulation (SL No. 36) is to provide additional time for businesses to apply for financial assistance.¹⁰

Grant assistance was paid in 2 equal instalments, with a second payment application needed after the first payment was received to ensure the business or organisation still met key eligibility criteria. Since the closure of the second payment application period, approximately 5 per cent of approved applicants that received a first payment have not submitted a second payment application.¹¹ This is due to a variety of reasons, including that they were not aware or did not have sufficient opportunity to apply for the second payment by the closing date.

The objective of the Amendment Regulation is to ensure QRIDA can provide intended financial assistance to these businesses and organisations, by providing additional time for eligible

⁸ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: the OQPC Notebook*, p 170.

⁹ SL No. 35, explanatory notes, p 3.

¹⁰ SL No. 36, explanatory notes, pp 1-2.

¹¹ SL No. 36, explanatory notes, p 2.

businesses to make an application for a second payment and be assessed for eligibility for the second payment.

The sole reference to consultation in the explanatory notes is that DAF consulted the OBPR which advised that the proposal does not add to the burden of regulation and is unlikely to result in significant adverse impacts, and that no further regulatory impact analysis was required.¹²

4.2 Consistency with fundamental legislative principles

The committee identified no issues of fundamental legislative principle.

4.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

4.4 Compatibility with human rights

The explanatory notes raise the fundamental legislative principle regarding retrospectivity of legislation.¹³

Whether legislation has sufficient regard to the rights and liberties of individuals depends on factors such as whether the legislation adversely affects rights and liberties, or impose obligations retrospectively.¹⁴

As noted in the explanatory notes, the relevant provision is a 'beneficial provision'¹⁵ and there is no adverse impact on the rights and liberties of individuals. Rather, this provision operates for the benefit of individuals by providing an extended time period for which to apply for assistance.

Committee comment

The committee is satisfied that any potential breach of fundamental legislative principle is justified, given SL No. 36 grants eligible parties additional time to apply for financial assistance.

4.4.1 Human rights certificate

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

5 State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022 – SL No. 38

5.1 Overview

The objective of the State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022 (SL No. 38) is to amend the boundary of the Gladstone State Development Area (SDA) to reduce the size of the Gladstone SDA by replacing the plan reference number.

The amendment follows a strategic review of the Gladstone SDA boundary and development scheme by the Office of the Coordinator-General (OCG).

The land to be removed from the Gladstone SDA includes:

- land parcels where only a portion of the land is situated in the Gladstone SDA
- land now designated as Strategic Port Land

¹² SL No. 36, explanatory notes, p 3.

¹³ SL No. 36, explanatory notes, p 3.

¹⁴ LSA, s 4(3)(g).

¹⁵ See section 34 of the *Statutory Instruments Act 1992*.

- coastal areas that cannot be developed – road parcels and part of a seabed lease area.¹⁶

SL No. 38 is expected to reduce the regulatory burden and complexity on landowners by removing multiple planning authorities regulating a single lot of land, and align the boundary of the Gladstone SDA to be consistent with the purpose of the SDA.¹⁷

The explanatory notes advise the OCG undertook targeted consultation on a preliminary draft development scheme and precinct map with relevant State agencies, Gladstone Regional Council, and Gladstone Ports Corporation Limited between 1 July 2021 and 23 July 2021.¹⁸

Public consultation was undertaken on the potential variation to the boundary of the Gladstone SDA (and a draft development scheme) between 24 September 2021 and 8 November 2021, with 9 submissions received. Seventy-eight per cent of submissions were supportive or neutral regarding the potential boundary variation and draft development scheme for the Gladstone SDA.¹⁹

The explanatory notes advise that no changes to the potential boundary variation were required in response to submissions.²⁰

5.2 Consistency with fundamental legislative principles

The committee identified no issues of fundamental legislative principle.

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 SL No. 38 is compatible with human rights.

5.4.1 Human rights certificate

The human rights certificate tabled with SL No. 38 provides a sufficient level of information to facilitate understanding of compatibility with human rights.

6 Agriculture and Fisheries Legislation (Fee Unit Conversion) Amendment Regulation 2022 – SL No. 52

6.1 Overview

The objective of the Agriculture and Fisheries Legislation (Fee Unit Conversion) Amendment Regulation 2022 (SL No. 52) is to:

- convert the expression of regulatory fees and charges from a dollar amount to a fee unit amount²¹
- clarify that travel time is included in calculation of monitoring fees under the Drugs Misuse Regulation 1987.²² This is consistent with full cost recovery of monitoring activities which the fee was intended to achieve.²³

¹⁶ SL No. 38, human rights certificate, p 1.

¹⁷ SL No. 38, human rights certificate, p 2.

¹⁸ SL No. 38, explanatory notes, p 1.

¹⁹ SL No. 38, explanatory notes, p 4.

²⁰ SL No. 38, explanatory notes, p 4.

²¹ SL No. 52, explanatory notes, p 2.

²² SL No. 52, explanatory notes, p 2.

²³ SL No. 52, explanatory notes, p 2.

In 2021, the *Acts Interpretation Act 1954* (AI Act) was amended to introduce a fee unit model ‘to streamline the annual process for indexing regulatory fees’.²⁴ Under the AI Act, the amount of a fee is the number of dollars obtained by multiplying the value of a fee unit by the number of fee units.²⁵ The AI Act provides that the value of a fee unit is \$1 unless another amount is prescribed.²⁶

From 1 July 2022, the value of a fee unit will be \$1.025 except under specified legislation.²⁷

SL No. 52 has replaced dollar references with fee units in a number of regulations.²⁸

According to the explanatory notes, SL No. 52 will significantly reduce the administrative burden associated with annual indexation because indexation of the fees will be achieved automatically when the value of a fee unit under the AI Act is updated.²⁹

The explanatory notes advise that, given its machinery nature, there was no external consultation on SL No. 52.³⁰

6.2 Consistency with fundamental legislative principles

The committee is satisfied that SL No. 52 is compatible with human rights.

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 SL No. 52 is compatible with human rights.

6.4.1 Human rights certificate

The human rights certificate tabled with SL No. 52 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

7 Rural and Regional Adjustment (Rural Agricultural Development Grants Scheme) Amendment Regulation 2022 – SL No. 54

7.1 Overview

The objective of the Rural and Regional Adjustment (Rural Agricultural Development Grants Scheme) Amendment Regulation 2022 (SL No. 54) is to enable QRIDA to administer a grants scheme that will support job creation, innovation and economic growth in Queensland’s sheep and goat primary production industries.³¹

The scheme will provide for grants of up to \$200,000, with a dollar-for-dollar co-contribution from eligible applicants.³²

²⁴ Debt Reduction and Savings Bill 2021, explanatory notes, p 1.

²⁵ AI Act, s 48C.

²⁶ AI Act, s 48B.

²⁷ Acts Interpretation (Fee Unit) Regulation 2022, s 2, schedule 1.

²⁸ Agricultural Chemicals Distribution Control Regulation 2021, Animal Care and Protection Regulation 2012, Animal Management (Cats and Dogs) Regulation 2019, Biosecurity Regulation 2016, Brands Regulation 2012, Chemical Usage (Agricultural and Veterinary) Control Regulation 2017, Drugs Misuse Regulation 1987, Fisheries (General) Regulation 2019, Food Production (Safety) Regulation 2014, Veterinary Surgeons Regulation 2016.

²⁹ SL No. 54, explanatory notes, p 2.

³⁰ SL No. 54, explanatory notes, p 3.

³¹ SL No. 54, explanatory notes, p 1.

³² SL No. 54, explanatory notes, p 2.

Eligible activities for the grants are those that will create employment within, or increase the sale or value of, products or materials derived from sheep and goat primary production in relevant rural areas of Queensland. Eligible entities could include businesses employing fewer than 250 full time staff, primary producer representative organisations, Queensland universities and local governments.³³

The scheme is designed to support not only sheep and goat primary production enterprises, but also businesses along the supply chain of sheep and goat products and businesses that use sheep and goat-derived materials in their products or activities.³⁴

Applications for funding under the scheme will be assessed against their capacity to create employment or to provide a significant economic benefit related to sheep or goat industry participants in a relevant rural area.³⁵

To be eligible for funding, applicants must demonstrate to QRIDA's satisfaction that they can provide a matching co-contribution to the amount sought and that they have adequate experience or other qualifications to give them a reasonable prospect of success in carrying out the activity.³⁶

A total of \$4 million has been allocated to the scheme.³⁷

The explanatory notes advise that consultation was undertaken with the AgForce Sheep and Wool Board, Australian Meat Industry Council, Goat Industry Council of Australia, Meat and Livestock Australia, independent micro-processors, and Western Meat Exporters through the development of *Queensland's Sheep and Goat Meat Strategy*.³⁸

The explanatory notes state that the consultation identified that existing industry participants were the most likely to invest into the supply chain, but have limited scope to access external investors. A co-contribution program was identified as the most likely way to provide funds to participants in the sheep and goat meat sectors.³⁹

7.2 Consistency with fundamental legislative principles

Legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.⁴⁰

SL No. 54 sets out who is eligible to apply for assistance, the nature and amount of assistance, how the scheme is to operate, and the criteria that QRIDA is to take into account in making its decision whether to accept or reject an applicant's expression of interest and application.

SL No. 54 provides for internal review of a rejection of an expression of interest,⁴¹ a refusal to approve an application, and other matters relating to an application or assistance.⁴²

Committee comment

The committee is satisfied that SL No. 54 has sufficient regard to the rights and liberties of individuals. This is because SL No. 54 outlines the criteria that QRIDA is to take into account when making its decision whether to accept or reject an applicant's expression of interest and application, and provides the opportunity to apply for an internal review of a number of decisions.

³³ SL No. 54, explanatory notes, p 2.

³⁴ SL No. 54, explanatory notes, p 2.

³⁵ SL No. 54, explanatory notes, p 2.

³⁶ SL No. 54, explanatory notes, p 2.

³⁷ SL No. 54, explanatory notes, p 3.

³⁸ SL No. 54, explanatory notes, p 3.

³⁹ SL No. 54, explanatory notes, pp 3-4.

⁴⁰ *Legislative Standards Act 1992*, s 4(3)(a).

⁴¹ SL No. 54, sch 41, s 10(6); *Rural and Regional Adjustment Act 1994*, s 12(1)(a), pt 3A.

⁴² *Rural and Regional Adjustment Act 1994*, s 12, pt 3A.

7.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

7.4 Compatibility with human rights

The committee is satisfied that SL No. 54 is compatible with human rights.

7.4.1 Human rights certificate

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

8 Recommendations

The committee recommends that the House notes this report.



Chris Whiting MP

Chair

August 2022

State Development and Regional Industries Committee

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