

## Agriculture, Resources and Environment Committee

August 2012

Report No. 6

### **Report on Subordinate Legislation** **SL 33, 34, 41, 44, 45, 50 & 51 tabled 17.5.12** **and SL 66 & 67 tabled 19.6.12**

The Agriculture, Resources and Environment Committee is responsible for examining subordinate legislation within its portfolio areas of agriculture, fisheries, forestry, the environment, natural resources and mines. In its examination of subordinate legislation, the committee is required to consider the policy to be given effect, the application of fundamental legislative principles and the lawfulness of the subordinate legislation (s.93(1) *Parliament of Queensland Act 2001*). The committee’s responsibility also includes monitoring the operation of the *Statutory Instruments Act 1992* as it relates to subordinate legislation. The committee reports to the Legislative Assembly periodically on all subordinate legislation which it considers, and separately where the committee has concerns about consistency with fundamental legislative principles and related issues.

#### Recommendation

The committee recommends that the Legislative Assembly note the subordinate legislation SL 33, 34, 41, 44, 45, 50 & 51 of 2012 tabled 17.5.12 and SL 66 & 67 tabled 19.6.12, and considered by the committee. The committee has examined the legislation and has identified a number of minor instances of non-compliance with the requirements of the *Legislative Standards Act 1992* and the *Statutory Instruments Act 1992*.

#### Subordinate legislation examined

The committee has considered the following subordinate legislation, tabled on 17 May 2012 and for which the **disallowance date is 1 August 2012**:

SL	Subordinate Legislation examined
33	<p><b><i>Coal Mining Safety and Health Amendment Regulation (No.1) 2012</i></b>- The objective is to help protect the safety and health of persons at coal mines by providing a means for site safety and health representatives to be elected to represent the interests of coal mine workers.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern.</p>
34	<p><b><i>Explosives Amendment Regulation (No.1) 2012</i></b>- The principal objective is to prescribe a fee for a licence to use explosives. No fees have previously been prescribed due to an oversight.</p> <p><b>Committee’s request for advice:</b></p> <p>This SL is lawful and within power. However, the explanatory notes state that prescription of the fee for a licence to use explosives ‘formalises the arrangement which has been applied administratively to this point’. The Committee notes that the fee has been applied administratively in the past rather than on the basis of the Regulation.</p>

SL	Subordinate Legislation examined
	<p>The Committee requested advice from the department as to how this fee was previously applied administratively.</p> <p><b>The department's advice:</b></p> <p>Section 29 of the Explosives Regulation 2003 describes a licence to use explosives and what the licence authorises the holder to do. This was a new type of licence introduced in the Explosives Regulation 2003. The licence to use explosives is somewhat similar to the shotfirer licence described in Section 30 and the same licensing fee has been applied at the time of issuing or renewing a licence. However, the fee for the licence to use explosives was never included in Schedule 2. This oversight was revealed as a result of a review of the Regulation and is corrected by Explosives Amendment Regulation (No.1) 2012.</p> <p><b>Committee comment:</b></p> <p>The Committee thanks the department for this response.</p>
41	<p><b><i>Environmental Protection Amendment Regulation (No.1) 2012</i></b> - The objectives are to ensure comprehensive regulation of coal seam gas water, consideration of potential environmental impacts, and an adaptive approach in response to the environmental impacts identified in an approved Underground Water Impact Report.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. The explanatory notes tabled with the amending Regulation are generally compliant with s.24. The Committee notes that a minor error appears on page 5 at the second-last paragraph. The reference to s24AB of the <i>Water Act 2000</i> appears to be a mistake and the correct entry appears to be section 385 of the <i>Water Act 2000</i>.</p>
44	<p><b><i>Rural and Regional Adjustment Amendment Regulation (No.2) 2012</i></b>- The objective is to establish two new assistance schemes in response to the flooding in Western Queensland: the <i>Special Disaster Western Queensland Tropical Low 2012 Assistance Scheme</i> and the <i>Western Queensland Tropical Low 2012 Non-profit Organisations Assistance Scheme</i>.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. This SL is lawful and within power.</p>
45	<p><b><i>Land Amendment Regulation (No.1) 2012</i></b>- The objective is to continue the rental capping for certain State land leases following natural disasters in the State.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. This SL is lawful and within power.</p>
50	<p><b><i>Nature Conservation (Protected Plants Harvest Period) Notice 2012</i></b> - The objective is to notify a harvest period of 1 April 2012 to 31 March 2013 for certain protected plants and specify appropriate restrictions for the commercial and recreational harvest of those plants.</p> <p><b>Committee's request for advice:</b></p> <p>Clause 3 of the notice states that 'protected plant' means a plant that is endangered wildlife, vulnerable wildlife, near threatened wildlife or least concern wildlife. However, the term 'protected plant' is defined differently in the <i>Nature Conservation</i></p>

SL	Subordinate Legislation examined
	<p><i>(Protected Plants) Conservation Plan 2000</i> as follows:  '<b>protected plant</b> means an endangered, vulnerable, near threatened or least concern plant'.</p> <p>The definition in the plan appears to be more clearly drafted. The use of the term 'wildlife', a term that relates to animals, plants, protista, prokaryote and viruses, in the definition of 'protected plant' in the notice which relates only to plants may also be confusing. The Committee therefore sought advice from the department as to why the definition in the plan was not used, for example:  '<b>Protected plant</b> see the <i>Nature Conservation (Protected Plants) Conservation Plan 2000</i>, schedule 3'.</p> <p><b>The department's advice:</b></p> <p>The Department of Environment and Heritage Protection advised the Committee that an amendment will be made to ensure the definition provided for the term 'protected plant' in the <i>Nature Conservation (Protected Plants Harvest Period) Notice 2013</i> is consistent with the definition of that term in the <i>Nature Conservation (Protected Plants) Conservation Plan 2000</i>.</p> <p><b>Committee comment:</b></p> <p>The Committee thanks the department for this response and notes its undertaking that the definition will be revised.</p>
51	<p><b><i>Rural and Regional Adjustment Amendment Regulation (No.3) 2012</i></b> - The objective is to introduce a new assistance scheme, <i>the North Coast Storm and Flooding February 2012 Non-profit Organisations Assistance Scheme</i>, to assist those eligible non-profit organisations in the Cooroy and Pomona areas that have been impacted by a severe storm, heavy rain and associated flooding in late February 2012. Assistance will be by way of a concessional loan and a grant for re-establishing normal operations for an eligible entity.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. This SL is lawful and within power.</p>
66	<p><b><i>Aboriginal Land Amendment Regulation (No. 1) 2012</i></b> - The objective is to amend the <i>Aboriginal Land Regulation 2011</i> to declare as transferable land 67.5434 hectares of unallocated State land in and around Mission Beach.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. This SL is lawful and within power.</p>
67	<p><b><i>Aboriginal Land Amendment Regulation (No. 2) 2012</i></b> - The objective is to amend the <i>Aboriginal Land Regulation 2011</i> to declare as transferable land 3.297 hectares of unallocated State land approximately 4km south west of Gladstone.</p> <p><b>Committee comment:</b></p> <p>There are no potential FLP issues of concern. This SL is lawful and within power.</p>

## **Agriculture, Resources and Environment Committee**

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