

**Portfolio subordinate legislation
tabled between 31 July 2012 and
11 September 2012**

Report No. 22

Finance and Administration Committee

October 2012

FINANCE AND ADMINISTRATION COMMITTEE

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Chair's Foreword

This report presents the Committee's findings from its consideration of items of subordinate legislation tabled between 31 July 2012 and 11 September 2012 that fall within its portfolio responsibilities.

The Committee recommends that the Legislative Assembly note the subordinate legislation tabled between 31 July 2012 and 11 September 2012 and considered by the Committee. The Committee did not identify any significant issues regarding consistency with fundamental legislative principles or the lawfulness of the subordinate legislation.

[Michael Crandon MP](#)
[Chair](#)

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1. Introduction

The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 18 May 2012.¹ The Committee's primary areas of responsibility are: Premier and Cabinet; and Treasury and Trade.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation;
- b) the application of fundamental legislative principles to the legislation; and
- c) for subordinate legislation – its lawfulness.

2. Findings and recommendations

The Committee recommends that the Legislative Assembly note the subordinate legislation tabled between 31 July 2012 and 11 September 2012 and considered by the Committee. The Committee did not identify any significant issues regarding consistency with fundamental legislative principles or the lawfulness of the subordinate legislation.

3. Subordinate legislation considered

The following table lists the subordinate legislation considered by the Committee and the deadline in each case for Members to give notice in the House of a disallowance motion in accordance with Standing Order 59.²

SL No 2012	Subordinate Legislation	Tabled Date	Disallowance Date ³
117	<i>Integrity Amendment Regulation (No.1) 2012</i>	21 August 2012	28 November 2012
129	<i>South East Queensland Water (Restructuring) Regulation Amendment (No.1) 2012</i>	21 August 2012	28 November 2012
130	<i>State Penalties Enforcement Amendment Regulation (No.4) 2012</i>	21 August 2012	28 November 2012
134	<i>Taxation Administration Regulation 2012</i>	11 September 2012	13 February 2013
142	<i>Parliament of Queensland Regulation 2012</i>	11 September 2012	13 February 2013
143	<i>Statutory Instruments Regulation 2012</i>	11 September 2012	13 February 2013

4. Issues for consideration

The Committee identified potential fundamental legislative principle (FLP) and/or other issues with the following subordinate legislation highlighted in the table:

- *Integrity Amendment Regulation (No.1) 2012*
- *Statutory Instruments Regulation 2012*

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

² Section 50 of the *Statutory Instruments Act 1992* provides that the Legislative Assembly may pass a resolution disallowing subordinate legislation if notice of a disallowance motion is given by a Member within 14 sitting days after the legislation is tabled in the Legislative Assembly.

³ Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

4.1 Integrity Amendment Regulation (No.1) 2012

The objective of the regulation is to prescribe Hospital and Health services, established under the *Hospital and Health Boards Act 2011*, as being subject to the lobbying provisions of the *Integrity Act 2009*.

4.1.1 Committee comments

The Committee, as part of its review process, consulted with the Health and Community Services Committee regarding the regulation.

The Committee did not identify any potential fundamental legislative issues. The regulation is lawful and within regulatory power.

4.2 Statutory Instruments Regulation 2012

The objective of the *Statutory Instruments Regulation 2012* is to repeal and replace the *Statutory Instruments Regulation 2002* prior to its automatic expiry under the *Statutory Instruments Act 1992*. The regulation also extends the expiry dates of the subordinate legislation listed in schedule 2.

Under the *Statutory Instruments Act 1992* (s54) subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making unless –

- (a) it is sooner repealed or expires; or
- (b) a regulation is made exempting it from expiry.

The Act (s56, s56A) enables agencies to extend the expiry date of subordinate legislation. Section 56 allows an extension of up to 5 years for uniform legislation. Section 56A allows for an extension of up to 1 year for other subordinate legislation for the following reasons:

- (a) (i) replacement of subordinate legislation is being drafted and is proposed to be made before the stated period ends;
- (ii) the subordinate legislation is not proposed to be replaced by other subordinate legislation made under the Act under which or in relation to which it was made or preserved when it expires at the end of the stated period; or
- (b) for the stated reason 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 is given, it must be made before the subordinate legislation expires and may be made only for the stated reason. The Minister is required to table, within 7 sitting days after the extension regulation is made, a report stating how the Act or provision is subject to review; and the extent to which the Act or provision is being reviewed; and when the Minister expects the review to end. However, failure to comply with the above does not affect the validity of the extension regulation.

4.2.1 Committee comments

The Committee noted that the regulation was made on 31 August 2012 and therefore any section 56A reports would need to be tabled by 1 November 2012.

The Committee also noted that some of the regulations included in schedule 2 have been extended previously. The Committee considers that the automatic expiry date provisions were designed to guarantee that subordinate legislation is subject to review in order to ensure that it remains relevant. The Committee wishes to caution against any practice where expiry dates are extended without due consideration.

The Committee did not identify any potential fundamental legislative issues. The regulation is lawful and within regulatory power.