

Economics and Governance Committee

Report No. 25, 56th Parliament

Subordinate legislation tabled between 13 February 2019 and 26 March 2019

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 13 February 2019 and 26 March 2019. It reports on any issues identified by the committee relating to the policy to be given effect by the subordinate legislation, its consistency with fundamental legislative principles (FLPs), and its lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
15 of 2019	Proclamation made under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2018</i>	26 March 2019	13 June 2019
16 of 2019	Mineral and Energy Resources (Financial Provisioning) Regulation 2019	26 March 2019	13 June 2019
17 of 2019	Cross River Rail Delivery Authority Regulation 2019	26 March 2019	13 June 2019

3 Committee consideration of the subordinate legislation

No significant issues were identified by the committee regarding the consistency with FLPs or the lawfulness of the subordinate legislation. The explanatory notes tabled with the subordinate legislation also generally comply with the requirements of part 4 of the LSA, with the exception of one minor compliance issue, which is outlined in this report.

3.1 SL No. 15 of 2019 – Proclamation made under the Mineral and Energy Resources (Financial Provisioning) Act 2018

The objective of SL No. 15 is to fix a commencement date of 1 April 2019 for the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act).¹

The MERFP Act, which received assent on 30 November 2018, replaces the financial assurance requirements for resource activities under the *Environmental Protection Act 1994* with a new financial provisioning scheme, as well as implementing related mining rehabilitation reforms. Under the new scheme, energy resource tenure holders are required to contribute to a scheme fund that is intended to:

- provide assurance against the financial risk to the State if tenure holders do not comply with their environmental management and rehabilitation obligations, and
- cover costs and expenses associated with activities required to be undertaken to ensure that land that is disturbed by mining activities is rehabilitated to a safe and stable landform that does not cause environmental harm, and can sustain an approved post-mining land use.²

¹ Proclamation made under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, explanatory notes, p 1.

² *Mineral and Energy Resources (Financial Provisioning) Act 2018*, s 3 (Main purposes).

Committee comment

The committee identified no issues regarding the subordinate legislation's consistency with FLPs, or its lawfulness. The explanatory notes comply with the requirements of part 4 of the LSA.

3.2 SL No. 16 of 2019 – Mineral and Energy Resources (Financial Provisioning) Regulation 2019

The objective of SL No. 16 is to support the effective operation of the new financial provisioning scheme established under the MERFP Act, by providing detail to a number of operational requirements of the scheme. Consistent with SL No. 15, which fixes 1 April 2019 as the commencement date for the Act, the regulation also commences on 1 April 2019.³

The regulation prescribes meanings for the terms 'prescribed percentage' and 'prescribed insurer' and details the assessment fee that applies to an allocation decision made by the financial provisioning scheme manager.⁴

Committee comment

The committee identified no issues regarding the subordinate legislation's consistency with FLPs, or its lawfulness.

However, the committee had concerns regarding the extent to which the explanatory notes comply with the requirements of section 24(2) of the LSA, regarding the consultation undertaken. Specifically, while the explanatory notes outline the consultation that was undertaken on the regulation – which appears to have been extensive – no information is provided regarding the results of that consultation, as is required by section 24(2)(a)(ii).

The committee has recently corresponded with the Queensland Treasury regarding the compliance of explanatory notes for subordinate legislation in this respect. The Queensland Treasury has confirmed that steps are being taken to ensure that the explanatory notes for subordinate legislation comply with all of the requirements of part 4 of the LSA.

The explanatory notes otherwise comply with the part 4 requirements.

3.3 SL No. 17 of 2019 – Cross River Rail Delivery Authority Regulation 2019

Since it was established, the Cross River Rail Delivery Authority (Delivery Authority) has been assigned or has identified delivery responsibility for activities that fall beyond its formal head of power. These are:

- delivery responsibility for European Train Control System projects, and
- the Fairfield to Salisbury upgrade project.

These activities relate to rail transport infrastructure provided, or to be provided, as a result of the Cross River Rail Project.

The objective of the regulation is to declare these activities as 'transport-related projects', in order to confirm that the Delivery Authority is authorised to lead and deliver these activities.

Committee comment

The committee identified no issues regarding the subordinate legislation's consistency with FLPs, or its lawfulness. The explanatory notes comply with the requirements of part 4 of the LSA.

³ Mineral and Energy Resources (Financial Provisioning) Regulation 2019, s 2.

⁴ Mineral and Energy Resources (Financial Provisioning) Regulation 2019, explanatory notes, p 2.

4 Recommendation

The committee recommends that the House notes this report.



Linus Power MP

Chair

May 2019

Economics and Governance Committee

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*Mr Don Brown MP, Member for Capalaba, participated as a substitute member for Ms Nikki Boyd MP, Member for Pine Rivers, during the committee's consideration of the subordinate legislation examined in this report.