

# Statutory Instruments Regulation 2022

Explanatory notes for SL 2022 No. 113

made under the

*Explosives Act 1999, Statutory Instruments Act 1992, Transport Infrastructure Act 1994 and Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Statutory Instruments Regulation 2022*

### Authorising law

Section 51A of the *Explosives Act 1999*, sections 54, 56, 56A and 59 of the *Statutory Instruments Act 1992*, section 442 of the *Transport Infrastructure Act 1994*, and sections 151A and 161R of the *Transport Operations (Road Use Management) Act 1995*

### Policy objectives and the reasons for them

The *Statutory Instruments Regulation 2012* is due to expire on 1 September 2022 under subsection 54(1) of the *Statutory Instruments Act 1992* (the Act).

Section 59 of the Act provides that the Governor in Council may make regulations under the Act.

The *Statutory Instruments Regulation 2022* repeals and replaces the *Statutory Instruments Regulation 2012*.

The *Statutory Instruments Regulation 2022* retains the definitions of statutory instruments that are subordinate legislation for the purposes of section 9 of the Act. This is provided for in section 3 and Schedule 1 of the *Statutory Instruments Regulation 2022*.

Part 7 of the Act is designed to require regular review of Queensland's subordinate legislation (SL) by causing most SL to automatically expire on 1 September first occurring after the tenth anniversary of the day of its making.

Section 56 of the Act allows a regulation to be made to exempt uniform SL from expiry for a stated period of not more than five years after the uniform subordinate legislation would otherwise expire.

Section 56A(1) of the Act allows a regulation to be made to exempt SL from expiry for one year on the following grounds:

- replacement SL is being drafted and is proposed to be made before the stated period ends [section 56A(1)(a)(i)];
- the SL is not proposed to be replaced or preserved when it expires at the end of the stated period [section 56A(1)(a)(ii)]; or
- the Act or provision under which or in relation to which the SL or part of the SL is made or preserved is subject to review [section 56A(1)(b)].

SL previously exempted from expiry under section 56A(1)(b) of the Act may be further exempted from expiry for periods of not more than one year under section 56A(2) of the Act.

The *Statutory Instruments Regulation 2022* ensures that SL may continue to be exempted from expiry or further exempted from expiry where appropriate grounds exist under sections 56 or 56A of the Act. This is provided for in sections 3 and 4 of the *Statutory Instruments Regulation 2022*.

Section 3(3) of the *Statutory Instruments Regulation 2012* provided that a reference in Schedule 2 to an instrument includes a reference to the instrument as amended from time to time. That provision has been omitted from the *Statutory Instruments Regulation 2022*, because the *Acts Interpretation Act 1954*, section 14H (which applies to statutory instruments as if a reference to an Act included a reference to a statutory instrument) provides that a reference to a law includes a reference to the law as amended from time to time.

## Achievement of policy objectives

The policy objective to encourage regular review of Queensland's SL is achieved by requesting Government departments to assess the relevancy of expiring SL and consider the necessity of reviewing the relevant parent Act. As a result of this process, the *Statutory Instruments Regulation 2022* will exempt:

- seven items of uniform SL for various periods dependent upon when each item was first exempted from expiry;
- five items of SL until 31 August 2023 as replacement SL is being drafted and is proposed to be made before the stated period ends;
- 11 items of SL for that are due to expire for the first time on 1 September 2022 until 31 August 2023 on the grounds that the Act or provision under which or in relation to which the SL or part of the SL is made or preserved is subject to review; and
- 41 items of SL for a further period until 31 August 2023 on the grounds that the Act or provision under which or in relation to which the SL or part of the SL is made or preserved is subject to review.

## **Consistency with policy objectives of authorising law**

The *Statutory Instruments Regulation 2022* is consistent with the objects of the Act as it supports regular review of Queensland SL and encourages Government departments to proactively remake, replace or allow to lapse expiring SL.

## **Inconsistency with policy objectives of other legislation**

The *Statutory Instruments Regulation 2022* is not inconsistent with the policy objectives of other legislation, including the *Human Rights Act 2019*.

## **Benefits and costs of implementation**

The *Statutory Instruments Regulation 2022* provides a benefit as it encourages Government departments to regularly review the relevancy of SL and take action to remake, replace or allow to lapse expiring SL in a timely manner.

There are no costs to Government in implementing the *Statutory Instruments Regulation 2022* as it is administrative in nature.

## **Consistency with fundamental legislative principles**

The *Statutory Instruments Regulation 2022* is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*. The *Statutory Instruments Regulation 2022* does not breach fundamental legislative principles as it is administrative in nature, ensuring the stock of SL remains current and relevant.

## **Consultation**

The Department of Transport and Main Roads and the Department of Resources were consulted in relation to the statutory instruments mentioned in Schedule 1 of the *Statutory Instruments Regulation 2022* as being subordinate legislation for the purposes of section 9 of the Act. Schedule 1 of the *Statutory Instruments Regulation 2022* replicates Schedule 1 of the *Statutory Instruments Regulation 2012*.

All Government departments have been consulted in relation to the subordinate legislation listed in Schedules 2 and 3 of the *Statutory Instruments Regulation 2022* that are being exempted from expiry or further exempted from expiry under sections 56 or 56A of the Act.

A sunset review as required by the Queensland Government Guide to Better Regulation (the guidelines) was prepared by the Department of the Premier and Cabinet for the proposed remake of the *Statutory Instruments Regulation 2012* to the *Statutory Instruments Regulation 2022* and submitted to the Office of Best Practice Regulation (OBPR) in Queensland Treasury. Arising from that, OBPR advised that no further regulatory impact analysis was required under the guidelines.