

## State Development and Regional Industries Committee

Report No. 30, 57th Parliament

Subordinate legislation tabled between 17 August and 30 August 2022

### 1 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
107	Water Plan (Fitzroy Basin) (Postponement of Expiry) Notice 2022	30 August 2022	10 November 2022
114	Energy and Water Ombudsman Regulation 2022	30 August 2022	10 November 2022
116	Sugar Industry Regulation 2022	30 August 2022	10 November 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 the above subordinate legislation within its portfolio areas tabled on 30 August 2022.

The committee did not identify any issues regarding the policy to be given effect by the legislation or its lawfulness. The committee considered fundamental legislative principle issues as part of its examination. The committee did not identify any inconsistencies with fundamental legislative principles. All explanatory notes complied with the *Legislative Standards Act 1992*.

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.

### 3 Water Plan (Fitzroy Basin) (Postponement of Expiry) Notice 2022 – SL No. 107

#### 3.1 Policy Overview

The objective of the Water Plan (Fitzroy Basin) (Postponement of Expiry) Notice 2022 – SL No. 107 (SL 107) is to postpone the expiry of the Water Plan (Fitzroy Basin) 2011 (Water Plan). The Water Plan was due to expire on 1 September 2022.<sup>1</sup>

<sup>1</sup> Explanatory notes, p 1.

The Minister can postpone the expiry of a water plan under section 55(2) of the *Water Act 2000* (Water Act). SL 107 will postpone the expiry of the Water Plan until 30 August 2025 and allow time for a replacement Water Plan is developed in accordance with the Water Act.<sup>2</sup>

According to the explanatory notes, postponing the expiry of the Water Plan means it will continue to operate and advance the sustainable management of water in the Fitzroy Water Plan area while a new water plan is developed.

The explanatory notes state that consultation is not required for a Postponement of Expiry Notice published under section 55(2) of the Water Act, however the replacement Water Plan will be developed subject to the consultation provisions of the Water Act.<sup>3</sup>

### **3.2 Consistency with fundamental legislative principles**

No issues regarding the subordinate legislation's consistency with fundamental legislative principles were identified.

### **3.3 Explanatory notes**

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

### **3.4 Compatibility with human rights**

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

### **3.5 Human rights certificate**

Section 41 of the Human Rights Act 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.

## **4 Energy and Water Ombudsman Regulation 2022 – SL No. 114**

### **4.1 Policy Overview**

The Energy and Water Ombudsman Regulation 2022 – SL No. 114 (SL 114) is established under the Energy and Water Ombudsman Act 2006 (EWO Act). It repeals and remakes the Energy and Water Ombudsman Regulation 2007, which expires on 31 August 2022.

SL 114 primarily relates to the energy portfolio. As such, the committee will not comment in detail on this regulation, as the policy will also be considered by the Transport and Resources Committee.

### **4.2 Consistency with fundamental legislative principles**

The committee identified no 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 Legislative Standards Act.

### **4.4 Compatibility with human rights**

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

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<sup>2</sup> Explanatory notes, p 1.

<sup>3</sup> Explanatory notes, p 2.

#### 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 Sugar Industry Regulation 2022 – SL No. 116

#### 5.1 Policy Overview

The objective of the Sugar Industry Regulation 2022 – SL No. 116 (SL 116) is to remake the Sugar Industry Regulation 2010 (2010 regulation) with minor amendments that bring local government areas (LGA) and regional divisions up-to-date.<sup>4</sup>

Under the 2010 regulation and the *Sugar Industries Act 1999* (Sugar Industries Act), Queensland sugarcane growers can collectively bargain with mills in their LGA.<sup>5</sup>

The Sugar Industries Act states an LGA is an area prescribed by regulation.<sup>6</sup> Some of the LGAs in the 2010 regulation do not reflect the existing local government boundaries and need to be updated.

The 2010 regulation was due to expire on 31 August 2022. Regulations normally expire after 10 years in accordance with the *Statutory Instruments Act 1992* and the Statutory Instruments Regulation 2012.

The Sugar Industry Regulation 2010 lasted longer than 10 years to provide enough time for a sunset review. The review concluded that the regulation should be remade.<sup>7</sup>

The following stakeholders were consulted during the sunset review of the Sugar Industry Regulation 2010 and the remake of the Regulation in December 2021:

- Australian Sugar Milling Council (ASMC)
- CANEGROWERS
- Australian Cane Farmers Association
- AgForce Queensland
- Pioneer Cane Growers Organisation
- Kalamia Cane Growers Organisation Ltd
- Bundaberg Sugar Group
- WH Heck and Sons Pty Ltd (cane growers and owners of the Rocky Point sugar mill)
- Far Northern Milling Pty Ltd (owners of the Mossman sugar mill)

All cane grower stakeholders requested that the Sugar Industry Regulation 2010 be remade on the basis that it provides necessary protections for cane growers who are not protected by the CANEGROWERS authorisation.<sup>8</sup>

The CANEGROWERS authorisation is an authorisation granted by the Australian Competition and Consumer Commission (ACCC) to CANEGROWERS in 2017. It allows CANEGROWERS to collectively bargain with mills on behalf of its members. In 2021, the ACCC extended a collective bargaining exemption to all small businesses with an annual turnover of less than \$10 million.<sup>9</sup>

<sup>4</sup> Explanatory notes, p 1.

<sup>5</sup> Explanatory notes, p 1.

<sup>6</sup> *Sugar Industry Act 1999*, s 237(4).

<sup>7</sup> Explanatory notes, p 1.

<sup>8</sup> Explanatory notes, p 3.

<sup>9</sup> Explanatory notes, p 2.

While the CANEGROWERS authorisation and the ACCC small business exemption cover the majority of cane growers, they do not cover cane growers who have a turnover higher than \$10 million per year, or who do not wish to collectively bargain under the auspices of CANEGROWERS.

SL 116 ensures those canegrowers who are not CANEGROWERS members, or who do not wish to bargain under CANEGROWERS auspices, or have a higher turnover than \$10 million, may still access collective bargaining options.<sup>10</sup>

## **5.2 Consistency with fundamental legislative principles**

The committee identified no 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 Legislative Standards Act.

## **5.4 Compatibility with human rights**

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

## **5.5 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.

# **6 Recommendation**

The committee recommends that the House notes this report.



Chris Whiting MP

**Chair**

**October 2022**

## **State Development and Regional Industries Committee**

<b>Chair</b>	Mr Chris Whiting MP, Member for Bancroft
<b>Deputy Chair</b>	Mr Jim McDonald MP, Member for Lockyer
<b>Members</b>	Mr Michael Hart MP, Member for Burleigh
	Mr Robbie Katter MP, Member for Traeger
	Mr Jim Madden MP, Member for Ipswich West
	Mr Tom Smith MP, Member for Bundaberg

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<sup>10</sup> Explanatory notes, p 3.