

Economics and Governance Committee

Report No. 20, 56th Parliament

Subordinate legislation tabled between 22 August 2018 and 4 September 2018

Introduction

Role of the committee

The Economics and Governance Committee (the committee) is a portfolio committee of the Legislative Assembly.¹ The committee's primary areas of responsibility include:

- Premier and Cabinet, and Trade
- Treasury
- Aboriginal and Torres Strait Islander Partnerships
- Local Government, Racing and Multicultural Affairs.

The committee is responsible for examining each item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles, and the lawfulness of the legislation.²

Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 22 August 2018 and 4 September 2018. It reports on any identified fundamental legislative principle issues and the explanatory notes' compliance with the *Legislative Standards Act 1992*.

Subordinate legislation considered

The committee considered the following subordinate legislation.

SL No.	Subordinate legislation	Tabled date	Disallowance date
122 of 2018	Proclamation made under the <i>Local Government (Dissolution of Ipswich City Council) Act 2018</i>	4 September 2018	15 November 2018
123 of 2018	Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2018	4 September 2018	15 November 2018
124 of 2018	Public Service Regulation 2018	4 September 2018	15 November 2018
125 of 2018	Queensland Competition Authority Regulation 2018	4 September 2018	15 November 2018
126 of 2018	Financial Intermediaries Regulation 2018	4 September 2018	15 November 2018

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, s 93.

SL 122 of 2018 - Proclamation made under the Local Government (Dissolution of Ipswich City Council) Act 2018

The objective of the regulation is to fix a commencement date of 23 August 2018 for the *Local Government (Dissolution of Ipswich City Council) Act 2018* (the Act).

The Act dissolves Ipswich City Council and ends each councillor's term of office on commencement, and provides that the Governor in Council must appoint an interim administrator to act in place of the councillors until the conclusion of the 2020 quadrennial election of councillors for the Ipswich local government area.

Commencement of the Act on 23 August 2018 is to ensure that the dissolution of the Ipswich City Council and the end of each councillor's term aligns with the appointment of the interim administrator of Ipswich City Council, also proposed for 23 August 2018.

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the proclamation made under the *Local Government (Dissolution of Ipswich City Council) Act 2018*.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

SL 123 of 2018 - Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2018

The objective of the Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2018 (2018 regulation) is to exempt from expiry certain subordinate legislation where appropriate grounds exist, under sections 56 and 56A of the *Statutory Instruments Act 1992* (the SI Act).

Most subordinate legislation automatically expires on 1 September first occurring after the tenth anniversary of the day of its making, unless it is sooner repealed or expires. The SI Act supports regular review of Queensland subordinate legislation and encourages government departments to proactively remake, replace or allow to lapse expiring subordinate legislation.

However, Section 56 of the SI Act allows a regulation to be made to exempt uniform subordinate legislation 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 SI Act allows a regulation to be made to exempt subordinate legislation from expiry for one year on various grounds. A further extension may also be provided under section 56A(2) if the SI 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.

The 2018 regulation aims to exempt:

- six 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
- thirteen items of subordinate legislation for a period of one year - on the grounds that the SI 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
- one item of uniform subordinate legislation for a period of five years, and
- thirty-five 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.

If an extension regulation is made the Minister responsible for that regulation is required to table a report in the Legislative Assembly within seven sitting days after the extension regulation is made. In accordance with section 56A(4) the report is to state:

(a) *how the Act or provision is subject to review; and*

(b) *if subsection (6)(a) applies—*

(i) *the extent to which the Act or provision is being reviewed; and*

(ii) *when the Minister expects the review to end.*

For the 2018 regulation, a number of Ministers were responsible for tabling a report on subordinate legislation within their portfolios to be made exempt. A list of tabled reports pursuant to section 56A(4) of the SI Act is provided at **Appendix A**.

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2018.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

SL 124 of 2018 - Public Service Regulation 2018

The objective of the Public Service Regulation 2018 is to continue to apply provisions of the *Public Service Act 2008* (the PS Act), and directives issued under the PS Act, to public sector entities (declared public service offices) and their employees that are not otherwise subject to the PS Act. This is achieved by re-making the Public Service Regulation 2008, which was to expire on 1 September 2018.

Section 23 of the PS Act provides for the application of that Act to public service offices prescribed by regulation, and provides that a regulation under that section may specify what provisions of the PS Act apply to the office and the way in which the provisions are to apply.

The Public Service Regulation 2018 provides for the same matters as the 2008 regulation, with minor changes to the applied provisions and rulings, and changes to reflect current drafting practices.

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Public Service Regulation 2018.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

SL 125 of 2018 - Queensland Competition Authority Regulation 2018

The Queensland Competition Authority Regulation 2018 (QCA regulation 2018) remakes the Queensland Competition Authority Regulation 2007, which was to expire on 31 August 2018. The objectives of the 2018 regulation include:

- protecting against unfair or inefficient pricing practices and service standards in the supply of water and wastewater services in Queensland, and
- ensuring the Queensland Competition Authority (QCA) can continue to provide the services and perform the functions it is required to do in accordance with the *Queensland Competition Authority Act 1997* (QCA Act).

The QCA conducts price investigations of declared 'monopoly business activities' at the direction of the Minister. The regulation makes the business activities involving the supply of water and wastewater services by particular local governments across Queensland and the south-east

Queensland distributor-retailer entities established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, subject to the prices oversight regime.

Given the nature of businesses that supply water and wastewater services, there is potential for unfair or inefficient pricing due to the lack of competition and high barriers to entry for potential competitors. This is particularly relevant to these businesses given the essential nature of the water and wastewater services they provide.

The QCA performs an important role in ensuring monopoly businesses operating in Queensland, particularly in the provision of key infrastructure and essential utilities, do not abuse their market power through unfair pricing or restrictive access arrangements.

According to the explanatory notes to the QCA regulation 2018, declaration under the prices oversight regime is a 'light-handed' approach for protecting consumers from monopolistic behaviour. It seeks to deter adverse outcomes at minimal cost and interference from government. However, it provides for greater government intervention if it is warranted.³

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Queensland Competition Authority Regulation 2018.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

SL 126 of 2018 - Financial Intermediaries Regulation 2018

The objective of the Financial Intermediaries Regulation 2018 (FI regulation 2018) is to replace the Financial Intermediaries Regulation 2007 (FI regulation 2007). The *Financial Intermediaries Act 1996* and the FI regulation 2007 provide for the regulation and operation of cooperative housing societies and prescribe administrative matters relating to the regulation of such societies. Due to a number of factors, including the deregulation of the financial sector which saw a greater choice of loan providers and less stringent lending criteria, most of these societies have been wound up. With no source of new funds and no new societies registered since 2004, the resources expended to continue to regulate a sector that has assisted very few persons to buy a house over the last 14 years are relatively considerable. Queensland Treasury Corporation has advised that one cooperative housing society remains and is expected to be wound up within six to 12 months. Once this has occurred, it is intended the FI regulation 2018 will be repealed.⁴

The FI regulation 2007 was to expire on 31 August 2018 and the FI regulation 2018 will allow for the operation, administration and regulation of the remaining society until it is wound up.

The FI regulation 2018 is administrative in nature. The benefit of implementing the replacement regulation is to ensure regulation continues to exist for the remaining society. The FI regulation 2018 will not result in additional costs and, as a result, will not require allocation of additional funds for its implementation.

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Financial Intermediaries Regulation 2018.

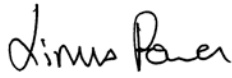
The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

³ Financial Intermediaries Regulation 2018, explanatory notes, p 3.

⁴ Financial Intermediaries Regulation 2018, explanatory notes, pp 1-2.

Recommendation

The committee recommends that the Legislative Assembly note this report.



Linus Power MP
Chair

Economic and Governance Committee

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	Ms Kim Richards MP, Member for Redlands		

Appendix A - Reports to the Legislative Assembly pursuant to section 56A(4) of the Statutory Instruments Act 1992 for subordinate legislation expiring 1 September 2018

Report to Parliament by the Minister for Housing and Public Works, Minister for Digital Technology and Minister for Sport (Hon de Brenni MP), Compliance with section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Architects Regulation 2003, Building and Construction Industry Payments Regulation 2004, Building Regulation 2006, Plumbing and Drainage Regulation 2003, Professional Engineers Regulation 2003 and the Standard Plumbing and Drainage Regulation 2003, tabled 15 October 2018.

Report to the Legislative Assembly from the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts (Hon Enoch MP), pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Nature Conservation (Wildlife) Regulation 2006, tabled 11 October 2018.

Report to the Legislative Assembly from the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts (Hon Enoch MP), pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Nature Conservation (Wildlife Management) Regulation 2006, tabled 11 October 2018.

Report to the Legislative Assembly from the Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships (Hon Trad MP) pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Petroleum and Gas (Royalty) Regulation - formerly Petroleum and Gas (Production and Safety) Regulation 2004, tabled 9 October 2018.

Report to the Legislative Assembly from the Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships (Hon Trad MP) pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Statutory Bodies Financial Arrangements Regulation 2007, tabled 9 October 2018.

Report to the Legislative Assembly from the Attorney-General and Minister for Justice (Hon D'Ath MP), regarding the Associations Incorporation Regulation 1999, Body Corporate and Community Management (Accommodation Module) Regulation 2008, Body Corporate and Community Management (Commercial Module) Regulation 2008, Body Corporate and Community Management Regulation 2008, Body Corporate and Community Management (Small Schemes Module) Regulation 2008, Body Corporate and Community Management (Standard Module) Regulation 2008, Building Units and Group Titles Regulation 2008, Casino Control Regulation 1999, Charitable and Non-Profit Gaming Regulation 1999, Collections Regulation 2008, Fair Trading (Code of Practice-Fitness Industry) Regulation 2003, Gaming Machine Regulation 2002, Interactive Gambling (Player Protection) Regulation 1998, Introduction Agents Regulation 2002, Keno Regulation 2007, Liquor (Approval of Adult Entertainment Code) Regulation 2002, Liquor Regulation 2002, Lotteries Regulation 2007, Second-hand Dealers and Pawnbrokers Regulation 2004, Security Providers (Crowd Controller Code of Practice) Regulation 2008, Security Providers Regulation 2008, Security Providers (Security Firm Code of Practice) Regulation 2008, Security Providers (Security Officer – Licensed Premises – Code of Practice) Regulation 2008, Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003, Tourism Services Regulation 2003, Trust Accounts Regulation 1999 and the Wagering Regulation 1999 pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, tabled 4 October 2018.

Report to the Legislative Assembly from the Minister for Police and Minister for Corrective Services (Hon Ryan MP) pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Police Service (Discipline) Regulations 1990 and the State Buildings Protective Security Regulation 2008, 24 September 2018.

Report to the Legislative Assembly from the Minister for Natural Resources, Mines and Energy (Hon Dr Lynham MP) pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Stock Route Management Regulation 2003, tabled 13 September 2018.

Report to the Legislative Assembly from the Minister for Natural Resources, Mines and Energy (Hon Dr Lynham MP) pursuant to section 56A(4) of the *Statutory Instruments Act 1992*, regarding the Electricity Regulation 2006, the Energy and Water Ombudsman Regulation 2007 and the Gas Supply Regulation 2007, tabled 13 September 2018.