

Economics and Governance Committee

Report No. 4, 57th Parliament

Subordinate legislation tabled between 15 July 2020 and 8 September 2020

1 Aim of this report

This report summarises the findings of the Economic and Governance Committee (committee) following its examination of the subordinate legislation within its portfolio areas tabled between 15 July 2020 and 8 September 2020. 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),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 the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

The committee examined the subordinate legislation listed in the table below.

No.	Subordinate legislation	Date tabled	Disallowance date*
160	Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020	8 September 2020	10 March 2020

* 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.

¹ Section 4 of the *Legislative Standards Act 1992* (LSA) states that FLPs are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to: a) rights and liberties of individuals, and b) the institution of Parliament.

² Section 8 of the *Human Rights Act 2019* (HRA) provides that a statutory provision is compatible with human rights if it 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 to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in determining whether a limit on a human right is reasonable and justifiable.

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

⁴ LSA, Part 4. Section 24 sets out the information that must be included in the explanatory note for subordinate legislation which is required to be tabled in the Legislative Assembly with the subordinate legislation (LSA, s 22).

⁵ Section 41(4) of the HRA provides that the portfolio committee responsible for examining subordinate legislation may, in examining the legislation, also consider the human rights certificate prepared by the responsible Minister for the subordinate legislation. The human rights certificate, which must be tabled in the Legislative Assembly with the subordinate legislation, must state: a) whether, in the responsible Minister’s opinion, the subordinate legislation is compatible with human rights, and if so, how it is compatible; and b) if, in the responsible Minister’s opinion, a part of the subordinate legislation is not compatible with human rights, the nature and extent of the incompatibility (see HRA, s 41(1)–(3)).

3 SL No. 160 of 2020 - Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020

Under the *Statutory Instruments Act 1992*:

- Subordinate legislation automatically expires on 1 September first occurring after the 10th anniversary of the day of its making unless it is sooner repealed or expires, or a regulation is made exempting it from expiry.⁶
- A regulation can exempt uniform subordinate legislation from expiry for a stated period of not more than five years after it would otherwise expire.⁷
- Uniform subordinate legislation previously exempted may be exempted for further periods each of not more than five years.⁸
- A regulation can exempt other subordinate legislation from expiry, for one year, on the following grounds:
 - replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends
 - the subordinate legislation is not proposed to be replaced or preserved 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 review.⁹
- Non-uniform subordinate legislation previously exempted may be exempted for further periods each of not more than one year.¹⁰

The Statutory Instruments (Exemption from Expiry) Amendment Regulation 2020 (SL No. 160 of 2020) amends the Statutory Instruments Regulation 2012 to exempt from expiry a range of items of subordinate legislation:

- one item of uniform subordinate legislation for a period of five years
- one item of uniform subordinate legislation for a further period of five years
- 17 items of subordinate legislation for a period of one year, on the grounds that replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends
- 2 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.¹¹

If subordinate legislation is being exempted from expiry for a further period because the authorising Act or provision is subject to review, the responsible Minister must table a report stating how the Act or provision is subject to review, and, if applicable, the extent to which the Act or provision is being

⁶ *Statutory Instruments Act 1992*, s 54.

⁷ *Statutory Instruments Act 1992*, s 56(1).

⁸ *Statutory Instruments Act 1992*, s 56(2).

⁹ *Statutory Instruments Act 1992*, s 56A(1).

¹⁰ *Statutory Instruments Act 1992*, s 56A(2).

¹¹ Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020 (SL No. 160 of 2020), explanatory notes, p 2.

reviewed and when the Minister expects the review to end. The report must be tabled within 7 sitting days after the extension regulation is made.¹²

By 1 December 2020, all of the required reports had been tabled:

- on 14 September 2020:
 - by the then Deputy Premier, Minister for Health and Minister for Ambulance Services (Hon Dr Steven Miles MP), regarding the Health (Drugs and Poisons) Regulation 1996, the Health Regulation 1996 and the Pest Management Regulation 2003
 - by the then Minister for Natural Resources, Mines and Energy (Hon Dr Anthony Lynham MP), regarding the Electricity Regulation 2006, the Energy and Water Ombudsman Regulation 2007 and the Gas Supply Regulation 2007
 - also by Hon Dr Anthony Lynham MP, regarding the Stock Route Management Regulation 2003
- on 22 September 2020, by the then Attorney-General and Minister for Justice (Hon Yvette D’Ath MP), regarding 31 regulations
- on 24 September 2020, by the then Minister for Police and Minister for Corrective Services (Hon Mark Ryan MP), regarding the State Buildings Protective Security Regulation 2008
- on 2 October 2020, by the then Minister for Fire and Emergency Services and Minister for Aboriginal and Torres Strait Islander Partnerships (Hon Craig Crawford MP), regarding the Building Fire Safety Regulation 2008
- on 18 November 2020, by the Minister for Transport and Main Roads (Hon Mark Bailey MP), regarding the Tow Truck Regulation 2009
- on 27 November 2020:
 - by the Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities (Hon Mark Furner MP), regarding the Agricultural Chemicals Distribution Control Regulation 1998 and the Sugar Industry Regulation 2010
 - by the Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement (Hon Mick de Brenni MP), regarding the Building Regulation 2006
 - by the Treasurer and Minister for Investment (Hon Cameron Dick MP), regarding the Petroleum and Gas (Royalty) Regulation 2004
- on 30 November 2020, by the Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts (Hon Leanne Enoch MP), regarding the Residential Tenancies and Rooming Accommodation Regulation 2009.

The table in Appendix A sets out the subordinate legislation to be exempted from expiry for 5 years under section 56 of the *Statutory Instruments Act 1992*.

The table in Appendix B sets out the subordinate legislation to be exempted from expiry until 31 August 2021 under section 56A of the *Statutory Instruments Act 1992*, and the various reports tabled by Ministers in relation to the subordinate legislation, as required.

3.1 Legislative Standards Act 1992 considerations

The committee identified no issues regarding SL No. 160 of 2020’s consistency with FLPs or its lawfulness.

The committee also considers that the explanatory notes comply with part 4 of the LSA.

¹² *Statutory Instruments Act 1992*, s 56A(4).

However, the committee notes that the explanatory notes for SL No. 160 of 2020 contain these 2 statements:

- There are no costs to Government in implementing the Regulation as it is administrative in nature.¹³
- The Regulation does not breach fundamental legislative principles as it is administrative in nature, ensuring the stock of subordinate legislation remains current and relevant.¹⁴

It is accurate to state that there are no costs to government here, and that there are no breaches of FLP. Of doubtful accuracy are the general propositions in the statements that the mere fact that a regulation is administrative in nature necessarily means there are no costs to government, nor any breaches of FLP arising.

3.2 Human Rights Act 2019 considerations

The committee identified no issues regarding the compatibility of SL No. 160 of 2020 with human rights.

The committee considers 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.

4 Recommendation

The committee recommends that the House notes this report.



Linus Power MP

Chair

February 2021

Economics and Governance Committee

Chair	Linus Power MP, Member for Logan
Deputy Chair	Ray Stevens MP, Member for Mermaid Beach
Members	Michael Crandon MP, Member for Coomera Melissa McMahon MP, Member for Macalister Dan Purdie MP, Member for Ninderry Adrian Tantari MP, Member for Hervey Bay

¹³ SL No. 160 of 2020, explanatory notes, p 2.

¹⁴ SL No. 160 of 2020, explanatory notes, p 3.

Appendix A – Uniform subordinate legislation exempted from expiry

Instrument	Ground for exemption	Expiry date
Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004	further exemption: uniform s 56(2)	31 August 2025
Transport Operations (Road Use Management—Road Rules) Regulation 2009	uniform s 56(1)	1 September 2025

Appendix B – Subordinate legislation exempted from expiry until 31 August 2021

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)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Agricultural Chemicals Distribution Control Regulation 1998	further exemption: review s 56A(2)	27 November 2020 Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities
Appeal Costs Fund Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Associations Incorporation Regulation 1999	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Attorney-General Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Body Corporate and Community Management (Accommodation Module) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Body Corporate and Community Management (Commercial Module) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Body Corporate and Community Management Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Body Corporate and Community Management (Small Schemes Module) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Body Corporate and Community Management (Standard Module) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Building Fire Safety Regulation 2008	further exemption: review s 56A(2)	2 October 2020 Minister for Fire and Emergency Services and Minister for Aboriginal and Torres Strait Islander Partnerships
Building Regulation 2006	further exemption: review s 56A(2)	27 November 2020

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Instrument	Ground for exemption	Section 56A report tabling date and Minister
		Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement
Building Units and Group Titles Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Casino Control Regulation 1999	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Charitable and Non-Profit Gaming Regulation 1999	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Collections Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Court Funds Regulation 2009	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Criminal Practice (Fees) Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Electricity Regulation 2006	further exemption: review s 56A(2)	14 September 2020 Minister for Natural Resources, Mines and Energy
Energy and Water Ombudsman Regulation 2007	further exemption: review s 56A(2)	14 September 2020 Minister for Natural Resources, Mines and Energy
Fair Trading (Code of Practice—Fitness Industry) Regulation 2003	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
First Home Owner Grant Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Gaming Machine Regulation 2002	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Gas Supply Regulation 2007	further exemption: review s 56A(2)	14 September 2020 Minister for Natural Resources, Mines and Energy

Subordinate legislation tabled between 15 July 2020 and 8 September 2020

Instrument	Ground for exemption	Section 56A report tabling date and Minister
Greenhouse Gas Storage Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Health (Drugs and Poisons) Regulation 1996	further exemption: review s 56A(2)	14 September 2020 Deputy Premier, Minister for Health and Minister for Ambulance Services
Health Regulation 1996	further exemption: review s 56A(2)	14 September 2020 Deputy Premier, Minister for Health and Minister for Ambulance Services
Information Privacy Regulation 2009	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Interactive Gambling (Player Protection) Regulation 1998	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Keno Regulation 2007	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Land Court Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Land Tax Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Liquor (Approval of Adult Entertainment Code) Regulation 2002	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Liquor Regulation 2002	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Lotteries Regulation 2007	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Mutual Recognition (Queensland) Regulation 2009	being replaced s 56A(1)(a)(i)	not required
Parliamentary Service Rule 2010	being replaced s 56A(1)(a)(i)	not required

Subordinate legislation tabled between 15 July 2020 and 8 September 2020

Instrument	Ground for exemption	Section 56A report tabling date and Minister
Pest Management Regulation 2003	further exemption: review s 56A(2)	14 September 2020 Deputy Premier, Minister for Health and Minister for Ambulance Services
Petroleum and Gas (Royalty) Regulation 2004	further exemption: review s 56A(2)	27 November 2020 Treasurer and Minister for Investment
Radiation Safety (Radiation Safety Standards) Notice 2010	being replaced s 56A(1)(a)(i)	not required
Radiation Safety Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Residential Tenancies and Rooming Accommodation Regulation 2009	further exemption: review s 56A(2)	30 November 2020 Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts
Right to Information Regulation 2009	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Second-hand Dealers and Pawnbrokers Regulation 2004	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Security Providers (Crowd Controller Code of Practice) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Security Providers Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Security Providers (Security Firm Code of Practice) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Security Providers (Security Officer—Licensed Premises—Code of Practice) Regulation 2008	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
South-East Queensland Water (Distribution and Retail Restructuring) Regulation 2010	being replaced s 56A(1)(a)(i)	not required
State Buildings Protective Security Regulation 2008	further exemption: review	24 September 2020

Subordinate legislation tabled between 15 July 2020 and 8 September 2020

Instrument	Ground for exemption	Section 56A report tabling date and Minister
	s 56A(2)	Minister for Police and Minister for Corrective Services
Stock Route Management Regulation 2003	further exemption: review s 56A(2)	14 September 2020 Minister for Natural Resources, Mines and Energy
Sugar Industry Regulation 2010	subject to review s 56A(1)(b)	27 November 2020 Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities
Superannuation (State Public Sector) Notice 2010	being replaced s 56A(1)(a)(i)	not required
Tobacco and Other Smoking Products Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Tourism Services Regulation 2003	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Tow Truck Regulation 2009	further exemption: review s 56A(2)	18 November 2020 Minister for Transport and Main Roads
Transport Operations (Passenger Transport) Standard 2010	subject to review s 56A(1)(b)	not required
Transport Operations (Road Use Management—Driver Licensing) Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010	being replaced s 56A(1)(a)(i)	not required
Trust Accounts Regulation 1999	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House
Wagering Regulation 1999	further exemption: review	22 September 2020

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Instrument	Ground for exemption	Section 56A report tabling date and Minister
	s 56A(2)	Attorney-General and Minister for Justice and Leader of the House
Wine Industry Regulation 2009	further exemption: review s 56A(2)	22 September 2020 Attorney-General and Minister for Justice and Leader of the House