

**Portfolio subordinate legislation
tabled between 14 February 2012
and 17 May 2012**

Report No. 17

Finance and Administration Committee

August 2012

FINANCE AND ADMINISTRATION COMMITTEE

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1. Introduction

1.1 Role of the Committee

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.

1.2 Aim of this report

This report presents the committee's findings from its consideration of items of subordinate legislation tabled between 14 February 2012 and 17 May 2012 that fall within its portfolio responsibilities.

1.3 Findings and recommendations

The Committee recommends that the Legislative Assembly note the subordinate legislation tabled between 14 February 2012 and 17 May 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.

2. 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
27	<i>State Penalties Enforcement Amendment Regulation (No.1) 2012</i>	17 May 2012	1 August 2012
35	<i>Motor Accident Insurance Amendment Regulation (No.1) 2012</i>	17 May 2012	1 August 2012

3. Issues for consideration

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

- *Motor Accident Insurance Amendment Regulation (No.1) 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.

3.1 Motor Accident Insurance Amendment Regulation (No.1) 2012

The primary objective of this regulation is to fix the levies and administration fee that will apply to Compulsory Third Party (CTP) insurance policies from 1 July 2012. These levies and administration fee are required to be fixed by regulation annually before 1 April 2012.

The regulation also includes a number of technical amendments as follows:

- Providing clarity to a number of agencies regarding their ability to disclose information under the regulation; and
- Updating references to a Police Traffic Incident Number.

The proposed increase has been determined in line with the Queensland Treasury's forecast Consumer Price Index (CPI) and represents an increase of 2.11% per Class 1 policy.

3.1.1 Fundamental legislative principles issues

The Committee identified a potential fundamental legislative issue pertaining to an individual's right to confidentiality and privacy which may arise in connection to the inclusion of the Office of the Director of Public Prosecutions (DPP), Legal Services Commission (LSC) and the Workers' Compensation Regulatory Authority (Q-Comp) being added as agencies listed as authorised to provide information to and receive information from, licensed or other insurers providing Compulsory Third Party (CTP) Insurance.

Section 37(1)(b) of the Act states that information and records are to be relevant to the claim.

The Committee sought clarification from the Treasurer and Minister for Trade as to why the records held by the DPP, LSC and Q-Comp would be relevant to a claim as required under section 37(1)(b) of the Act.

In relation to the addition of the DPP, the Treasurer and Minister for Trade advised the Committee that CTP insurers request information from the DPP in regards to prosecutions where CTP claims involve possible criminal liability. CTP insurers may exercise their legislated rights of recovery from the insured person in terms of any costs reasonably incurred by the insurer on a claim for personal injury. Prior to the amendments, if CTP insurers required access to information held by the DPP they were required to make an application under the Right to Information legislation, which involved delays in accessing the information.

Q-Comp is the regulator of Queensland's workers' compensation scheme. The Treasurer and Minister for Trade advised that the regulation permitted disclosure of information from a workers' compensation insurer but not the regulator. This amendment will rectify this anomaly.

The Treasurer and Minister for Trade advised the Committee that the LSC has been included as an authorised agency as it is the sole body authorised under the *Legal Profession Act 2007* to receive and deal with complaints about lawyers and law firms.

3.1.2 Lawfulness

The regulation is lawful and within regulatory power.

3.1.3 Committee comments

The Committee is satisfied that the FLP issues raised in this regulation are reasonable. The Committee is also satisfied with the additional explanation provided by the Treasurer and Minister for Trade.