

Family Responsibilities Commission Regulation 2014

Explanatory notes for SL 2014 No. 286

made under the

Family Responsibilities Commission Act 2008

General Outline

Short title

Family Responsibilities Commission Regulation 2014

Authorising law

Section 151 of the *Family Responsibilities Commission Act 2008* (the FRC Act).

Policy objectives and the reasons for them

The policy objective of the *Family Responsibilities Commission Regulation 2014* (the Regulation) is to include description of all 'welfare reform community areas' to which the operations of the Family Responsibilities Commission (FRC) will be applied.

Achievement of policy objectives

The FRC is a central feature of welfare reform which aims to restore social norms and local authority and change behaviours in response to chronic levels of welfare dependency, social dysfunction and economic exclusion.

It is a statutory body established under the FRC Act and operates to restore local Indigenous authority and build stronger and more resilient communities, through attaching behavioural obligations to the receipt of welfare payments.

Community members in welfare reform communities are 'notified' to the FRC for: failing to enrol their children in and send them to school; a child safety matter; being convicted of an offence in a court; or failing to remedy a breach of a tenancy agreement. The FRC Commissioner, Deputy Commissioner and Local Commissioners hold conferences with community members to address the behaviour and to take action enabled under the FRC Act, which involves referral to services and programs and income management if required.

'Welfare reform community areas' currently subject to the operations of the FRC are defined in the Schedule to the FRC Act and are further detailed in the *Family Responsibilities Commission Regulation 2008*.

The *Family Responsibilities Commission Amendment Act 2014* (Amendment Act) which received assent on 27 October 2014 removes the definition of 'welfare reform community areas' from section 94(3) of the Act and inserts a new section 8A to authorise placement of the descriptions of 'welfare reform community areas' in the Regulation.

The new Regulation prescribes the definition of the current five 'welfare reform community areas' of Aurukun, Hope Vale, Mossman Gorge, Coen and Doomadgee.

As the FRC Act provides for areas to be added to the definition of welfare reform community area by way of regulation, duplication will be avoided by fully describing the areas in the new Regulation only.

Moving the described community areas to the Regulation will also increase the flexibility of welfare reform as new communities seek to join welfare reform and existing communities transition to a new phase.

To ensure a simultaneous transition of welfare reform communities from the Act into the Regulation, the Amendment Act will commence by proclamation on the same date as the new Regulation—28 November 2014.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objectives of the FRC Act. It will describe the welfare reform community areas in which the FRC will support the restoration of socially responsible standards of behaviour and local authority; and to help people in welfare reform community areas to resume primary responsibility for the wellbeing of their community and the individuals and families of the community.

Consistency with policy objectives of other legislation

The Regulation remains consistent with the income management regime under Part 3B of the *Social Security (Administration) Act 1999* (Cth) (the Social Security Administration Act).

Section 123UF of the Social Security Administration Act makes specific provision for the FRC to give the Secretary of the Australian Government's Department of Social Services notices requiring that persons be subject to income management.

Benefits and costs of implementation

The Regulation will result in savings to the Queensland Government through reducing red tape by requiring only the Regulation, not the Act and the Regulation, to be amended in the future when certain communities are ready to transition into or from welfare reform.

Consistency with fundamental legislative principles

The new Regulation is considered to be consistent with the fundamental legislative principles (FLPs) set out in the *Legislative Standards Act 1992*.

The primary FLP concern regarding the application of the FRC and its orders, is whether the proposed legislation has sufficient regard for the rights and liberties of individuals in accordance with section 4 of the *Legislative Standards Act 1992*.

The delegation down to Regulation to designate welfare reform communities required careful consideration to ensure the rights and liberties of individuals are protected. Any potential issues are mitigated by the requirement for the Minister to apply the objects and principles of the Act when communities are being considered for inclusion as a welfare reform community and also because the purpose of the Act is to establish the FRC, not to establish specific welfare reform areas.

The requirements of section 4(3)(j) of the *Legislative Standards Act 1992* (Qld) to observe Aboriginal tradition and Island custom are met by the extensive community consultations conducted in relation to welfare reform; and the appointment of respected community members as local commissioners to the FRC.

There are no implications under the *Anti-discrimination Act 1991* (Qld) or potential breaches of the *Racial Discrimination Act 1975* (Cth) (RDA) resulting from this new Regulation as it gives effect only to the description of welfare reform community areas and does not increase the powers of the FRC Act.

Consultation

Consultations were held in April – June 2014 to ascertain views on the extension of the FRC into the future. Consultations were undertaken in the five current welfare reform community areas (Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge) with the Mayors and Councillors, community leaders, community justice groups, community members, service providers, relevant Queensland and Australian Government agencies and the FRC Commissioners and staff.

Key outcomes

There was general agreement from all groups involved in the consultation meetings that the FRC was still needed and welfare reform was supported in current communities and potentially in new communities in the future.

Notes on provisions

Clause 1 is the 'Short title' and notes that the Regulation is to be cited as the *Family Responsibilities Commission Regulation 2014*.

Clause 2 notes that the Regulation commences on 28 November 2014.

Clause 3 notes the prescribed welfare reform community areas for section 8A of the FRC Act -

- (1) prescribes the following areas –
 - (a) the area of the Aurukun Shire Council;
 - (b) the Coen area;
 - (c) the area of the Doomadgee Aboriginal Shire Council;
 - (d) the Hope Vale area;
 - (e) the Mossman Gorge area;and
- (2) details the locations included in the above areas; and defines *natural resources department* as the department in which the *Land Title Act 1994* is administered

Clause 4 describes the prescribed social housing entity in section 44 of the Act.

Clause 5 repeals the *Family Responsibilities Commission Regulation 2008*.