

Economics and Governance Committee

Report No. 55, 57th Parliament

Subordinate legislation tabled between
23 August 2023 and 12 September 2023

1 Aim of this report

This report summarises the findings of the Economics and Governance Committee (committee) following our examination of the subordinate legislation within our portfolio areas tabled between 23 August 2023 and 12 September 2023.

It reports on any identified issues relating to the policy to be given effect by the legislation, its consistency with fundamental legislative principles,¹ its compatibility with human rights,² and its lawfulness.³

It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA)⁴ and on our consideration of the compliance with the *Human Rights Act 2019* (HRA) of the human rights certificates tabled with the subordinate legislation.⁵

2 Subordinate legislation examined

| No. | Subordinate legislation | Date tabled | Disallowance date* |
|-----|---|-------------------|--------------------|
| 116 | Major Events (Motor Racing Events) (Gold Coast 500) Amendment Regulation 2023 | 12 September 2023 | 30 November 2023 |
| 123 | Parliamentary Service By-law 2023 | 12 September 2023 | 30 November 2023 |
| 124 | Governors (Salary and Pensions) Regulation 2023 | 12 September 2023 | 30 November 2023 |
| 125 | Statutory Instruments (Exemption from Expiry) Amendment Regulation 2023 | 12 September 2023 | 30 November 2023 |
| 126 | Public Sector Ethics Regulation 2023 | 12 September 2023 | 30 November 2023 |

*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

No significant issues were identified with the policy, consistency with FLPs, lawfulness, or compatibility with human rights of the Governors (Salary and Pensions) Regulation 2023 or the Statutory Instruments (Exemption from Expiry) Amendment Regulation 2023.

The committee identified potential fundamental legislative principle and human rights issues in relation to the Major Events (Motor Racing Events) (Gold Coast 500) Amendment Regulation 2023,

¹ *Legislative Standards Act 1992* (LSA), s 4.

² *Human Rights Act 2019* (HRA), s 8.

³ *Parliament of Queensland Act 2001*, s 93.

⁴ LSA, pt 4 (s 24).

⁵ HRA, s 41.

Parliamentary Service By-law 2023 and Public Sector Ethics Regulation 2023. These issues are discussed further in the next section. However, the committee was nonetheless satisfied that the subordinate legislation is consistent with fundamental legislative principles and compatible with human rights.

The committee was also satisfied that the explanatory notes to the subordinate legislation comply with part 4 of the LSA, and that the accompanying human rights certificates provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

A brief overview of the subordinate legislation is provided below.

4 Major Events (Motor Racing Events) (Gold Coast 500) Amendment Regulation 2023

The objective of the Major Events (Motor Racing Events) (Gold Coast 500) Amendment Regulation 2023 (SL No. 116) is to enable holding the 2023 Boost Mobile Gold Coast 500 (event) by prescribing:

- the event as a major event under the *Major Events Act 2014* (Major Events Act)
- the major event period (26 October 2023 to midday on 30 October 2023)
- the major event areas (areas surrounding Macintosh Island Park in Surfers Paradise, areas in the South Port Broadwater Parklands and 3332 Surfers Paradise Boulevard at Surfers Paradise⁶)
- the periods for carrying out temporary works for the event, being from:
 - the beginning of the day on 15 September 2023 to midday on 26 October 2023
 - midday on 30 October 2023 to midnight on 18 November 2023.⁷

The event organiser, V8 Supercars Australia Pty Ltd, is the same as for the 2022 event.⁸

4.1 Consistency with fundamental legislative principles

4.1.1 Rights and liberties of individuals

The fundamental legislative principles include a requirement that legislation has sufficient regard to the rights and liberties of individuals.⁹

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 can continue until the end of the temporary works period.

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),¹⁰ and persons being subject to possible infringements on their rights within the event area.

These potential infringements on rights and liberties include:¹¹

- being frisked by a police officer¹²
- 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)¹³

⁶ The explanatory notes (p 1) state that the prescribed major event area is ‘substantially the same as the 2022 event’.

⁷ SL No. 116, explanatory notes, p 1; SL No 116, ss 3-6.

⁸ SL No. 116, explanatory notes, p 1.

⁹ LSA, s 4(2)(a). Fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law.

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

¹¹ Major Events (Motor Racing Events) Regulation 2015, s 15 (‘Application of Act provisions to motor racing events’).

¹² *Major Events Act 2014* (Major Events Act), s 18(6).

¹³ Major Events Act, s 20.

- being directed to immediately leave the event area and not enter it for up to 24 hours¹⁴
- not being permitted to park a car in the event area.¹⁵

The explanatory notes do not provide specific justifications for each of these potential infringements on the rights and liberties of individuals. However, they note that the relevant provisions:

- will only be in force for limited periods and in clearly defined areas, such that any undue impacts on individuals' rights and liberties will be minimised¹⁶
- are consistent with the objectives of the Major Events Act, and 'necessary in order to ensure public safety for the duration of the event'.¹⁷

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

The 2023 Boost Mobile Gold Coast 500 event delivers tourism and economic benefits for the Gold Coast and the State of Queensland. This includes generating local jobs and showcasing the Gold Coast and Queensland to a significant television audience around Australia and overseas. The 2023 Boost Mobile Gold Coast 500 is expected to deliver similar outcomes to the 2022 Boost Mobile Gold Coast 500 racing event, which included more than 200,000 total attendances across the event and world feed broadcast to over 91 countries via 24 different international broadcast partners.¹⁸

Committee comment

On balance, we consider the economic and tourism benefits for the Gold Coast 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

The explanatory notes comply with part 4 of the LSA.

4.3 Compatibility with human rights

The Minister, in the human rights certificate accompanying SL no. 116, acknowledges that the regulation could at least potentially impact on various human rights, including the rights to freedom of movement,¹⁹ freedom of expression,²⁰ property rights²¹ and the right to privacy^{22, 23}

In particular, the Minister notes that SL No. 116 applies certain provisions of the Major Events Act which may:

- limit the ability of persons to move freely due to road closures, other restrictions on vehicles, being subject to a possible decision to leave an area, and limited entry and exit points²⁴

¹⁴ Major Events Act, 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.

¹⁵ Except in specified circumstances. Major Events Act, s 28.

¹⁶ SL No. 116, explanatory notes, p 2.

¹⁷ SL No. 116, explanatory notes, p 3.

¹⁸ SL No. 116, explanatory notes, p 2.

¹⁹ HRA, s 19: Every person lawfully in Queensland has the right to move freely within Queensland.

²⁰ HRA, s 21: Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

²¹ HRA, s 24(2): A person must not be arbitrarily deprived of their property.

²² HRA, s 25(a): A person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

²³ SL No. 116, human rights certificate, p 2.

²⁴ SL No. 116, human rights certificate, p 2.

- limit the right to freedom of expression through advertising restrictions, limits on conduct within the event area, prohibitions on broadcast, and the use of official logos²⁵
- limit the right to property, 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 and remove articles of clothing from a person or items from a vehicle; and powers to inspect a person's possessions²⁶
- potentially impact on an individual's right to privacy because:
 - persons entering the major event area may be asked to consent to:
 - the use of an electronic detection device (e.g. a metal detector) on them or their possessions
 - inspection of their belongings, and removal and inspection of outer garments and articles in their possession
 - inspection of their vehicle and removal and inspection of an article from their vehicle
 - persons within the major event area being asked to consent to open and allow the inspection of an item in their possession
 - persons who are directed to leave the major event area may have their photo (or other image) taken
 - persons who are found to be committing, or are reasonably suspected of having just committed, an offence against the Act, may be required to state their name and address, and provide evidence of correctness of that statement.²⁷

In respect of these identified limitations, the human rights certificate emphasises that 'the Regulation provides for the safety of visitors and spectators at major motor racing events and protects the rights of event organisers and sponsors' and that the limitations are 'reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom'.²⁸

The human rights certificate further emphasises that the limitations are not arbitrary, are non-discriminatory in nature, and are necessary in order to meet the objectives of the Major Events Act.²⁹ It also states:

Provisions under the Regulations are constrained to the major event periods and the temporary works periods outlined in the Amendment Regulation and/or to the major event area for the Gold Coast 500 (identified in Schedule 2 of the Regulation); minimising potential limitations on these human rights.³⁰

Committee comment

The committee is satisfied that SL No. 116 is compatible with human rights and that any limitations regarding freedom of movement and expression, property rights, and the right to privacy are reasonable and justifiable.³¹

²⁵ SL No. 116, human rights certificate, p 2.

²⁶ SL No. 116, human rights certificate, p 3.

²⁷ SL No. 116, human rights certificate, pp 3-4.

²⁸ SL No. 116, human rights certificate, pp 1, 9.

²⁹ SL No. 116, human rights certificate, p 4.

³⁰ SL No. 116, human rights certificate, p 4.

³¹ 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 s 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 SL No. 116 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

5 Parliamentary Service By-law 2023

The Parliamentary Service By-law 2023 (SL No. 123) repeals and replaces the Parliamentary Service By-law 2013.³²

SL No. 123 provides for matters relating to the behaviour and conduct of persons entering or upon the parliamentary precinct. The explanatory notes state that SL No. 123:

... is important for protecting the safety of persons attending the parliamentary precinct, members of the Legislative Assembly and parliamentary staff, and ensuring that members of the Legislative Assembly are free to perform their duties on the precinct without interference.³³

5.1 Consistency with fundamental legislative principles

As previously noted, the fundamental legislative principles include a requirement that legislation has sufficient regard to the rights and liberties of individuals.³⁴ These rights and liberties include the rights of individuals to peaceful assembly and to privacy, which are recognised under the HRA and are therefore considered under section 5.3 of this report, regarding the compatibility of SL No. 123 with human rights.

5.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

5.3 Compatibility with human rights

The Minister, in the human rights certificate accompanying SL No. 123, acknowledges that the by-law could potentially impact on various human rights, including the rights to freedom of expression, peaceful assembly and freedom of association, the right to take part in public life, and the right to privacy and reputation.³⁵

In particular, the Minister identifies that SL No. 123 may:

- limit a person's right to freedom of expression and peaceful assembly by restricting the display of political statements on the precinct, such as on clothing, banners or signs or attached to a building, fence or other structure (unless permitted by the Speaker or an authorised officer)³⁶
- limit a person's right to take part in public life insofar as it empowers the Speaker, the Clerk of the Parliament and authorised officers to give a direction restricting a person's access to the parliamentary precinct, therefore preventing persons who are subject to such a direction from observing, or where relevant participating, in the proceedings of the Legislative Assembly or its committees³⁷

³² SL No. 123, explanatory notes, p 1. The Parliamentary Service By-law 2013 automatically expired on 1 September 2023 in accordance with s 54 of the *Statutory Instruments Act 1992*, which provides for the automatic expiry of subordinate legislation on 1 September first occurring after the tenth anniversary of its making.

³³ SL No. 123, explanatory notes, p 1.

³⁴ LSA, s 4(2)(a).

³⁵ Explanatory notes, p 1. Section 22 of the HRA provides that every person has the right of peaceful assembly and of freedom of association with others, including the right to form and join trade unions. Section 23 of the HRA provides that every person in Queensland has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly (through access to the public service and public office) or through freely chosen representatives (by voting). See footnotes 20 and 22 regarding the HRA's recognition of the rights to freedom of expression and to privacy.

³⁶ SL No. 123, human rights certificate, pp 1-2.

³⁷ SL No. 123, human rights certificate, p 3.

- limit a person's right to privacy by requiring a person entering the precinct to provide certain personal information to an authorised officer for the purpose of issuing an entry pass to the precinct, and providing for authorised officers to conduct scans and searches of persons and their property.³⁸

The certificate asserts, however, that these limitations are necessary for the provision of a safe and secure parliamentary environment and to protect the integrity of the institution of Parliament by ensuring 'the behaviour and conduct of persons on the precinct does not interfere with a member's performance of their duties while on the precinct'.³⁹

Further, the certificate emphasises that:

- the subordinate legislation supports the Legislative Assembly's right to control its own proceedings and to conduct its proceedings free from interference
- the limitation on a person's right to freedom of expression and peaceful assembly only applies to the very restricted area of the parliamentary precinct⁴⁰
- in respect of the potential limitation on taking part in public life (by providing for a direction that restricts their access):
 - this limitation is generally consistent with the security management of state buildings
 - individuals subject to a direction are still able to participate in public life by observing the proceedings of the Legislative Assembly and its committees on the Parliament's website⁴¹
- the impacts on privacy are not arbitrary measures and apply to all persons equally, and any personal information is required to be appropriately collected and handled in accordance with the *Information Privacy Act 2009*.⁴²

Committee comment

The committee is satisfied that any limitations regarding freedom of expression, peaceful assembly and freedom of association, taking part in public life, and the right to privacy are reasonable and justifiable, and that SL No. 123 is compatible with human rights and consistent with fundamental legislative principles.

5.4 Human rights certificate

The human rights certificate tabled with the SL No. 123 provides a sufficient level of information to facilitate understanding of the by-law in relation to its compatibility with human rights.

6 Governors (Salary and Pensions) Regulation 2023

The Governors (Salary and Pensions) Regulation 2023 (SL No. 124) provides for the salary, pension and other related matters for the Governor of Queensland. SL No. 124 replaces the existing Governors (Salary and Pensions) Regulation 2013 (2013 Regulation), which expired on 1 September 2023.⁴³

SL No. 124 maintains the status quo by prescribing the same salary rate for the Governor as the 2013 Regulation. The rate is an amount for a financial year that is equal to the amount the Chief Justice of Queensland is entitled to be paid for the financial year as salary under the *Judicial Remuneration Act 2007*.⁴⁴

6.1 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified.

³⁸ SL No. 123, human rights certificate, p 2.

³⁹ SL No. 123, human rights certificate, p 3.

⁴⁰ SL No. 123, human rights certificate, p 3.

⁴¹ SL No. 123, human rights certificate, p 4.

⁴² SL No. 123, human rights certificate, p 5.

⁴³ SL No. 124, explanatory notes, p 1.

⁴⁴ SL No. 124, s 3. See also Governors (Salary and Pensions) Regulation 2013, s 3 (expired).

6.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

6.3 Compatibility with human rights

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

6.4 Human rights certificate

The human rights certificate tabled with SL No. 124 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

7 Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023

Part 7 of the *Statutory Instruments Act 1992* (SI Act) is designed to require regular review of Queensland's subordinate legislation by causing most subordinate legislation to automatically expire on 1 September first occurring after the tenth anniversary of the day of its making.⁴⁵ This encourages government departments to assess the relevancy of the legislation and consider the necessity of reviewing the relevant parent Act.⁴⁶

Subject to this legislative review process, the SI Act allows a regulation to be made to:

- exempt uniform subordinate legislation from expiry for a stated period of not more than 5 years after it would otherwise expire,⁴⁷ and exempt uniform subordinate legislation previously exempted from expiry for further periods each of not more than 5 years⁴⁸
- exempt subordinate legislation, other than uniform subordinate legislation,⁴⁹ from expiry for up to one year after the subordinate legislation would otherwise expire, on the following grounds:
 - replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends, or
 - the subordinate legislation is not proposed to be replaced when it expires at the end of the stated period, or
 - the Act or provision under which or in relation to which the subordinate legislation, or part of the subordinate legislation, is made or preserved is subject to review⁵⁰
- exempt subordinate legislation which has previously been exempted from expiry (other than uniform subordinate legislation), for a further period each of not more than one year, where the Act or provision under which or in relation to which it is made is subject to review.⁵¹

In accordance with these provisions, the Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023 (SL No. 125) provides for the exemption from expiry of a range of items of subordinate legislation, 'where appropriate grounds exist'.⁵² That is, SL No. 125 exempts from expiry:

- 2 items of uniform subordinate legislation for a period of 5 years and one item of uniform subordinate legislation for a further period of 5 years

⁴⁵ SL No. 125, explanatory notes, p 1.

⁴⁶ SL No. 125, explanatory notes, p 2.

⁴⁷ SI Act, s 56(1).

⁴⁸ SI Act, s 56(2).

⁴⁹ 'Uniform subordinate legislation' means subordinate legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or declared under a regulation under section 59(2) of the *Statutory Instruments Act 1992* to be uniform subordinate legislation: *Statutory Instruments Act 1992*, sch 3.

⁵⁰ SI Act, s 56A(1).

⁵¹ SI Act, s 56A(2), 56A(3).

⁵² SL No. 125, explanatory notes, p 2. This is achieved through Amendment to the Statutory Instruments Regulation 2012.

- 4 items of subordinate legislation for a period of one year, as replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends
- 6 items of subordinate legislation for a period of one year, on the grounds that the Act or provision under which or in relation to which the subordinate legislation or part of the subordinate legislation is made or preserved is subject to review
- 45 items of subordinate legislation for a further period of one year, on the grounds that the Act or provision under which or in relation to which the subordinate legislation or part of the subordinate legislation is made or preserved is subject to review.⁵³

The Table in Appendix A sets out the 3 items of uniform subordinate legislation to be exempted from expiry for 5 years, under section 56 of the SI Act.

The table in Appendix B sets out the subordinate legislation to be exempted from expiry for a period of one year (until midnight on 31 August 2024), under section 56A of the SI Act.

Reporting requirements

Where subordinate legislation (other than uniform subordinate legislation) which has been previously exempted from expiry by regulation is again exempted from expiry for up to one year by further regulation, that further regulation is known as an extension regulation.⁵⁴

Under the SI Act, when an extension regulation is made, the responsible Minister for the subordinate legislation being exempted must, within 7 sitting days after the making of the extension regulation, table a report in the Assembly which states:

- how the Act or provision is subject to review
- if the Act or provision is being reviewed by any Minister, the extent to which the Act or provision is being review, and when the Minister expects the review to end.⁵⁵

As set out in the table in Appendix B, all of the required reports on extension regulations were tabled by the responsible Ministers by the deadline of 24 October 2023 as required.

7.1 Consistency with fundamental legislative principles

No issues of fundamental legislative principle were identified.

7.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

7.3 Compatibility with human rights

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

7.4 Human rights certificate

The human rights certificate tabled with SL No. 125 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

⁵³ SL No. 125, explanatory notes, p 2.

⁵⁴ See SI Act, s 56A(2).

⁵⁵ SI Act, s 56A(4). However, failure to comply with this requirement does not affect the validity of the extension regulation: SI Act, s 56A(5).

8 Public Sector Ethics Regulation 2023

To ensure continuity of the regulatory regime, the Public Sector Ethics Regulation 2023 (SL No. 126) replaces the existing regulation, the Public Sector Ethics Regulation 2010 (PSER),⁵⁶ commencing on 1 September 2023.⁵⁷

SL No. 126 prescribes entities as public service agencies for the purpose of applying the Public Service Code of Conduct (Code).⁵⁸

According to the explanatory notes, SL No. 126 prescribes:

- entities currently prescribed in the PSER, where these entities have sought to maintain existing arrangements
- particular entities that are not currently prescribed, where they have sought inclusion.⁵⁹

8.1 Consistency with fundamental legislative principles

Although noting that SL No. 126 does not contain any specific arrangements governing the contents of the Code or other employment obligations, the explanatory notes state that SL No. 126 permits application of the Code to public sector entities that are not public service agencies, and ‘may be viewed as indirectly limiting the rights and liberties of individuals through application of the Code’.⁶⁰

According to the explanatory notes:

Generally, the contents of the Code confirm existing employment arrangements and do not limit the rights and liberties of individuals, however, clauses of the Code that deal with responsibilities when contributing to public discussion (clause 1.3, paragraph c) and private conduct (clause 1.5, paragraph d) have been identified as potentially limiting this FLP [fundamental legislative principle].⁶¹

The explanatory notes acknowledge that disciplinary action against an individual may be taken for contravention of the Code,⁶² but emphasise that any limitation on the rights and liberties of individuals is justified on the following grounds:

- the ability to prescribe entities and impose disciplinary action for failure to comply with the Code exists in the primary legislation of the *Public Sector Ethics Act 1994* (PSE Act) and the *Public Sector Act 2022* (PS Act) – not in SL No. 126
- the ethics values of the PSE Act provide the basis for all codes of conduct required to be developed and any limitation imposed through the Code is outweighed by the public benefit it provides
- the PS Act contains protections to ensure any disciplinary action taken for breaching the Code is proportionate and reasonable.⁶³

⁵⁶ The PSER expired on 31 August 2023.

⁵⁷ SL No. 126, explanatory notes, p 2.

⁵⁸ SL No. 126, explanatory notes, p 1. The Public Service Code of Conduct sets out standards of conduct for employees of public service agencies consistent with the ethics principles and values outlined in the *Public Sector Ethics Act 1994* (PSE Act): SL No. 126, human rights certificate, p 1.

⁵⁹ SL No. 126, explanatory notes, p 2.

⁶⁰ SL No. 126, explanatory notes, p 3.

⁶¹ SL No. 126, explanatory notes, p 3.

⁶² In accordance with s 24 of the PSE Act, relevant disciplinary action for contravention of the Code may be through the *Public Sector Act 2022* (PS Act) or potentially through other disciplinary processes that may apply to a particular employee of a specific entity. Section 91(1)(f) of the PS Act provides that disciplinary action may be taken against a public sector employee for contravention, without reasonable excuse, of a relevant standard of conduct including the Code, in a way that is sufficiently serious to warrant disciplinary action. Disciplinary action may include termination of employment or a reduction of classification level and a consequential change of duties, among other actions (see s 92(1)). SL No. 126, explanatory notes, p 3.

⁶³ SL No. 126, explanatory notes, p 3.

Committee comment

SL No. 126 prescribes entities currently prescribed in the PSER, where these entities have sought to maintain existing arrangements, and prescribes particular entities that are not currently prescribed, where they have sought inclusion.

On this basis, and noting the explanations provided in the explanatory notes (including that the ability to prescribe entities and impose disciplinary action for failure to comply with the Code exists in the primary legislation, not in SL No. 126), the committee is satisfied that the regulation has sufficient regard to fundamental legislative principles.

8.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

8.3 Compatibility with human rights

The human rights certificate accompanying SL No. 126 identifies potential limitations on freedom of thought, conscience, religion and belief; freedom of expression; the right to take part in public life; and the right to privacy.⁶⁴ In particular, the human rights certificate states:

The right to freedom of expression and the freedom to demonstrate one's religion or belief will be engaged and may be limited where an employee of a public service agency seeks to correspond in public or private in a manner that does not adhere to the standards prescribed by the Code of Conduct. Similarly, the right to freedom of association and to take part in public life may be limited if compliance with the Code of Conduct impedes a public service agency employee's capacity to associate or interact with others.

The right to take part in public life will also be engaged in circumstances where the ethical demands imposed by the Code of Conduct impede public servants from participating in their political community, or where non-compliance with the Code of Conduct results in dismissal from the public service.

The right to non-arbitrary interference with a person's privacy, family, home or correspondence will be engaged and may be limited if compliance with the Code of Conduct would require a public service agency employee to regulate their conduct in their 'personal and social sphere'...⁶⁵

While acknowledging that SL No. 126 may therefore impose limits on the employee rights in some circumstances by requiring them to alter their behaviour to comply with the Code, the certificate asserts that:

- any such impacts are 'readily outweighed by the need to ensure the integrity, independence and effectiveness of public service agencies, which will enhance our democratic system'⁶⁶
- SL No. 126 strikes 'an appropriate balance between the need to respect human rights and the importance of ensuring an independent and transparent public service'.⁶⁷

Committee comment

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

8.4 Human rights certificate

The human rights certificate tabled with SL No. 126 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

⁶⁴ SL No. 126, human rights certificate, pp 1-2. Section 20 of the HRA provides that every person has the right to freedom of thought, conscience, religion, and belief, including the freedom to have or adopt a religion or belief of their choice and demonstrate the belief (through worship, observance, practice and teaching), either individually or as part of a community, in public or private, and without coercion or restraint. See footnotes 20, 22, and 35 respectively regarding the right to freedom of expression, the right to privacy and the right to public life.

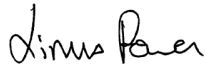
⁶⁵ SL No. 126, human rights certificate, p 2.

⁶⁶ SL No. 126, human rights certificate, p 3.

⁶⁷ SL No. 126, human rights certificate, p 3.

9 Recommendation

The committee recommends that the House notes this report.



Linus Power MP

Chair

November 2023

Economics and Governance Committee

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| Chair | Mr Linus Power MP, Member for Logan |
| Deputy Chair | Mr Ray Stevens MP, Member for Mermaid Beach |
| Members | 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 |

Appendix A – Uniform subordinate legislation exempted from expiry until 31 August 2028

| Instrument | Ground for exemption | Expiry date |
|---|------------------------------------|----------------|
| Trans-Tasman Mutual Recognition (Endorsement) Notice 2012 | Uniform s 56(1) | 31 August 2028 |
| Trans-Tasman Mutual Recognition (Endorsement) Notice (No. 1) 2013 | Uniform s 56(1) | 31 August 2028 |
| Prisoners (Interstate Transfer) Regulation 2013 | Further exemption: uniform s 56(2) | 31 August 2028 |

Appendix B – Subordinate legislation exempted from expiry until 31 August 2024

| Instrument | Ground for exemption | Section 56A report tabling date and Minister |
|---|------------------------------------|--|
| Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Aboriginal Land Regulation 2011 | Further exemption: review s 56A(2) | 24 October 2023 Minister for Resources |
| Appeal Costs Fund Regulation 2010 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Associations Incorporation Regulation 1999 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Body Corporate and Community Management Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Brands Regulation 2012 | Further exemption: review s 56A(2) | 28 September 2023 Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities |
| Building and Construction Industry (Portable Long Service Leave) Regulation 2013 | Being replaced s 56A(1)(a)(i) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Building Fire Safety Regulation 2008 | Further exemption: review s 56A(2) | 26 September 2023 Minister for Police and Corrective Services and Minister for Fire and Emergency Services |
| Building Units and Group Titles Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Casino Control Regulation 1999 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Charitable and Non-Profit Gaming Regulation 1999 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |

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| City of Brisbane Regulation 2012 | Subject to review s 56A(1)(b) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Collections Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Court Funds Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Electoral Regulation 2013 | Being replaced S 56A(1)(a)(i) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Electricity Regulation 2006 | Further exemption: review s 56A(2) | 23 October 2023 Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement |
| Fair Trading (Code of Practice— Fitness Industry) Regulation 2003 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Fair Trading (Safety Standards) Regulation 2011 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Fire and Emergency Services Regulation 2011 | Further exemption: review s 56A(2) | 26 September 2023 Minister for Police and Corrective Services and Minister for Fire and Emergency Services |
| Funeral Benefit Business Regulation 2010 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Gaming Machine Regulation 2002 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Gas Supply Regulation 2007 | Further exemption: review s 56A(2) | 23 October 2023 Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement |
| Information Privacy Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Integrity Regulation 2011 | Further exemption: review s 56A(2) | 23 October 2023 Premier and Minister for the Olympic and Paralympic Games |

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| Interactive Gambling (Player Protection) Regulation 1998 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Keno Regulation 2007 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Liquor (Approval of Adult Entertainment Code) Regulation 2002 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Liquor Regulation 2002 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Local Government Regulation 2012 | Subject to review s 56A(1)(b) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Lotteries Regulation 2007 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Mineral Resources Regulation 2013 | Subject to review s 56A(1)(b) | 24 October 2023 Minister for Resources |
| Police Powers and Responsibilities Regulation 2012 | Being replaced S56A(1)(a)(i) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Property Law Regulation 2013 | Subject to review s 56A(1)(b) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Residential Tenancies and Rooming Accommodation Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Minister for Housing |
| Right to Information Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Rural and Regional Adjustment Regulation 2011 | Further exemption: review s 56A(2) | 28 September 2023 Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities |
| Safety in Recreational Water Activities Regulation 2011 | Further exemption: review s 56A(2) | 4 October 2023 Minister for Education, Minister for Industrial Relations and Minister for Racing |
| Second-hand Dealers and Pawnbrokers Regulation 2004 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |

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| Security Providers (Crowd Controller Code of Practice) Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Security Providers Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Security Providers (Security Firm Code of Practice) Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Security Providers (Security Officer—Licensed Premises—Code of Practice) Regulation 2008 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| TAFE Queensland Regulation 2013 | Subject to review s 56A(1)(b) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Torres Strait Islander Land Regulation 2011 | Further exemption: review s 56A(2) | 24 October 2023 Minister for Resources |
| Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Tourism Services Regulation 2003 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Tow Truck Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Minister for Transport and Main Roads and Minister for Digital Services |
| Transport Infrastructure (Waterways Management) Regulation 2012 | Subject to review s 56A(1)(b) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Transport Operations (Passenger Transport) Standard 2010 | Further exemption: review s 56A(2) | 23 October 2023 Minister for Transport and Main Roads and Minister for Digital Services |
| Trust Accounts Regulation 1999 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Valuers Registration Regulation 2013 | Being replaced s 56A(1)(a)(i) | N/A – First exemption from expiry (reports only required for extension regulations) |
| Vegetation Management Regulation 2012 | Further exemption: review s 56A(2) | 24 October 2023 Minister for Resources |

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| Wagering Regulation 1999 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |
| Wine Industry Regulation 2009 | Further exemption: review s 56A(2) | 23 October 2023 Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence |