

## Economics and Governance Committee

Report No. 31, 57th Parliament

Subordinate legislation tabled between  
25 May 2022 and 21 June 2022

### 1 Aim of this report

This report summarises the Economics and Governance Committee's (committee) findings following its examination of the subordinate legislation within its portfolio areas tabled between 25 May 2022 and 21 June 2022.

It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, its consistency with fundamental legislative principles (FLPs),<sup>1</sup> its compatibility with human rights,<sup>2</sup> and its lawfulness.<sup>3</sup> It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA)<sup>4</sup> and on the committee's consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificate tabled with the subordinate legislation.<sup>5</sup>

### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
058	Major Events (Motor Racing Events) (Townsville 500) Amendment Regulation 2022	21 June 2022	12 October 2022

\*The disallowance date is 14 sitting days after the tabling date. (See section 50 of the *Statutory Instruments Act 1992*.) Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

### 3 Committee consideration of the subordinate legislation

The committee identified potential issues with the subordinate legislation in terms of fundamental legislative principles, compatibility with human rights and the explanatory notes tabled with the subordinate legislation. These issues are discussed further in the next section. However, the committee was ultimately satisfied that the subordinate legislation is consistent with FLPs, compatible with human rights and the explanatory notes otherwise comply with part 4 of the LSA.

Further, the committee considered the human rights certificate tabled with the subordinate legislation provided a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with the HRA.

A brief overview of the subordinate legislation is set out below.

<sup>1</sup> *Legislative Standards Act 1992* (LSA) s 4.

<sup>2</sup> *Human Rights Act 2019* (HRA) s 8.

<sup>3</sup> *Parliament of Queensland Act 2001* (POQA) s 93.

<sup>4</sup> LSA, Part 4.

<sup>5</sup> HRA, s 41.

## 4 Major Events (Motor Racing Events) (Townsville 500) Amendment Regulation 2022

The objective of the Major Events (Motor Racing Events) (Townsville 500) Amendment Regulation 2022 (SL No. 58) is to facilitate the 2022 NTI Townsville 500 V8 motor racing event (event) which is to be held from 8 to 10 July 2022.

SL No. 58 prescribes the 2022 NTI Townsville 500 as a major event under the *Major Events Act 2014*.<sup>6</sup> It also prescribes the major event period (from 7 July 2022 to midday 11 July 2022<sup>7</sup>) and the periods for carrying out temporary works for the event (from the beginning of the day on 13 June 2022 to midday on 7 July 2022, and from midday on 11 July 2022 to midnight on 22 July 2022<sup>8</sup>).

### 4.1 Consistency with fundamental legislative principles

#### 4.1.1 Rights and liberties of individuals

Fundamental legislative principles include requiring that legislation should have sufficient regard to the rights and liberties of individuals.<sup>9</sup>

The declaration of a major event results in restrictions on individuals in the major event area, limiting their rights and liberties. These restrictions potentially commence with the carrying out of temporary works prior to the event, and continue until the return of the land to the condition it was in immediately before the temporary works were carried out.

The restrictions include altered access to roads and paths, limitations on entering the event area (e.g. not being able to enter the event area without paying the entry fee<sup>10</sup>), and persons being subject to possible infringements on their rights within the event area.

These potential infringements on rights and liberties include:<sup>11</sup>

- being frisked by a police officer<sup>12</sup>
- limitations on what a person may possess or do while entering or within the major event area (e.g. no weapons and no soliciting money)<sup>13</sup>
- being directed to immediately leave the event area and not enter it for up to 24 hours<sup>14</sup>
- not being permitted to park a car in the event area.<sup>15</sup>

The explanatory notes do not provide justifications for these potential infringements on the rights and liberties of individuals, simply noting that the time limitations in SL No. 58:

... will help ensure relevant provisions in [SL No. 58] do not have a significant impact outside of these times and help ensure they have sufficient regard for the rights and liberties of individuals who may be inconvenienced by altered access to roads and paths and the carrying out of temporary works.<sup>16</sup>

Elsewhere in the explanatory notes, the expected benefits of the event are outlined:

<sup>6</sup> SL No. 58, section 3.

<sup>7</sup> SL No. 58, section 4.

<sup>8</sup> SL No. 58, section 5.

<sup>9</sup> *Legislative Standards Act 1992*, s 4(2)(a).

<sup>10</sup> Unless certain exceptions apply, such as the person has an occupant's pass: *Major Events Act 2014*, ss 18(1)-(4), 19.

<sup>11</sup> Major Events (Motor Racing Events) Regulation 2015, s 15.

<sup>12</sup> *Major Events Act 2014*, s 18(6).

<sup>13</sup> *Major Events Act 2014*, s 20.

<sup>14</sup> *Major Events Act 2014*, s 26. In certain circumstances, the event organiser may direct the person not to enter the major event area for a period of more than 24 hours.

<sup>15</sup> *Major Events Act 2014*, s 28.

<sup>16</sup> SL No. 58, explanatory notes, p 2.

The 2022 NTI Townsville 500 event will deliver tourism and economic benefits for Townsville and the State of Queensland. This includes generating local jobs and showcasing Townsville and Queensland to a significant television audience around Australia and overseas. The total attendance for the 2019 Townsville 400 was 121 000, generating direct and incremental spending of \$35 million in Queensland and reaching a cumulative broadcast audience of 1.04 million. It is expected that the 2022 NTI Townsville 500 will achieve similar outcomes.<sup>17</sup>

#### Committee comment

The committee considers the economic and tourism benefits for Townsville from hosting the event outweigh the potential temporary inconvenience to local residents resulting from noise, road closures, diversions and other restrictions associated with the event, such that any breach of fundamental legislative principles is justified.

### **4.2 Explanatory notes**

Under the heading *Consistency with fundamental legislative principles* the explanatory notes state that the regulation is ‘machinery in nature and consistent with fundamental legislative principles’. However, the explanatory notes then proceed to address the issues of impacts on the rights and liberties of individuals.

Section 24(1)(i) of the LSA requires the explanatory notes for subordinate legislation to include ‘a brief assessment of the consistency of the legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency’.<sup>18</sup>

In this context, the correct approach in dealing with a regulation’s consistency with fundamental legislative principles is to acknowledge any inconsistency with fundamental legislative principles and then proceed to address the reasons for any inconsistency, including any justifications for any breach.

The explanatory notes otherwise comply with part 4 of the LSA.

### **4.3 Compatibility with human rights**

#### **4.3.1 Freedom of movement**

Every person lawfully in Queensland has the right to move freely within Queensland.<sup>19</sup>

The *Major Events Act 2014* and the amended Major Events (Motor Racing Events) Regulation 2015 (combined, the motor events legislation) limit the ability of persons to move freely due to road closures, other restrictions on vehicles, being subject to a possible direction to leave an area, and limited entry and exit points.<sup>20</sup>

With respect to these limitations on the freedom of movement, the Minister stated:

The limitations help achieve the purpose by limiting the movement of individuals into and within the major event area, ensure appropriate behaviour of visitors and spectators, and are necessary to ensure the major event organisers have sufficient capacity to provide for and manage a safe event space for the Townsville 500 event.<sup>21</sup>

The Minister also stated:

... management of vehicles entering and within the major event area is essential to the safety of visitors and spectators, but also as a road event, it is critical for the safety of the event’s drivers.

While these limitations on movement are necessary to provide for a safe major event area, to ensure these limitations aren’t unduly restrictive, [there is provision for] the granting of an *occupant’s pass* to individuals

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<sup>17</sup> SL No. 58, explanatory notes, p 2.

<sup>18</sup> LSA, s 24(1)(i).

<sup>19</sup> *Human Rights Act 2019* (HRA), s 19.

<sup>20</sup> SL No. 58, human rights certificate, p 2; *Major Events Act 2014*, part 5, subdivisions 1 and 2.

<sup>21</sup> SL No. 58, human rights certificate, p 4.

who live, work or have a business within the major event area. The occupant's pass authorises a person to enter and remain in the major event area during the major event period.<sup>22</sup>

#### 4.3.2 Freedom of expression

Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.<sup>23</sup>

The motor event legislation involves limits on this right, through advertising restrictions, limits on conduct within the event area, prohibitions on broadcast, and use of official logos.<sup>24</sup>

Regarding the restriction on broadcasting, the Minister stated:

The potential limitation on the right to freedom of expression by [the ban on broadcasting or recording a major event] ... is justifiable, in that it prevents unauthorised third parties from exploiting the major event for their own gain or affecting the integrity of the event or the exclusive rights of the event's official sponsors. The freedom of expression is not unreasonably limited because an individual may still broadcast or record the major event ... on a personal device ... for personal use; and ... for a purpose other than for profit or gain.<sup>25</sup>

Regarding the restriction on the use of logos and title, the Minister stated:

... the provisions regarding the use of the official logo or title are not intended to limit freedom of expression; rather, they are intended to protect the rights of event organisers and sponsors from unauthorised activities, consistent with the object of the [*Major Events Act 2014*].<sup>26</sup>

#### 4.3.3 Property rights

A person must not be arbitrarily deprived of their property.<sup>27</sup>

The motor events legislation involves limits of this right, including:

- through conditions of entry to a person's property (if within the event area)
- limits on conduct within the event area
- powers to move unattended vehicles, remove articles of clothing from a person or items from a vehicle, and to inspect a person's possessions.<sup>28</sup>

Regarding the possible limit on the right to property by allowing the movement of an individual's unattended vehicle located in the major event area, the Minister states 'The potential for a limitation to occur on property rights is managed through provisions ... which require details of the temporary works and time periods to be published in advance of the works occurring'.<sup>29</sup>

Further, in relation to other limits on property rights:

The power to seize an item from a person is also available ... where the person has an item that displays the official logo or official title of the event, and it is reasonably suspected that the person intends to sell the item and does not have the authority to do so.

These limitations are considered reasonable and are aimed at preventing unauthorised persons from seeking to exploit a major event for their own gain. The provisions are intended to protect the rights of the

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<sup>22</sup> SL No. 58, human rights certificate, p 5.

<sup>23</sup> HRA, s 21.

<sup>24</sup> See for example, *Major Events Act 2014*, part 5, subdivisions 3, 4; part 6.

<sup>25</sup> SL No. 58, human rights certificate, p 5.

<sup>26</sup> SL No. 58, human rights certificate, p 5.

<sup>27</sup> HRA, s 24.

<sup>28</sup> SL No. 58, human rights certificate, p 3.

<sup>29</sup> SL No. 58, human rights certificate, p 6.

event organisers and sponsors from unauthorised street trading, consistent with the object of the [*Major Events Act 2014*].<sup>30</sup>

#### 4.3.4 Privacy and reputation

A person has the right to not have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.<sup>31</sup>

The major events legislation contains limits on this right, including through:

- persons entering the major event area may be asked to consent to:
  - the use of an electronic detection device on the person or their possessions
  - inspection of their belongings, removal and inspection of outer garments and of articles in their possession
  - inspection of a person's vehicle and removal of an article from the vehicle and inspection of the article
- persons within the major event area being asked to consent to open and allow the inspection of an item in their possession
- a person who is directed to leave the major event area may have their photo (or other image) taken
- a person who is found to be committing, or is reasonably suspected of having just committed an offence against the *Major Events Act 2014*, may be required to state their name and address, and provide evidence of correctness of that statement.<sup>32</sup>

On these limits, the Minister stated:

The limitations on the right to privacy ... are non-arbitrary and required to meet the objectives of the [*Major Events Act 2014*] to ensure the safety of visitors and spectators at major event or to enforce other sections of the [*Major Events Act 2014*] such as the use of official logo under *Part 6 official logos or titles*. The inspection of property and the search of a person is necessary to ensure prohibited items are not being carried and is similar to a search at an airport or private ticketed venue.<sup>33</sup>

Further, regarding the power to photograph a person who is being removed from the event area:

This limitation is considered reasonable and necessary in circumstances where multiple entry points to the major event area are available and will assist the major event organiser in managing disruptive behaviour and the potential for the reoccurrence of unauthorised or un-ticketed entry by individuals.<sup>34</sup>

Broadly, the Minister advised:

The limitations on the right to privacy ... are considered necessary and appropriate to ... meet the objective of the [*Major Events Act 2014*] which is to ensure the safety and enjoyment of visitors and spectators at a major event, and the restrictions to the type of authorised person who may exercise the powers under sections 25 [Inspecting thing in person's possession inside major event area] and 63 [Requiring name and address] of the [*Major Events Act 2014*] helps reduce the potential impact on the right to privacy when applying the powers.<sup>35</sup>

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<sup>30</sup> SL No. 58, human rights certificate, p 6.

<sup>31</sup> HRA, s 25(2).

<sup>32</sup> SL No. 58, human rights certificate, pp 3-4.

<sup>33</sup> SL No. 58, human rights certificate, p 7.

<sup>34</sup> SL No. 58, human rights certificate, p 7.

<sup>35</sup> SL No. 58, human rights certificate, p 7.

Committee comment

The committee is satisfied that the subordinate legislation is compatible with human rights, and that any limitations regarding freedom of expression, property rights and privacy and reputation are reasonable and justifiable.

**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 Recommendation**

The committee recommends that the House notes this report.



Linus Power MP

**Chair**

**August 2022**

**Economics and Governance Committee**

<b>Chair</b>	Mr Linus Power MP, Member for Logan
<b>Deputy Chair</b>	Mr Ray Stevens MP, Member for Mermaid Beach
<b>Members</b>	Mr Don Brown MP, Member for Capalaba <sup>36</sup>
	Mr Michael Crandon MP, Member for Coomera
	Mrs Melissa McMahon MP, Member for Macalister
	Mr Daniel Purdie MP, Member for Ninderry
	Mr Adrian Tantari MP, Member for Hervey Bay

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<sup>36</sup> From 3 June-15 June 2022 inclusive.