

**Subordinate legislation 153
tabled on 11 September 2012**

Report No. 15

Agriculture, Resources and Environment Committee

December 2012

Agriculture, Resources and Environment Committee

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Acknowledgements

The committee thanks departmental officers who briefed the committee or otherwise contributed to the inquiry.

1 Introduction

Role of the committee

The Agriculture, Resources and Environment 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: the Department of Agriculture, Fisheries and Forestry; the Department of Environment and Heritage Protection; and the Department of Natural Resources and Mines.

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 (SL) 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.

Aim of this report

This report notes subordinate legislation tabled on 11 September 2012 that is within the committee's portfolio areas. The report also discusses issues the committee identified in the course of its inquiries.

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
153	Nature Conservation (Wildlife Management) Amendment Regulation (No.1) 2012	11/09/2012	13/02/2013

2 Issues identified in subordinate legislation

2.1 SL 153 Nature Conservation (Wildlife Management) Amendment Regulation (No.1) 2012

The objective of SL 153 is to provide for the sustainable, lethal take of flying-foxes.

Potential FLP issue and comment

There are no potential FLP issues of concern. This SL is lawful and within power.

Committee's request for advice

The committee asked the Department of Environment and Heritage Protection (the department) to provide further advice generally in relation to SL153, including the consultation undertaken.

The department's advice

In response to the committee's inquiry, the department provided the following response.

In the 2012 election campaign, the Liberal National Party committed to re-introduce damage mitigation permits (DMPs) to shoot flying-foxes to protect crops.

These changes have recently been finalised through the introduction of amendments to the Nature Conservation (Wildlife Management) Regulation 2006 (Wildlife Management Regulation), and a new code of practice—ecologically sustainable lethal take of flying-foxes for crop protection (code of practice).

Under the previous section 185(e) of the wildlife management regulation the chief executive was only able to grant a DMP to take (including shoot) a protected animal if, among other things, the chief executive was satisfied the way the animal was to be taken was humane.

In 2008, the Animal Welfare Advisory Committee (AWAC), established under the [Animal Care and Protection Act 2001](#), found the shooting of flying-foxes for crop protection under a DMP to be inhumane. In accordance with the AWAC's findings, the chief executive ceased granting DMPs to shoot flying-foxes.

The amended Wildlife Management Regulation establishes new criteria for the issuing of DMPs specifically for the take of flying-foxes (section 185(2)). The chief executive (or their delegate) needs to be

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

satisfied of these criteria before issuing a DMP for shooting flying-foxes. The criteria do not include the previous wording regarding humaneness (section 185(1)(e)), but instead refer to the new code of practice. The code of practice contains controls and safeguards to ensure that lethal DMPs are only issued in limited circumstances, and that any resultant suffering is minimised.

The controls contained in the code include the following:

- a) limits to the issue of lethal DMPs to crop growers, who have a commercially viable crop in the current growing season
- b) a quota per species per year. This will ensure that any take authorised by the chief executive will remain within the Commonwealth Government quotas for the species protected by their legislation, and that take of non-threatened species is sustainable
- c) a list of non-lethal methods that must be attempted prior to applying for a DMP for the lethal take of flying-foxes and used in conjunction with lethal methods
- d) clear standards regarding acceptable shooting practices to ensure any resulting pain or suffering is minimised, and
- e) additional, non-regulatory information regarding the non-lethal methods of crop protection, for example netting, sound and light, to better inform growers, and general health and safety precautions with regard to Hendra virus and Australian bat lyssavirus.

The amendments to the regulation also include specific authorising provisions to allow the killing of adult and dependent-young flying-foxes in accordance with the code. These provisions specify that any killing of dependent-young flying-foxes would count toward a permit holder's quota.

The department advised that consultation in relation to SL153 was undertaken with the following agencies, groups and people:

- a) Department of Agriculture, Fisheries and Forestry in relation to crop protection and animal welfare;
- b) Department of Sustainability, Environment, Water, Population and Communities regarding the appropriate management of federally protected species;
- c) Growcom and Bundaberg Fruit and Vegetable Growers in relation to the needs of industry;
- d) The Wildlife Preservation Society of Queensland, Bat Conservation & Rescue Qld Inc, Dr Carol Booth, and RSPCA Qld, regarding animal welfare and conservation; and
- e) Queensland Treasury and Trade in relation to the impacts of the proposed amendments and the Regulatory Assessment Statement process.

Committee Comment:

The committee thanks the department for this response.

3 Recommendation

Recommendation 1

The committee recommends that the Legislative Assembly notes this report and the committee's conclusion that the regulation considered in this report raises no issues of fundamental legislative principles.



Mr Ian Rickuss MP

Chair

December 2012