

## Transport and Resources Committee

### Report No. 22, 57th Parliament

#### Subordinate legislation tabled between 22 June 2022 and 30 August 2022

#### 1 Aim of this report

This report summarises the committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled between 22 June 2022 and 30 August 2022. 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*.<sup>1</sup>

The report identifies any issues identified by the committee in its consideration of the human rights certificate[s] tabled with the subordinate legislation.<sup>2</sup>

#### 2 Subordinate legislation examined

No. of 2022	Subordinate legislation	Date tabled	Disallowance date*
78	Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022	16 August 2022	28 October 2022
84	Resources Legislation (Fees) Amendment Regulation 2022	16 August 2022	28 October 2022
112	Geothermal Energy Regulation 2022	30 August 2022	10 November 2022
114	Energy and Water Ombudsman Regulation 2022	30 August 2022	10 November 2022

#### 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 committee considers explanatory notes tabled with the subordinate legislation comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

The committee considers that the subordinate legislation raise no human rights issues. The human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.<sup>3</sup>

<sup>1</sup> *Legislative Standards Act 1992*, Part 4.

<sup>2</sup> *Human Rights Act 2019*, s 41.

<sup>3</sup> *Human Rights Act 2019*, s 41.

#### **4 SL No. 78 of 2022 - Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022**

The objective of the Energy and Public Works Legislation (Fee Unit Conversion) Amendment Regulation 2022 (SL No. 78) is to amend the expression of fees and charges in the following regulations from dollars to fee units:

- Architects Regulation 2019
- Building Industry Fairness (Security of Payment) Regulation 2018
- Building Regulation 2021
- Electricity Regulation 2006
- Gas Supply Regulation 2007
- Plumbing and Drainage Regulation 2019
- Professional Engineers Regulation 2019
- Queensland Building and Construction Commission Regulation 2018.<sup>4</sup>

SL No. 78 is intended 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.<sup>5</sup>

The value of a fee unit increased from one dollar to \$1.025 on 1 July 2022,<sup>6</sup> the day of the commencement of SL No. 78.<sup>7</sup>

The Building Industry Fairness (Security of Payment) Regulation 2019 has certain fees that increase incrementally based on thresholds of progress payment values. The threshold figures require updating annually to align with the Government Indexation Rate. Therefore, a standalone amendment will be required annually to reflect these increases.<sup>8</sup>

SL No. 78 also amends the Gas Supply Regulation 2007 by amending the formula that is used to calculate the annual distribution fee. Because this formula contains a multiplier that is not expressed as a dollar value, it is not suitable to be converted to a fee unit value. This fee has increased in line with the Government Indexation Rate.<sup>9</sup>

##### **4.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

##### **4.2 Explanatory notes**

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

##### **4.3 Human rights considerations**

The committee is satisfied that the subordinate legislation is compatible with human rights.<sup>10</sup>

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<sup>4</sup> SL No. 78, explanatory notes, p 2.

<sup>5</sup> SL No. 78, explanatory notes, p 2; *Acts Interpretation Act 1954*, s 48B permits the value of a fee unit to be prescribed by regulation.

<sup>6</sup> Acts Interpretation (Fee Unit) Regulation 2022, s 2.

<sup>7</sup> SL No. 78, s 2.

<sup>8</sup> SL No. 78, explanatory notes, p 2.

<sup>9</sup> SL No. 78, explanatory notes, pp 2-3.

<sup>10</sup> Section 8 of the HRA relevantly provides that a statutory provision is compatible with human rights if the provision 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 under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

#### 4.4 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.

### 5 SL No. 84 of 2022 - Resources Legislation (Fees) Amendment Regulation 2022

The objective of the Resources Legislation (Fees) Amendment Regulation 2022 (SL No. 84) is to amend two regulatory fees for the Department of Resources that are not recorded in fee units.<sup>11</sup> The two fees in question<sup>12</sup> are independently reviewed annually and adjusted accordingly.<sup>13</sup>

The net present value terminal growth rate in the Land Regulation 2020 is increased from 2% to 2.5% 'to reflect current long-term market inflation estimates'.<sup>14</sup>

The fee for national regulation of gas pipelines is increased from \$315.34 to \$344.94, an increase of 9.4% 'to ensure recovery of the cost of Queensland's share of the gas market functions of the [Australian Energy Market Commission] from covered pipeline owners'.<sup>15</sup>

#### 5.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

#### 5.2 Explanatory notes

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

#### 5.3 Human rights considerations

The committee is satisfied that the subordinate legislation is compatible with human rights.

#### 5.4 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 SL No. 112 of 2022 - Geothermal Energy Regulation 2022

The objective of the Geothermal Energy Regulation 2022 (SL No. 112) is to remake the Geothermal Energy Regulation 2012 (expiring regulation), which automatically expires on 1 September 2022.<sup>16</sup>

SL No. 112 specifies requirements for work programs and development plans, plugging and abandoning wells, reporting, notices, sample collection, and prescribes rents and fees.<sup>17</sup> SL No. 112 is substantially similar to the expiring regulation, aside from amendments to:

- refer to the *Specifications for the Application of the United Nations Framework Classification to Geothermal Energy Resources* rather than the *Australian Geothermal Reporting Code*
- harmonise reporting requirements, timeframes and confidentiality periods with the *Petroleum and Gas (General Provisions) Regulation 2018*.<sup>18</sup>

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<sup>11</sup> SL No. 84, explanatory notes, p 1.

<sup>12</sup> The net present value amounts prescribed in the Land Regulation 2020 and the fee for national regulation of gas pipelines prescribed in the Petroleum and Gas (General Provisions) Regulation 2017.

<sup>13</sup> SL No. 84, explanatory notes, p 1.

<sup>14</sup> SL No. 84, explanatory notes, p 2.

<sup>15</sup> SL No. 84, explanatory notes, p 2.

<sup>16</sup> SL No. 112, explanatory notes, p 1.

<sup>17</sup> SL No. 112, explanatory notes, p 2.

<sup>18</sup> SL No. 112, explanatory notes, p 2.

SL No. 112 also amends the Greenhouse Gas Storage Regulation 2021 to harmonise its reporting requirements and confidentiality periods with the Petroleum and Gas (General Provisions) Regulation 2018.<sup>19</sup>

### **6.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

### **6.2 Explanatory notes**

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

### **6.3 Human rights considerations**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **6.4 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.

## **7 SL No. 114 of 2022 - Energy and Water Ombudsman Regulation 2022**

The objective of the Energy and Water Ombudsman Regulation 2022 (SL No. 114) is to repeal and remake the Energy and Water Ombudsman Regulation 2007, which expires on 31 August 2022.

SL No. 114:

- sets participation fees for the Maranoa and Western Regional Councils<sup>20</sup>
- prescribes identified exempt sellers, exempt network operators and individual exemption holders (who sell electricity to residential embedded network customers) as ‘prescribed energy entities’ to ensure their residential customers can continue to access the free, energy-specific dispute resolution services of the Energy and Water Ombudsman Queensland (EWOQ)<sup>21</sup>
- clarifies that entities granted a retailer authorisation by the Australian Energy Regulator allowing them to on-sell electricity to embedded network customers in Queensland are considered scheme participants for the *Energy and Water Ombudsman Act 2006* by prescribing them as ‘prescribed energy entities’<sup>22</sup>
- prescribes fees payable to EWOQ by prescribed energy entities that reflect the entity’s ability to pay<sup>23</sup>
- prescribes a mandatory requirement for retailers to notify EWOQ when they commence providing customer retail services<sup>24</sup>.

### **7.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

### **7.2 Explanatory notes**

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

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<sup>19</sup> SL No. 112, explanatory notes, p 1.

<sup>20</sup> SL No. 114, s 6. SL No. 114, explanatory notes, p 1.

<sup>21</sup> SL No. 114, s 2. SL No. 114, explanatory notes, pp 1-2.

<sup>22</sup> SL No. 114, s 2. SL No. 114, explanatory notes, p 2.

<sup>23</sup> SL No. 114, s 5. SL No. 114, explanatory notes, p 2.

<sup>24</sup> SL No. 114, s 3. SL No. 114, explanatory notes, p 2.

### **7.3 Human rights considerations**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **7.4 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.

## **8 Recommendation**

The committee recommends that the House notes this report.

  
Shane King MP

**Chair**

**October 2022**

### **Transport and Resources Committee**

<b>Chair</b>	Mr Shane King MP, Member for Kurwongbah
<b>Deputy Chair</b>	Mr Lachlan Millar MP, Member for Gregory
<b>Members</b>	Mr Bryson Head MP, Member for Callide (from 24 June 2022)
	Mr James Martin MP, Member for Stretton
	Mr Les Walker MP, Member for Mundingburra
	Mr Trevor Watts MP, Member for Toowoomba North
	Mr Pat Weir MP, Member for Condamine (to 24 June 2022)