

State Development and Regional Industries Committee

Report No. 27, 57th Parliament

Subordinate legislation tabled between 22 June and 16 August 2022

Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
75	Planning Legislation (Fee Unit Conversion and Other Amounts) Amendment Regulation 2022	16 August 2022	27 October 2022
89	Rural and Regional Adjustment (Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2022	16 August 2022	27 October 2022
90	Rural and Regional Adjustment (Electric Vehicle Charging Infrastructure Scheme) Amendment Regulation 2022	16 August 2022	27 October 2022
91	Rural and Regional Adjustment Amendment Regulation 2022	16 August 2022	27 October 2022
104	Royal National Agricultural and Industrial Association of Queensland Regulation 2022	16 August 2022	27 October 2022
105	Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment Regulation 2022	16 August 2022	27 October 2022

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

Summary of committee considerations

The committee examined the above subordinate legislation within its portfolio areas tabled on 16 August 2022.

The committee did not identify any issues regarding the policy to be given effect by the subordinate legislation or its lawfulness. The committee considered fundamental legislative principle issues as part of its examination. In all cases the committee was satisfied that any potential breaches, were appropriate and sufficiently justified.

The committee considered the compatibility of the subordinate legislation with human rights. The committee was satisfied the legislation raised no human rights issues, and that certificates provided with the subordinate legislation provided a sufficient level of information to aid understanding of the human rights issues.

A summary of the committee's examination of each item of subordinate legislation is provided below.

1 Planning Legislation (Fee Unit Conversion and Other Amounts) Amendment Regulation 2022 – SL No. 75

1.1 Policy Overview

The objectives of the Planning Legislation (Fee Unit Conversion and Other Amounts) Amendment Regulation 2022 (SL No. 75) are to amend:

- the expression of certain fees and charges in the Planning Regulation 2017 and Regional Planning Interests Regulation 2014 from dollars to fee units¹
- the prescribed amounts in schedule 16 of the Planning Regulation 2017 in line with the producer price index (PPI).²

The purpose of the change to fee units is to reduce the administrative burden of amending multiple regulations each year. By referencing fee units, rather than dollars, multiple instruments can be amended simultaneously by amending a single regulation that specifies the value of a fee unit.³

SL No. 75, which was notified on 24 June 2022, maintained the value of the prescribed fees by replacing the dollar values with the equivalent fee unit.

The value of a fee unit increased to \$1.025 on 1 July 2022.⁴

On 1 July 2022, SL No. 75 amended the prescribed amounts in schedule 16 of the Planning Regulation 2017 in line with the PPI.⁵ For 2022-23, this is 1.31%.⁶ These prescribed amounts are out of scope of the fee unit model and continue to be expressed in dollars.⁷

1.2 Consistency with fundamental legislative principles

The committee did not identify any issues regarding the subordinate legislation's consistency with fundamental legislative principles or its lawfulness.

1.3 Explanatory notes

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

1.4 Compatibility with human rights

The committee is satisfied that subordinate legislation raises no human rights issues.

1.5 Human rights certificate

Section 41 of the HRA requires that the Minister responsible 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.

¹ SL No. 75, explanatory notes, p 1-2.

² SL No. 75, explanatory notes, p 1. The PPI is defined in schedule 2 of the *Planning Act 2016* as: the producer price index for construction 6427.0 (ABS PPI) index number 3101—Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

³ SL No. 75, explanatory notes, p 1.

⁴ Acts Interpretation (Fee Unit) Regulation 2022, s 2.

⁵ SL No. 75, explanatory notes, p 1. The PPI is defined in schedule 2 of the *Planning Act 2016* as: the producer price index for construction 6427.0 (ABS PPI) index number 3101—Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

⁶ SL No. 75, explanatory notes, p 2.

⁷ SL No. 75, explanatory notes, p 2.

2 Rural and Regional Adjustment (Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2022 – SL No. 89

2.1 Policy Overview

The objective of the Rural and Regional Adjustment (Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2022 (SL No. 89) is to provide for a scheme, which grants \$3,000 to eligible applicants who purchase a new zero emission vehicle.⁸

The scheme is available to individuals who:

- reside in Queensland
- have purchased a zero emission vehicle on or after 16 March 2022, which has not been previously registered and has a value of \$58,000 or less
- have not already received funding under the scheme, or a scheme of another State.⁹

The scheme is also available to businesses who hold an Australian Business Number, are headquartered in Queensland and have not received more than 5 rebates in a financial year.¹⁰

The Queensland Rural and Industry Development Authority (QRIDA) will administer the Scheme.

The Scheme forms part of the Queensland's Zero Emission Vehicle Strategy 2022-32 (Strategy) and Action Plan 2022-2024, which according to the notes, was based on 'extensive consultation' by the Department of Transport and Main Roads with a wide range of stakeholders. That consultation identified the high purchase price of zero emission vehicles in Queensland when compared to the price of internal combustion engine vehicles, as a significant barrier to purchasing new zero emission vehicles.¹¹ The scheme seeks to address this barrier.

2.2 Consistency with fundamental legislative principles

2.2.1 Retrospectivity

SL No. 89 is applicable to zero emission vehicles registered on or after 16 March 2022. Legislation is not to adversely affect the rights and liberties of individuals, or impose obligations, retrospectively.¹² While SL No.89 has retrospective application, it provides a benefit to individuals, rather than an adverse impact.

2.2.1.1 Committee comment

The committee is satisfied that SL No. 89 has sufficient regard to the rights and liberties of individuals, noting that the impact is positive.

2.3 Explanatory notes

The explanatory notes comply with Part 4 of the LSA.

2.4 Compatibility with human rights

The committee is satisfied that subordinate legislation raises no human rights issues.

2.5 Human rights certificate

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.

⁸ SL No. 89, explanatory notes, p 1.

⁹ SL No. 89, explanatory notes, p 2.

¹⁰ SL No. 89, explanatory notes, p 2.

¹¹ SL No. 89, explanatory notes, p 11.

¹² *Legislative Standards Act 1992*, s 4(3)(g).

3 Rural and Regional Adjustment (Electric Vehicle Charging Infrastructure Scheme) Amendment Regulation 2022 – SL No. 90

3.1 Policy Overview

The objective of the Rural and Regional Adjustment (Electric Vehicle Charging Infrastructure Scheme) Amendment Regulation 2022 (SL No. 90) is to provide for a scheme to support the development of additional public fast charging infrastructure across Queensland. The Queensland Rural and Industry Development Authority (QRIDA) will administer the \$10 million scheme.¹³

The investment in fast charging infrastructure aims to overcome barriers to the uptake of zero emission vehicles, such as reducing consumer ‘range’ anxiety and improving regional connectivity.¹⁴ This in turn is intended to increase zero emission vehicle visits to Queensland regional tourist areas.¹⁵

QRIDA is only permitted to provide financial assistance under an approved scheme prescribed by regulation. SL No. 90 allows QRIDA to provide financial assistance in the form of a grant. Grants are available up to a maximum of \$3 million, or 50% of the costs.¹⁶

The explanatory notes state that consultation on the Strategy (discussed in 2.1 above) identified that a significant barrier to the purchase of zero emission vehicles in Queensland is a perceived lack of accessible fast charging infrastructure.¹⁷ The scheme seeks to address this barrier.

3.2 Consistency with fundamental legislative principles

The committee did not identify any issues regarding the subordinate legislation’s consistency with fundamental legislative principle or its lawfulness.

3.3 Explanatory notes

The explanatory notes comply with Part 4 of the LSA.

3.4 Compatibility with human rights

The committee is satisfied that subordinate legislation raises no human rights issues.

3.5 Human rights certificate

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.

4 Rural and Regional Adjustment Amendment Regulation 2022 – SL No. 91

4.1 Policy Overview

The objective of the Rural and Regional Adjustment Amendment Regulation 2022 (SL No. 91) is to:

- extend the Household Waste Payment Scheme (HWPS) until 30 June 2026
- extend the Vessel Tracking Rebate Scheme (VTRS) until 30 June 2024.

The HWPS provides financial assistance for eligible individuals, or proprietors applying on behalf of eligible households, which are directly affected by the waste disposal levy.¹⁸ The scheme was first

¹³ SL No. 90, explanatory notes, pp 2-3.

¹⁴ SL No. 90, explanatory notes, p 2

¹⁵ SL No. 90, explanatory notes, p 2.

¹⁶ SL No. 90, explanatory notes, p 2.

¹⁷ SL No. 90, explanatory notes, p 2.

¹⁸ SL No. 91, explanatory notes, p 1.

introduced on 1 July 2019 to offset the introduction of a waste levy.¹⁹ The Queensland Government made a commitment that the waste levy would have no direct impact on households.²⁰

The explanatory notes state that applicants who have accessed the HWPS have been consulted and are in favour of its continuation.²¹

On 1 January 2019, mandatory vessel tracking was introduced on net, line, and crab commercial fishing vessels. Commercial harvest fisheries and the remainder of trawl fisheries were required to have vessel tracking by 1 January 2020. The VTRS was introduced by the Queensland Government in partnership with the Great Barrier Reef Marine Park Authority to assist in the implementation of vessel tracking. Due to delays in implementing vessel tracking, the rebate scheme has been extended.²²

The explanatory notes also state that consultation from 2018-19 for the VTRS was considered sufficient to support continuation of the scheme. The Great Barrier Reef Marine Park Authority was also consulted, and indicated its continuing support, subject to a report being provided by the Department of Agriculture and Fisheries on the disbursement of the funds.²³

4.2 Consistency with fundamental legislative principles

The committee did not identify any issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness.

4.3 Explanatory notes

The explanatory notes comply with Part 4 of the LSA.

4.4 Compatibility with human rights

The committee is satisfied that subordinate legislation raises no human rights issues.

4.5 Human rights certificate

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 Royal National Agricultural and Industrial Association of Queensland Regulation 2022 – SL No. 104

5.1 Policy Overview

The Royal National Agricultural and Industrial Association of Queensland Regulation 2022 (SL No. 104) prescribes certain land owned by the Royal National and Agricultural Association of Queensland (Association) as 'prescribed land', in accordance with the *Royal National Agricultural and Industrial Association of Queensland Act 1971* (RNA Act).²⁴

The Association is established under the RNA Act to carry out the purposes and objects of the Association which include holding the annual Royal Brisbane Show (EKKA), and numerous community, cultural and trade events.²⁵

¹⁹ SL No. 91, explanatory notes, p 1.

²⁰ SL No. 91, explanatory notes, p 1.

²¹ SL No. 91, explanatory notes, p 3.

²² SL No. 91, explanatory notes, p 2.

²³ SL No. 91, explanatory notes, p 3.

²⁴ SL No. 104; RNA Act, ss 17D-17F.

²⁵ SL No. 104; RNA Act, ss 17D-17F.

By prescribing the land, SL No. 104 will restrict the land's sale, protect it from creditor claims if the Association becomes insolvent, and prevent the land from being mortgaged, charged or made the subject of a lien to any person, except the Queensland Treasury Corporation (QTC).²⁶

Although it repeals the Royal National Agricultural and Industrial Association of Queensland Regulation 2010, SL No. 104 is a remake of that regulation, with limited changes.²⁷ The changes are listing the lots that are prescribed land in a schedule of the SL No. 104 and stating that the department has plans of the lots available for inspection.²⁸

The proposed remake of the regulation was supported by the Royal National Agricultural and Industrial Association of Queensland with no suggested amendments.²⁹

5.2 Consistency with fundamental legislative principles

The committee did not identify any issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness.

5.3 Explanatory notes

The explanatory notes comply with Part 4 of the LSA.

5.4 Compatibility with human rights

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 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 deciding whether a limit on a human right is reasonable and justifiable.

The following human rights were identified as being limited, but in a way that is reasonable and demonstrably justified.

5.4.1 Cultural rights

Persons with a particular cultural, religious, racial or linguistic background must not be denied the right to enjoy their culture and to practise their religion.³⁰

The HRA recognises that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights.³¹

According to the human rights certificate, although SL No. 104 limits the rights of Aboriginal Peoples to use the land as appropriate under Aboriginal tradition:

The regulation protects the general public interest to ensure that the people of Queensland continue to enjoy the EKKA experience, and that essential land for the EKKA event was not encumbered by the association... [and] provides a fair balance between protecting the general public interest and Section 28 Cultural Rights under the Human Rights legislation.³²

5.4.2 Property rights

A person must not be arbitrarily deprived of their property.³³

²⁶ SL No. 104, explanatory notes, p 2.

²⁷ SL No. 104, human rights certificate, p 3.

²⁸ SL No. 104, section 2.

²⁹ SL No. 104, p 2.

³⁰ HRA, s 27.

³¹ HRA, s 28.

³² SL No. 104, human rights certificate, p 3.

³³ HRA, s 24.

The human rights certificate states that SL No. 104 limits the right of the association to own the prescribed land as QTC holds registered mortgages over prescribed land.³⁴

5.4.2.1 *Committee comment*

The committee is satisfied that the subordinate legislation is compatible with human rights, and that the potential limitations to cultural and property rights are reasonable and demonstrably justified.

5.5 Human rights certificate

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

6 Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment Regulation 2022 – SL No. 105

6.1 Policy Overview

The primary purpose of the Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment Regulation 2022 (SL No. 105) is to amend the Rural and Regional Adjustment Regulation 2011 to enable the Queensland Rural and Industry Development Authority (QRIDA) to administer the Resilient Homes Assistance Scheme (scheme).³⁵

SL No. 105 establishes the scheme as an approved assistance scheme under the *Rural and Regional Adjustment Act 1994* enabling QRIDA to provide grants to Queensland homeowners whose homes were inundated by recent floods, to either raise the house above the defined flood level or incorporate flood resilient design and materials in liveable rooms or areas.³⁶

The explanatory notes state that, through the scheme, an eligible homeowner will be able to:

... apply either for funding up to \$50,000 toward repairing or retrofitting under the Resilient Retrofit Program, or up to \$100,000 towards the cost of raising homes under the Resilient Home Raising Program.

A co-contribution by the homeowner is required for funding above these thresholds. Homeowners in genuine hardship may be eligible to have the co-contribution requirement waived if they can demonstrate genuine hardship.³⁷

The scheme will commence 15 August 2022 and operate until 30 June 2024 or until the funds are exhausted.³⁸

6.2 Consistency with fundamental legislative principles

The committee did not identify any issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness.

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 subordinate legislation raises no human rights issues.

³⁴ SL No. 104, human rights certificate, p 2.

³⁵ SL No. 105, human rights certificate, p 2.

³⁶ SL No. 105, human rights certificate, p 2.

³⁷ SL No. 105, explanatory notes, p 2.


³⁸ SL No. 105, explanatory notes, p 2.

6.5 Human rights certificate

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.

7 Recommendation

The committee recommends that the House notes this report.



Chris Whiting MP

Chair

September 2022

State Development and Regional Industries Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
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