

State Development, Natural Resources and Agricultural Industry Development Committee Report No. 24

Subordinate legislation tabled between 17 October and 13 November 2018

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 17 October and 13 November 2018. 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*.

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
163	Planning (Container Refund Scheme) Amendment Regulation (No. 2) 2018	30 October 2018	28 March 2019
170	Aboriginal Land (North Stradbroke Island) Amendment Regulation 2018	13 November 2018	4 April 2019
172	Rural and Regional Adjustment (Disaster Assistance Schemes) Amendment Regulation 2018	13 November 2018	4 April 2019

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 explanatory notes tabled with the regulations comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

4 Planning (Container Refund Scheme) Amendment Regulation (No. 2) 2018 (SL 163)

The explanatory notes outline that the objective of the regulation is to support the delivery of the Container Refund Scheme (‘CRS’), established under the Waste Reduction and Recycling Amendment Act 2017.

The CRS includes the establishment of participating refund points across Queensland. In some circumstances, this may involve a ‘material change of use’ development application under the Planning Regulation 2017 (the Planning Regulation).

The amendment regulation aims to maintain the policy intent of the Planning (Container Refund Scheme) Amendment Regulation 2018 (‘No 1 regulation’), and responds to additional information provided about new refund points and the intended activities of certain refund point operators.

The No 1 regulation provided a set of criteria which, if met by a container refund point, means that the activity is a minor change of use and a material change of use development application is not required.

The amendment regulation will provide for additional low risk sites for this purpose. It allows low risk industrial sites listed under the lot on plan exemption to operate outside of a building to facilitate CRS related activities such as cage collection. It also amends the notice requirements to expand the notice period for operators to within ten days after the use commences.

Committee comment

The committee is satisfied that the Planning (Container Refund Scheme) Amendment Regulation (No. 2) 2018 do not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

5 Aboriginal Land (North Stradbroke Island) Amendment Regulation 2018 (SL No. 170)

The objective of the Aboriginal Land (North Stradbroke Island) Amendment Regulation 2018 is to amend the Aboriginal Land Regulation 2011 to redescribe transferable land and to redescribe areas of land identified in a change to the boundaries of a city.

The amendment regulation will enable the subject land to be identified on survey plans in the *Aboriginal Land Regulation 2011*. With the parcels shown on survey plans it will allow for their grant as inalienable freehold title to Aboriginal people under the *Aboriginal Land Act 1991*.

The parcels were previously subject of the Aboriginal Land (North Stradbroke Island USL) Amendment Regulation 2018 and were declared to be transferable land and were identified as parcels in an amendment to the boundaries of Redland city in that regulation.

Committee comment

The committee is satisfied that the Aboriginal Land (North Stradbroke Island) Amendment Regulation 2018 do not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

6 Rural and Regional Adjustment (Disaster Assistance Schemes) Amendment Regulation 2018 (SL No. 172)

The explanatory notes state that:

Natural disaster assistance in Australia is delivered through the joint Commonwealth-State Natural Disaster Relief and Recovery Arrangements (NDRRA). The NDRRA establishes a suite of pre-approved cost sharing measures which can be activated by the States to assist with the response and recovery from natural disasters. From 1 November 2018 the NDRRA will be renamed the Disaster Recovery Arrangements, although this change does not impact on the changes contained in this regulatory amendment.

The purpose of NDRRA assistance programs is to support community recovery after a natural disaster through the provision of financial assistance to eligible small business, primary producers and non-profit organisations to help with clean up and restoration activities.

In 2017, the Australian Government made a number of changes to the NDRRA guidelines which govern the delivery of natural disaster assistance in Australia. In Queensland, disaster schemes of financial assistance are administered by the Queensland Rural and Industry Development Authority (QRIDA). The Rural and Regional Adjustment Act 1994 (section 11) requires that all schemes of financial assistance administered by QRIDA be established under regulation.¹

¹ Explanatory Notes for SL 2018 No. 172, p. 1.

The policy objectives of subordinate legislation No. 172 is to implement changes to a number of Queensland disaster schemes of financial assistance to ensure those schemes remain consistent with the Australian Government guidelines in relation to Natural Disaster Relief and Recovery Arrangements (NDRRA), given recent changes to those guidelines.

States and Territories administer NDRRA assistance in accordance with Australian Government guidelines.

The explanatory notes outline that:

The Rural and Regional Adjustment (Disaster Assistance Schemes) Amendment Regulation 2018 (amendment regulation) will make amendments to the following disaster schemes of financial assistance, set out in the Rural and Regional Adjustment Regulation 2011 (Regulation):

- *Schedule 2 Natural Disaster Relief (Primary Producers) Scheme*
- *Schedule 3 Natural Disaster Relief (Small Business) Scheme*
- *Schedule 7 Natural Disaster Relief (Essential Working Capital) Scheme*
- *Schedule 21 Natural Disaster Relief (Non-profit Organisations) Scheme*
- *Schedule 23 Natural Disaster Recovery Grants Scheme.*²

In summary these changes include:

a) all concessional loan terms will be increased from seven years to 10 years (Schedule 2, 3, 7 and 21). The scheme's current operational guidelines provide for a seven year term with a discretion to increase the term to 10 years

b) as the NDRRA Guidelines place a greater emphasis on terrorism as an eligible disaster event, the schemes are being renamed to remove the word 'natural' and are now simply referred to as disaster schemes, save for Schedule 23 which will be renamed as the Special Disaster Assistance Recovery Grants Scheme

c) both standard (\$10 000) and exceptional circumstances (\$25 000) grants under Schedule 23 Natural Disaster Recovery Grants Scheme are now eligible to get a recovery grant for purchasing, hiring or leasing equipment or materials to clean premises or a property or equipment that is necessary to immediately resume the activities of the primary production enterprise, small business or non-profit organisation under both grant programs, whereas previously these measures were only eligible for exceptional grants

d) primary producers can now also use a recovery grant for:

I. getting a tradesperson to conduct a safety inspection or for essential repairs to premises (previously only available for small businesses)

II. replacing dead livestock

III. replacing lost or damaged plants if the replacement is essential for immediately resuming business activities

IV. repairing and restoring fields

e) a requirement that non-profit organisations demonstrate they have used available insurance before applying for concessional loan assistance

f) a removal of the grant component to the concessional loans for non-profit organisations

*g) providing the same definition of non-profit organisations across the disaster schemes.*³

² Explanatory Notes for SL 2018 No. 172, p. 2.

³ Explanatory Notes for SL 2018 No. 172, p. 2.

The committee sought additional information from the Department of Agriculture and Fisheries (DAF) and the Queensland Rural and Industry Development Authority in regard to SL No. 172. The committee were informed that the changes established by the regulation were minor and of a procedural nature:

In 2017, the Australian government made changes to the guidelines for natural disaster assistance contained in the joint Commonwealth-State Natural Disaster Relief and Recovery Arrangements, known as NDRRA, and now known as the Disaster Recovery Funding Arrangements, DRFA. In order for QRIDA disaster schemes to align with the Australian government policy changes, some minor regulatory amendments were required.⁴

Given the severe weather events in North-West Queensland the committee sought further information in regard to the size and purpose of grants for primary producers.

Mr Miller from the DAF informed the committee:

For primary producers, the grant has been increased from \$25,000 to \$75,000 for the current monsoonal event. It would cover a range of the impacts that the producer has incurred. They can choose a range of things to seek that grant for. It could be, for example, to replace lost livestock. It could be to undertake urgent fencing. It could be for carcass disposal purposes. It could be a range of things that the grants eligibility fits in with, but it is up to the producer to decide which items they want to use it for.

Additionally, the committee were informed that the application process for grants had been simplified,⁵ and that QRIDA were increasing staff numbers to quickly assess grant and loan applications.

QRIDA's commitment is that we will have sufficient resources available to manage the surge in requests. We know there are going to be a lot of category C grant requests coming in and also loan requests, so we will have sufficient resources to respond to that.⁶

The committee sought assurance that the regulation would improve the ability of the government of the day to respond to disasters. Mr Miller confirmed that:

... it has improved the consistency across what people and entities are eligible for. That is a certain improvement. The fact that producers, for example, can now restock and purchase livestock is a change and a significant improvement from previously. It will allow producers to get back into production more quickly.⁷

Additionally, Mr Rudwick noted:

There is also consistency between various levels of category C recovery grants. In Queensland generally they tend to be very big events because of their nature, so we just about always go for the \$25,000 grants rather than the smaller \$10,000 ones. If that ever occurred now, the producers would be able to access the same types of grants up to \$10,000 as they do under 25 —or in the particular event we are currently facing, 75 [\$25,000 to \$75,000]. There is greater consistency at that level, too.⁸

⁴ Mr Elton Miller, Department of Agriculture and Fisheries, public briefing transcript, Brisbane, 25 February 2019, p.2.

⁵ Mr Elton Miller, Department of Agriculture and Fisheries, public briefing transcript, Brisbane, 25 February 2019, p.4.

⁶ Mr Elton Miller, Department of Agriculture and Fisheries, public briefing transcript, Brisbane, 25 February 2019, p.6.

⁷ Mr Elton Miller, Department of Agriculture and Fisheries, public briefing transcript, Brisbane, 25 February 2019, p.6.

⁸ Mr Vern Rudwick, Department of Agriculture and Fisheries, public briefing transcript, Brisbane, 25 February 2019, p.7.

Committee comment

The committee is satisfied that the Rural and Regional Adjustment (Disaster Assistance Schemes) Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

7 Recommendation

The committee recommends that the House notes this report.



Chris Whiting MP

Chair

State Development, Natural Resources and Agricultural Industry Development Committee

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