

Transport and Resources Committee

Report No. 35, 57th Parliament

Subordinate legislation tabled between 29 November 2022 and 9 May 2023

1 Aim of this report

This report summarises the findings of the Transport and Resources Committee (committee) following our examination of the subordinate legislation within our portfolio areas tabled between 29 November 2022 and 9 May 2023.

It reports on any identified issues relating to the policy to be given effect by the subordinate legislation, its consistency with fundamental legislative principles (FLPs),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. of 2022	Subordinate legislation	Date tabled	Disallowance date*
157	Valuation of Land (Fee Exemption) Amendment Regulation 2022	29 November 2022	19 April 2023

No. of 2023	Subordinate legislation	Date tabled	Disallowance date*
15	Heavy Vehicle (Vehicle Standards) National Amendment Regulation 2023	28 March 2023	15 June 2023
16	Proclamation No. 8 - <i>Building Industry Fairness (Security of Payment) Act 2017</i> (commencing remaining provisions)	28 March 2023	15 June 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, Part 4.

⁵ HRA, s 41

No. of 2023	Subordinate legislation	Date tabled	Disallowance date*
17	Proclamation No. 7 - <i>Building Industry Fairness (Security of Payment) Act 2017</i> (repealing previous proclamation)	28 March 2023	15 June 2023
32	Proclamation No. 1 - <i>Land and Other Legislation Amendment Act 2023</i> (commencing certain provisions)	9 May 2023	13 September 2023
33	Stock Route Management Regulation 2023	9 May 2023	13 September 2023

* 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 issues regarding policy, consistency with FLPs, lawfulness, or compatibility with human rights were identified with the six regulations considered by the committee in this report.

The committee also considers that the Explanatory Notes tabled with the subordinate legislation comply with the requirements of part 4 of the LSA. Further, the accompanying human rights certificates provide a sufficient level of information to facilitate an understanding of factors relevant to the compatibility of the subordinate legislation with the HRA.

4 Valuation of Land (Fee Exemption) Amendment Regulation 2022

The objective of Valuation of Land (Fee Exemption) Amendment Regulation 2022 (SL No. 157 of 2022) is to:

... enable the valuer-general to provide valuation information to eligible persons without cost if the entry on the valuation roll relates to a prescribed matter. In achieving this objective, the present cost barrier which impedes eligible persons from pursuing entitlements under the [Native Title Act 1993 (Cwth)] will be removed.⁶

The Explanatory Notes provide further information:

When making an indigenous land use agreement with a native title holder, this agreement may cover matters including compensation for any past act, intermediate period act, or future act attributable to the State or Commonwealth, which has extinguished or impaired their native title rights or interests. To calculate the compensation payable, it is necessary to determine the economic loss sustained by the native title holders due to the act. For the calculation of this economic loss, the use of statutory valuation information provides a method which is both efficient and cost-effective.

Valuation roll information can be used to facilitate other processes under the Native Title Act 1993 (Cwth) (Native Title Act), such as negotiations under Part 2, Division 3, Subdivision P of the Native Title Act, or applications made to the Federal Court for the determination of compensation payable under the Native Title Act.

In the above circumstances, statutory valuation information cannot be supplied unless the prescribed fee has been paid. This imposes a cost barrier upon native title parties pursuing their entitlements under the

⁶ SL No. 157, Explanatory Notes, p 2.

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Native Title Act. Furthermore, it prevents the State from conducting or facilitating such processes cost effectively and in good faith, for all parties.⁷

Persons eligible for the exemption in SL No. 157 include:

- common law holders under section 56 of the *Native Title Act 1993* (Cwth) (Native Title Act)
- a person in a compensation claim group who, under section 251B of the Native Title Act, is authorised by all the other persons in the group to make a compensation application
- a registered native title body corporate under section 253 of the Native Title Act
- a registered native title claimant under section 253 of the Native Title Act
- a representative Aboriginal/Torres Strait Islander body under section 253 of the Native Title Act.⁸

4.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

4.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.

4.3 Human rights considerations

The committee is satisfied that the subordinate legislation is compatible with human rights.⁹

4.4 Human rights certificate

The human rights certificate tabled with SL No. 157 of 2022 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

5 Heavy Vehicle (Vehicle Standards) National Amendment Regulation 2023

The Heavy Vehicle (Vehicle Standards) National Amendment Regulation 2023 (SL No. 15 of 2023) makes amendments to the Heavy Vehicle (Vehicle Standards) National Regulation (Regulation), as endorsed by the Infrastructure and Transport Ministers' Meeting (ITMM) on 9 December 2022, to:

- better align the Regulation with the Australian Design Rules and clarify requirements and terminology
- improve the operation of the standards by making minor technical drafting amendments
- clarify that warning lights attached to a bus must emit a flashing yellow light alternately between 90 and 180 times per minute
- allow for a bus that is manufactured before or within 12 months of the commencement to adhere to the current requirements.¹⁰

The amendments commenced on 31 March 2023.¹¹

⁷ SL No. 157, Explanatory Notes, p 2.

⁸ SL No. 157, Explanatory Notes, pp 2-3.

⁹ Section 8 of the *Human Rights Act 2019* (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 section 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.

¹⁰ SL No. 15, Explanatory Notes, p 2.

¹¹ SL No. 15, s 2.

5.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

5.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.¹²

5.3 Human rights considerations

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

5.4 Human rights certificate

The human rights certificate tabled with SL No. 15 of 2023 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

6 Proclamation No. 8 - *Building Industry Fairness (Security of Payment) Act 2017* (commencing remaining provisions)

The Proclamation made under the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act) (SL No. 16 of 2023) fixes the following dates for the commencement of the remaining provisions of the BIF Act:

- 1 March 2025 - chapter 9, part 1, division 3¹³
- 1 October 2025 - chapter 9, part 1, division 4¹⁴.

The Explanatory Notes state:

The objective of the Proclamation is to replace the existing commencement dates for Phases 3 and 4 specified in the Proclamation made on 24 March 2022 (SL No. 31 of 2022), with new dates that provide approximately an additional two years respectively. The previous commencement dates have been repealed under a separate proclamation.¹⁵

6.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

6.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.

6.3 Human rights considerations

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. 16 of 2023 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

¹² The Explanatory Notes identify section 730 of the *Heavy Vehicle National Law Act 2012* as the authorising law. This should be section 730 of the *Heavy Vehicle National Law (Queensland)*.

¹³ Fixes the commencement date for phase 3 of the the new trust account framework, namely expansion to eligible private sector, local government, statutory authority, and government-owned corporations' contracts valued at \$3 million or more; SL No. 16, Explanatory Notes, p 1.

¹⁴ Fixes the commencement date for phase 4 of the the new trust account framework, namely expansion to all eligible contracts valued at \$1 million or more (full implementation); SL No. 16, Explanatory Notes, p 1.

¹⁵ SL No. 16, Explanatory Notes, p 2.

7 Proclamation No. 7 - *Building Industry Fairness (Security of Payment) Act 2017* (repealing previous proclamation)

The Proclamation made under the *Building Industry Fairness (Security of Payment) Act 2017* (SL No. 17 of 2023) repeals the earlier Proclamation made under the BIF Act on 25 March 2022 (SL No. 31 of 2022).

SL No. 31 of 2022 had fixed the following days for the commencement of the specified provisions of the BIF Act:

- 1 April 2023 - chapter 9, part 1, division 3
- 1 October 2023 - chapter 9, part 1, division 4.

The Explanatory Notes state that these provisions:

... provide for the phased application of the new trust account framework (framework), which was inserted into the BIF Act primarily by section 63 of the [Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020]. The framework replaced the former Project Bank Account model and is being gradually phased in for eligible Queensland building and construction contracts between 2021 and 2023.¹⁶

Together with SL No. 17, SL No. 16 (discussed above) delays the commencement date of divisions 3 and 4 of part 1 of chapter 9 of the BIF Act by approximately 2 years to improve industry readiness and capability and give time for pressures on the construction market to ease.¹⁷

7.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

7.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.

7.3 Human rights considerations

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. 17 of 2023 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

8 Proclamation No. 1 - *Land and Other Legislation Amendment Act 2023* (commencing certain provisions)

The Proclamation made under the *Land and Other Legislation Amendment Act 2023* (SL No. 32 of 2023) fixes 1 July 2023 as the commencement date of the provisions of part 8 and schedule 1 of the *Land and Other Legislation Amendment Act 2023* (Act) that are not in force.

SL No. 32 provides for commencement of sections of the Act, which amend the *Stock Route Management Act 2002* (SRM Act) to:

- provide for how to apply, and a new application fee, for stock route travel and agistment permits¹⁸

¹⁶ SL No. 17, Explanatory Notes, p 1.

¹⁷ SL No. 17, Explanatory Notes, pp 1-2.

¹⁸ Act, ss 63, 64 and 65; SL No. 32, Explanatory Notes, p 2; SL No. 32, human rights certificate, p 1. See also discussion in this briefing paper on SL No. 33.

- provide that local government will retain all revenue generated from application fees, permit fees, water facility agreements and fines, with the amount to be used on the stock route network in its area¹⁹
- provide for transitional arrangements arising out the stock route amendments²⁰
- make minor and consequential amendments arising from the amendments in the Act.²¹

8.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

8.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.

8.3 Human rights considerations

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. 32 of 2023 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

9 Stock Route Management Regulation 2023

The SRM Act, which sets out the principles and responsibilities for managing Queensland's stock route network, a planning process, and a system for issuing permits for stock to travel or agist on the network, is supplemented by subordinate legislation setting out the operational arrangements.²²

The Stock Route Management Regulation 2023 (SL No. 33 of 2023) commences on 1 July 2023.²³ The Explanatory Notes state that SL No. 33 replaces the expiring Stock Route Management Regulation 2003 and contains many of the same provisions, as refined through consultation with government, industry, and other stakeholders.²⁴

The objectives of SL No. 33 are to:

- list the local governments required to have a stock route management plan²⁵
- prescribe the interest on amounts payable by landowners or permit holders for specific instances of non-compliance²⁶
- prescribe the market value of seized stock²⁷
- set the amounts for fees that are payable²⁸

¹⁹ Act, s 67; SL No. 32, Explanatory Notes, p 2; SL No. 32, human rights certificate, p 1.

²⁰ Act, s 69; SL No. 32, Explanatory Notes, p 2.

²¹ Act, sch 1; SL No. 32, Explanatory Notes, p 2.

²² SL No. 32, Explanatory Notes, p 1.

²³ SL No. 33, s 2; SL No. 32.

²⁴ SL No. 32, Explanatory Notes, p 1.

²⁵ SRM Act, s 104; SL No. 33, Explanatory Notes, p 1.

²⁶ SRM Act, ss 153 and 159; SL No. 33, Explanatory Notes, p 2.

²⁷ SRM Act, s 170; SL No. 33, Explanatory Notes, p 2.

²⁸ SRM Act, s 309; SL No. 33, Explanatory Notes, p 2.

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- amend the Nature Conservation (Protected Areas Management) Regulation 2017 to ensure consistency in permit fees for travelling stock under both the *Nature Conservation Act 1992* and the SRM Act; and update certain definitions.²⁹

9.1 Fundamental legislative principle issues

No issues of fundamental legislative principle were identified.

9.2 Explanatory Notes

The Explanatory Notes comply with part 4 of the LSA.

9.3 Human rights considerations

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

9.4 Human rights certificate

The human rights certificate tabled with SL No. 33 of 2023 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

10 Recommendation

The committee recommends that the House notes this report.



Shane King MP

Chair

June 2023

Transport and Resources Committee

Chair	Mr Shane King MP, Member for Kurwongbah
Deputy Chair	Mr Lachlan Millar MP, Member for Gregory
Members	Mr Bryson Head MP, Member for Callide
	Mr James Martin MP, Member for Stretton
	Mr Les Walker MP, Member for Mundingburra
	Mr Trevor Watts MP, Member for Toowoomba North

²⁹ SL No. 33, human rights certificate, p 2.

Queensland Legislative Assembly

Number: 5723T 853



14 JUN 2023

Tabled ☒

By Leave ☐

MP: Mr King

Clerk's Signature: _____