

State Development and Regional Industries Committee

Report No. 47, 57th Parliament

Subordinate legislation tabled between 14 June and 22 August 2023

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 14 June and 22 August 2023. 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* (LSA).¹

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificates tabled with the subordinate legislation.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
55	Proclamation made under the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023	22 August 2023	16 November 2023
56	Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023	22 August 2023	16 November 2023
57	Local Government Electoral Regulation 2023	29 June 2023	15 November 2023
66	Biosecurity (Panama Disease Tropical Race 4) Amendment Regulation 2023	22 August 2023	16 November 2023
67	Water Plan (Barron) 2023	22 August 2023	16 November 2023
78	Rural and Regional Adjustment (Flood Affected Livestock Grants Scheme) Amendment Regulation 2023	22 August 2023	16 November 2023
81	Rural and Regional Adjustment (Variation of Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2023	22 August 2023	16 November 2023
86	Rural and Regional Adjustment (Agribusiness Digital Solutions Grants Scheme) Amendment Regulation 2023	22 August 2023	16 November 2023
89	River Improvement Trust Regulation 2023	22 August 2023	16 November 2023

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

Subordinate legislation tabled between 14 June and 22 August 2023

90	Economic Development (Sunshine Coast Airport PDA) Amendment Regulation 2023	22 August 2023	16 November 2023
91	Local Government (Moreton Bay City Council) and Other Legislation Amendment Regulation 2023	22 August 2023	16 November 2023
92	Planning (Assessment Fees and Other Matters) Amendment Regulation 2023	22 August 2023	16 November 2023
99	State Development and Public Works Organisation (Particular Works for Borumba Pumped Hydro Energy Storage Project Exploratory Works) Amendment Regulation 2023	22 August 2023	16 November 2023
101	Rural and Regional Adjustment (Business Energy Saving and Transformation Rebate Scheme) Amendment Regulation 2023	22 August 2023	16 November 2023
103	Water Plan (Burdekin Basin) (Postponement of Expiry) Notice 2023	22 August 2023	16 November 2023

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

SL No. 80 of 2023, Fisheries Legislation (Spanish Mackerel and Bar Rockcod) Amendment Declaration 2023 was also tabled on 22 August 2023 and has a disallowance date of 16 November 2023. The committee will report on SL No. 80 when it has concluded its examination.

3 Committee consideration of the subordinate legislation

Unless noted below, the committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the HRA.

Similarly, unless noted below, the committee considers that the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA and that 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 their compatibility with the HRA.

4 Proclamation made under the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023 – SL No. 55

The *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023* (the Amendment Act) introduced electoral expenditure caps for local government elections in order to level the playing field among all participants. The objective of the Proclamation made under the Act is to fix 28 June 2023 for the commencement of those elements of the Act which are not currently in force. This is to enable the electoral expenditure cap scheme to be in place for the 2024 local government quadrennial election.³

³ SL No. 55, explanatory notes, p 1.

5 Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023 – SL No. 56

The Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023 (SL No. 56) has two principal objectives. First, to amend the City of Brisbane Regulation 2012 and the Local Government Regulations to prescribe new measures of financial stability described in a new Financial Management (Sustainability) Guideline 2023, version 1. Second, to amend the Local Government Regulations to alter the boundaries between the Barcaldine Regional Council and 6 other adjoining councils.

The introduction of the new Financial Management Sustainability Guideline 2023, version 1 (2023 guideline) follows a number of reports undertaken by the Queensland Audit Office (QAO) into the way in which local councils manage their finances.⁴ The new 2023 guideline increases the number of ratios that council's calculate and report on in their financial planning and accountability documents (e.g. the budget) from 3 to 9 and details which ratios apply for different tiers of local government.⁵

The alteration of the boundaries to Barcaldine Regional Council follows a recommendation by the Local Government Change Commission and is related to the placement of 24 properties which straddle the boundaries between Barcaldine Regional Council and 6 adjoining local government areas (Blackall-Tambo Regional Council, Central Highlands Regional Council, Charters Towers Regional Council, Flinders Shire Council, Isaac Regional Council and Longreach Regional Council).⁶

6 Local Government Electoral Regulation 2023 – SL No. 57

The Local Government Electoral Regulation 2023 (SL No. 57) repeals and replaces the Local Government Electoral Regulation 2012.⁷ It fixes Saturday 16 March 2024 for the next local government quadrennial election and supports implementation of the new electoral expenditure caps scheme for local government elections, established by the *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023* (Amendment Act).⁸

Key provisions to support the electoral expenditure cap scheme include:

- a new start date for the capped expenditure period of 14 August 2023
- qualifications for auditors
- details to be included in a third party's application to become a registered third party
- information to be included in records
- the disclosure deadline for returns for gifts or loans received by associated entities of candidates or groups of candidates
- the disclosure deadline for returns for electoral expenditure incurred by relevant third parties.

SL No. 57 also expands the eligibility for electronically assisted voting.⁹

Committee comment

The committee considered the impact of SL No. 57 on the right to privacy and reputation. This is because SL No. 57 will require individuals who wish to be registered as third parties who incur electoral expenditure and individuals who wish to nominate a candidate to release personal information to Electoral Commission Queensland who will publish this information.¹⁰ The committee considered the

⁴ QAO, *Forecasting long-term sustainability of local government (Report 2: 2016-17)*, October 2016; QAO, *Local government 2020 (Report 17: 2020-21)*, April 2021.

⁵ SL No. 56, explanatory notes, p 3.

⁶ SL No. 56, explanatory notes, p 3.

⁷ SL No. 57, s 2; SL No. 57, explanatory notes, p 1.

⁸ SL No. 57, explanatory notes, pp 1-3.

⁹ SL No. 57, explanatory notes, pp 1-2.

¹⁰ SL No. 57, human rights certificate, p 9, 14.

limitation on the right to privacy of those who wish to be registered as third parties as justified in light of the need to provide transparency and inform voters about those third parties who seek to influence an election. Likewise, the committee considered the limitation on the right to privacy of individuals nominating candidates for election as justified on the basis of the need to provide electors with transparency over a candidate's affiliations and interests.

7 Biosecurity (Panama Disease Tropical Race 4) Amendment Regulation 2023 – SL No. 66

The purpose of the Biosecurity (Panama Disease Tropical Race 4) Amendment Regulation 2023 (SL No. 66) is to help the banana growing industry to transition to self-management of Panama Disease Tropical Race 4 (Panama TR4). The regulation amends the Biosecurity Regulation 2016 to remove references to the chief executive having the power to give notices to owners/occupiers of land on which Panama TR4 is found to destroy plants and comply with relevant biosecurity procedures. Instead, the Panama TR4 Code of Practice (Code), which has been developed with the Australian Banana Growers Council, becomes a mandatory code of practice for minimising the spread of Panama TR4.¹¹

Committee comment

It is a fundamental principle that legislation must have sufficient regard to the institution of Parliament. While the Code was not included with the regulation the Code will be tabled within 14 parliamentary sitting days from notification (as required under Section 106 of the Biosecurity Act 2014).

Following a request from the committee the Department of Agriculture and Fisheries wrote to the committee indicating that it is expected to be tabled by November 2023.¹² In light of these facts the committee considers that the regulation has sufficient regard to the institution of Parliament.

8 Water Plan (Barron) 2023 – SL No. 67

The objective of the Water Plan (Barron) 2023 (water plan) is to manage the underground and surface water in the Barron water plan area in a sustainable way. Its aim is to meet future water requirements while also protecting natural ecosystems and the supply to existing water users. The plan achieves its objectives by defining the availability of water, identifying the priorities for future water requirements, and regulating the taking of surface and underground water. It also provides access to water resources to help Aboriginal and Torres Strait Islanders achieve their varied aspirations as well as a framework for reversing, where possible, the degradation of natural ecosystems as a result of water use.¹³

Committee comment

The committee considered the impact of the water plan on individual property rights relating to water allocations and licences. It is a fundamental legislative principle that rights and liberties should be dependent on administrative power only if the power is sufficiently defined.¹⁴

The water plan enables the chief executive to make decisions about various matters, including applications for particular water licences and the daily volumetric limit for certain existing authorisations.¹⁵ Specifically, the water plan, while it prescribes matters that the chief executive must consider, also allows the chief executive to consider 'other matters' in certain situations regarding unallocated water.¹⁶

The committee considered the water plan as compatible with fundamental legislative principles because the 'other matters' the chief executive may consider must be relevant and within the scope

¹¹ SL No. 66, s 4 (Biosecurity Regulation 2016, new s 9A); *Biosecurity Act 2014*, s 104.

¹² Department of Agriculture and Fisheries, correspondence, 27 September 2023, p 3.

¹³ SL No. 67, Explanatory notes, pp 1-2.

¹⁴ LSA, s 4(3)(a).

¹⁵ SL No. 67, part 7, div 5, subdiv 2; SL No. 67, s 43.

¹⁶ SL No. 67, s 67.

of the individual Water Plan and the Water Act 2000. Moreover, the department must provide natural justice to any party that is impacted by a decision under a Water Plan and decisions by the chief executive are ultimately subject to judicial review.¹⁷

9 Rural and Regional Adjustment (Flood Affected Livestock Grants Scheme) Amendment Regulation 2023 – SL No. 78

The Rural and Regional Adjustment (Flood Affected Livestock Grants Scheme) Amendment Regulation 2023 (SL No. 78) introduces a new scheme of financial assistance (Flood Affected Livestock Grants Scheme) to provide ‘additional assistance to primary producers impacted by the monsoonal flooding in early 2023 in north west Queensland’¹⁸ for fodder and carcass disposal expenses.¹⁹

Under the Flood Affected Livestock Grants Scheme:

... eligible primary producers for the Disaster Event: Northern and Central Queensland Monsoon and Flooding, 20 December 2022 – 30 April 2023 will be able to access grants of up to \$75,000 to recover the costs they have incurred in supplying fodder to livestock between 1 March 2023 and 14 April 2023 and the costs of carcass disposal incurred within the period 1 March and 1 August 2023.²⁰

Committee comment

The committee considered SL No. 78 in the context of the fundamental legislative principle that subordinate legislation should have sufficient regard to the institution of Parliament.²¹ This is because SL No. 78 provides the Minister with the power to extend the closing day for the Flood Affected Livestock Grants Scheme.

The committee considered any inconsistency with fundamental legislative principles as warranted as the Minister is only able to extend the period of the scheme for 6 months and must table the extension notice in the Legislative Assembly. In addition, as the explanatory notes explain, the capacity to extend the scheme’s closing date reflects the recent experience of the Queensland Rural and Industry Development Authority that primary producers are finding it difficult to access contractors to undertake restoration activities due to widespread supply chain difficulties.²²

10 Rural and Regional Adjustment (Variation of Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2023 – SL No. 81

The Zero Emission Vehicle Rebate Scheme (ZEV Scheme) commenced on 1 July 2022. Its intent was to increase the uptake of ZEVs (zero emissions vehicles) by making their purchase more accessible to individuals and businesses.²³ The Rural and Regional Adjustment (Variation of Zero Emission Vehicle Rebate Scheme) Amendment Regulation 2023 (SL No. 81) amends the ZEV Scheme to:

- widen the range of eligible zero emission vehicle models by increasing the dutiable value threshold from \$58,000 to \$68,000
- increase the rebate for low to moderate income earners from \$3,000 to \$6,000
- provides that previously successful low to moderate income applicants can apply for an additional rebate of \$3,000 (to match the new rebate amount).²⁴

¹⁷ Department of Regional Development, Manufacturing and Water, correspondence, 28 September 2023, p 1.

¹⁸ SL No. 78, explanatory notes, p 1.

¹⁹ SL No. 78, explanatory notes, p 3.

²⁰ SL No. 78, explanatory notes, pp 1-2.

²¹ LSA, s 4(5).

²² SL No. 78, explanatory notes, p 3.

²³ SL No. 81, explanatory notes, p 1.

²⁴ SL No. 81, explanatory notes, p 1.

11 Rural and Regional Adjustment (Agribusiness Digital Solutions Grants Scheme) Amendment Regulation 2023 – SL No. 86

The Rural and Regional Adjustment (Agribusiness Digital Solutions Grants Scheme) Amendment Regulation 2023 (SL No. 86) establishes the Agribusiness Digital Solutions Grants Scheme (scheme).

\$1.45 million is available to be delivered under the scheme.²⁵ The maximum amount of assistance available to an applicant is \$100,000 (excluding GST).²⁶

The scheme will allow eligible entities, including registered industry organisations and primary producers, to undertake projects designed to encourage the adoption of digital technologies that promote industry-wide learning and improve the Queensland agribusiness sector's responsiveness to potential disruptions, such as the impact of climate change.²⁷

12 River Improvement Trust Regulation 2023 – SL No. 89

In Queensland the responsible management of river catchment areas, including works to prevent flooding, is provided for in the *River Improvement Trusts Act 1940* (RIT Act). The RIT Act is supported by the River Improvement Trust Regulation 2013 (2013 Regulation) which expired on 1 September 2023. The River Improvement Trust Regulation 2023 (2023 Regulation) continues the existence of certain river improvement areas and trusts, and prescribes matters relating to improvement notices and other miscellaneous matters. The 2023 Regulation is largely consistent with the 2023 Regulation.²⁸

Committee comment

The committee considered the impact of the 2023 Regulation on the property and cultural rights of Aboriginal and Torres Strait Islander peoples. This is because the RIT Act allows trust to continue to undertake maintenance and management activities within areas identified in the regulation.²⁹ This may limit Aboriginal and Torres Strait Islander peoples cultural rights by limiting their access to parts of the river catchment and altering the physical landscape.

The committee considered this limitation on cultural and property rights as justified on the basis, as the explanatory notes explain, there are no other ways in which to achieve the policies objective.³⁰ Moreover, the predominant way in which inspections or works are conducted is via agreement with the landholder and that where agreement cannot be reached only appropriately qualified persons are able to make decisions or exercise powers.³¹

13 Economic Development (Sunshine Coast Airport PDA) Amendment Regulation 2023 – SL No. 90

The Economic Development (Sunshine Coast Airport PDA) Amendment Regulation 2023 (SL No. 90) declares the Sunshine Coast Airport (SCA) a Priority Development Area (PDA). The Sunshine Coast Council (owner of the airport land) and SCA Pty Ltd (the lessee and airport operator) requested declaration of the site as a PDA.³² The declaration of a PDA allows for a streamlined land use planning

²⁵ SL No. 86, explanatory notes, p 1.

²⁶ SL No. 86, s 6(3); SL No. 86, explanatory notes, p 2.

²⁷ SL No. 86, explanatory notes, p 2.

²⁸ SL No. 89, explanatory notes, p 2.

²⁹ *River Improvement Trust Act 1940*, ss 9-11H, 19; SL No. 89, human rights certificate, p 2.

³⁰ SL No. 89, human rights certificate, p 3.

³¹ SL No. 89, human rights certificate, p 3.

³² SL No. 90, human rights certificate, p 11.

assessment framework to be used in order to deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport.³³

The declaration of the SCA PDA means that the Sunshine Coast Planning Scheme 2014 cannot make PDA-related development assessable under the *Planning Act 2016* (Planning Act).³⁴

Committee comment

The committee considered the impact of SL No. 90 on the human right to freedom of expression. This is because SL No. 90 enables a PDA to be declared without general community consultation under the Economic Development Act 2012 (ED Act).³⁵ Additionally, the ED Act does not provide submitters with general merits appeal rights for notifiable development applications (as is the case for development outside a PDA under the Planning Act) and applicants only have a limited right to appeal against particular conditions.³⁶

The committee considered the limitation on the freedom of expression as justified on the basis that the ED Act continues to allow individuals to express their opinion on development outside of the formal notification process under the ED Act and because of the need to ensure projects for economic development, and development for community purposes, are completed swiftly.³⁷

14 Local Government (Moreton Bay City Council) and Other Legislation Amendment Regulation 2023 – SL No. 91

The Local Government (Moreton Bay City Council) and Other Legislation Amendment Regulation 2023 (SL No. 91) provides for implementation of the recommendation of the Local Government Change Commission that Moreton Bay Regional Council be reclassified as Moreton Bay City Council by making a range of consequential amendments to the Local Government Regulation 2012 and other regulations as well as introducing transitional arrangements.³⁸

15 Planning (Assessment Fees and Other Matters) Amendment Regulation 2023 – SL No. 92

The Planning (Assessment Fees and Other Matters) Amendment Regulation 2023 (SL No. 92) provides that a material change of use for a temporary detention centre that is declared under the *Youth Justice Act 1992* (Youth Justice Act) is not be able to be made assessable development by a local planning scheme. While temporary detention facilities need to be constructed/used quickly in the event of a disaster (such as a cyclone), material change of use applications can often take longer than 6 months under the existing planning framework.³⁹

SL No. 90 also amends the fees applicable for material change of use assessments near State Transport Corridors to better reflect the time and effort involved in undertaking assessments in these areas.

Committee comment

The explanatory notes for SL No. 92 did not include a statement of their consistency with fundamental legislative principles. On 13 September 2023 the committee wrote to the Department of State Development, Infrastructure, Local Government and Planning who confirmed that the SL No. 92 is consistent with fundamental legislative principles and has no adverse impact on the rights and

³³ SL No. 90, human rights certificate, p 16; Department of Infrastructure, Local Government and Planning, *South East Queensland Regional Plan 2017*, August 2017.

³⁴ Planning Regulation 2017, sch 6; SL No. 90, explanatory notes, p 2.

³⁵ SL No. 90, human rights certificate, p 8.

³⁶ SL No. 90, human rights certificate, p 18.

³⁷ SL No. 90, human rights certificate, p 9.

³⁸ SL No. 91, explanatory notes, pp 2, 3.

³⁹ SL No. 92, explanatory notes, p 2.

liberties of individuals or on the institution of Parliament.⁴⁰ The department also confirmed that it will work to ensure that all future explanatory notes meet the requirements of the Legislative Standards Act 1992.⁴¹

16 State Development and Public Works Organisation (Particular Works for Borumba Pumped Hydro Energy Storage Project Exploratory Works) Amendment Regulation 2023 – SL No. 99

The State Development and Public Works Organisation (Particular Works for Borumba Pumped Hydro Energy Storage Project Exploratory Works) Amendment Regulation 2023 (SL No. 99) amends the State Development and Public Works Organisation Regulation 2020 to create a new division that directs:

- Queensland Hydro to undertake particular works in accordance with sections 99 and 100 of the State Development and Public Works Organisation Act 1971 (SDPWO Act)⁴²
- the Coordinator-General to undertake reserved works in accordance with sections 108 and 109 of the SDPWO Act.⁴³

The intent is that Queensland Hydro will construct 2 temporary worker accommodation camps required to begin exploratory geo-science works for the Borumba Pumped Hydro Energy Storage Project. The Coordinator-General will assist by using its powers, which include the opening, closing or rearranging of roads.

Committee comment

The committee considered SL No. 99 in the context of the right to freedom of expression and a fair hearing. This is because SL No. 99 removes the third party consultation and appeal rights under the Planning Act 2016 which would otherwise apply to the development of temporary worker accommodation.⁴⁴ The committee considers this limitation as justified due to the need to urgently begin exploratory works for the Borumba pumped hydro project and the community expectation for a speedy transition to renewable energy.⁴⁵

The committee also considered the impact of SL No. 99 on the right to property. This is due to the fact that SL No. 99 enlivens the Coordinator-General's powers of compulsory acquisition and the rearranging of roads. However, the Coordinator-General may only exercise these powers to support the project works and property acquisition is not envisaged for the temporary work accommodation or for access to the proposed sites.

As such, the committee considers any restriction on the right to property as justified.

17 Rural and Regional Adjustment (Business Energy Saving and Transformation Rebate Scheme) Amendment Regulation 2023 – SL No. 101

The Business Energy Saving and Transformation Rebate Scheme (BEST Scheme) is intended to assist owners of eligible Queensland businesses to offset the cost of buying and installing energy-efficient appliances and equipment for their businesses.

The Rural and Regional Adjustment (Business Energy Saving and Transformation Rebate Scheme) Amendment Regulation 2023 (SL No. 101) amends the *Rural and Regional Adjustment Act 1994* to:

⁴⁰ Department of State Development, Infrastructure, Local Government and Planning, correspondence, 28 September 2023, p 1.

⁴¹ Department of State Development, Infrastructure, Local Government and Planning, correspondence, 28 September 2023, p 1.

⁴² SL No. 99, explanatory notes, p 2.

⁴³ SL No. 99, explanatory notes, p 2.

⁴⁴ SL No. 99, human rights certificate, pp 2, 3, 6.

⁴⁵ SL No. 99, human rights certificate, pp 3, 7.

- establish the BEST Scheme as an approved scheme enabling Queensland Rural and Industry Development Authority to administer it
- provides details of the BEST Scheme, including that eligible businesses will receive a rebate of up to 50 per cent of the purchase and installation costs of eligible energy efficient equipment, up to \$12,500 per applicant.⁴⁶

18 Water Plan (Burdekin Basin) (Postponement of Expiry) Notice 2023 – SL No. 103

The objective of the Water Plan (Burdekin Basin) (Postponement of Expiry) Notice 2023 (SL No. 103) is to postpone the expiry of the Water Plan (Burdekin Basin) 2007, which is due to expire on 1 September 2023, until 1 September 2026.⁴⁷

SL No. 103 will postpone the expiry of the Water Plan until 1 September 2026 to enable a replacement Water Plan to be developed and consulted upon as per the requirements of the *Water Act 2000*.⁴⁸

19 Recommendation

The committee recommends that the House notes this report.



Chris Whiting MP

Chair

October 2023

State Development and Regional Industries Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Jim McDonald MP, Member for Lockyer
Members	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

⁴⁶ SL No. 101, explanatory notes, p 2.

⁴⁷ SL No. 103, explanatory notes, p 1.

⁴⁸ SL No. 103, explanatory notes, p 2.