

# **Associations Incorporation and Other Legislation Amendment (Postponement) Regulation 2021**

Explanatory notes for SL 2021 No. 31

made under the

*Associations Incorporation and Other Legislation Amendment Act 2020*

## **General Outline**

### **Short Title**

*Associations Incorporation and Other Legislation Amendment (Postponement) Regulation 2021*

### **Authorising law**

Section 15DA(2) of the *Acts Interpretation Act 1954*  
Section 2 of the *Associations Incorporation and Other Legislation Amendment Act 2020*

### **Policy objectives and the reasons for them**

The *Associations Incorporation and Other Legislation Amendment Act 2020* (Amendment Act) was passed on 16 June 2020 and received assent on 22 June 2020.

The *Associations Incorporation and Other Legislation Amendment Act 2020* (Amendment Act) was passed on 16 June 2020 and received assent on 22 June 2020. Section 2A number of the Amendment Act provides that a number of provisions are to commence on a date to be fixed by proclamation and are therefore “postponed laws” under section 15DA of the *Acts Interpretation Act 1954* (Acts Interpretation Act).

Some of these postponed laws (sections 42 and 57; section 46 to the extent it inserts new section 154; and section 60 to the extent it inserts new section 51), commenced by Proclamation on 1 April 2021 (Subordinate Legislation 2021 No. 24).

Section 15DA of the Acts Interpretation Act provides that if a postponed law has not been commenced within one year of the date on which an Act receives assent, the law will automatically commence the following day (being 23 June 2021 for uncommenced provisions of the Amendment Act).

Section 15DA also provides that a regulation may postpone the period before the automatic commencement of a postponed law to not more than two years from the date of assent.

The objective of the *Associations Incorporation and Other Legislation Amendment (Postponement) Regulation 2021* (Postponement Regulation) is to extend the period before automatic commencement of the remaining uncommenced provisions of the Amendment Act to the end of 21 June 2022.

The extension of the period before automatic commencement will apply to the following provisions of the Amendment Act:

- sections 8 and 12 to 15
- section 16, to the extent it inserts new section 47A
- sections 21 to 25, 30 to 32, 40, 41, 43 and 45
- section 46, to the extent it inserts new sections 152 and 153
- section 49(2) and (4)
- sections 51, 54 and 58
- section 60, to the extent it inserts new section 49
- parts 4 and 5.

These provisions include amendments intended to improve the internal governance of incorporated associations, such as provisions that obligate incorporated associations to observe a grievance procedure that is set out in their rules (or otherwise to observe a model grievance procedure).

The provisions also obligate management committees of incorporated associations to disclose the remuneration paid to committee members, senior staff and relatives of committee members and senior staff; to declare conflicts of interest; to ensure the incorporated association does not trade while insolvent; and to observe other defined governance standards.

Some of these provisions require support from subordinate legislation that must be developed in consultation with the sector, after which associations must have the opportunity to make any necessary changes to their rules.

For that reason, not-for-profit stakeholders were advised on 30 June 2020 that some provisions of the Amendment Act would not be commencing until 2021-22 or, in the case of the grievance procedure requirement, until 22 June 2022. This necessitates a postponement regulation.

## **Achievement of policy objectives**

To achieve the policy objectives, the Postponement Regulation will extend the period before automatic commencement of the remaining provisions of the Amendment Act to the end of 21 June 2021, with the effect that those provisions will automatically commence on 22 June 2022 unless earlier commenced by proclamation.

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

The Postponement Regulation is consistent with the policy objectives of the Amendment Act and the *Acts Interpretation Act 1954*.

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

The Postponement Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The benefit of the Postponement Regulation is the commencement of the remaining provisions will be delayed to allow incorporated associations time to implement necessary procedures and rules and will also allow the Department of Justice and Attorney-General (DJAG) adequate time to consult on amendments to subordinate legislation and develop those amendments for Governor in Council consideration. The Postponement Regulation will also allow the Government to meet the commitment given by the former Attorney-General.

There are no costs associated with the implementation of this Postponement Regulation.

## **Consistency with fundamental legislative principles**

The Postponement Regulation is consistent with fundamental legislative principles.

## **Consultation**

Stakeholders were advised by the former Attorney-General and Minister for Justice by letter in June 2020 that some provisions of the Amendment Act would be commencing in 2021-22.

The postponement regulation was self-assessed by the Department of Justice and Attorney-General in accordance with the *Queensland Government Guide to Better Regulation* and determined to be excluded from regulatory impact assessment under exclusion category (g) on the basis that the regulation is of a machinery nature. Consultation with the Queensland Productivity Commission is not required.