

**Portfolio subordinate legislation
tabled between 6 May 2014 and
5 August 2014**

Report No. 52

Finance and Administration Committee


October 2014

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 6 May 2014 and 5 August 2014 that fall within its portfolio responsibilities. The Committee did not identify any issues regarding consistency with fundamental legislative principles or the lawfulness of the subordinate legislation.



Steve Davies MP
Chair
October 2014

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 6 May 2014 and 5 August 2014 considered by the Committee. The Committee did not identify any 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 2014	Subordinate Legislation	Tabled Date	Disallowance Date ³
98	<i>Motor Accident Insurance Amendment Regulation (No.1) 2014</i>	5 August 2014	30 October 2014
122	<i>Public Service Amendment Regulation (No.1) 2014</i>	5 August 2014	30 October 2014
123	<i>Revenue Legislation Amendment Regulation (No.1) 2014</i>	5 August 2014	30 October 2014
158	<i>Governors (Salary and Pensions) Amendment Regulation (No.1) 2014</i>	5 August 2014	30 October 2014
164	<i>Financial and Performance Management Amendment Standard (No.1) 2014</i>	5 August 2014	30 October 2014

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:

- *Revenue Legislation Amendment Regulation (No.1) 2014*

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 SL No 123 of 2014 – Revenue Legislation Amendment Regulation (No.1) 2014

The policy objective of the regulation is to amend various laws administered by the Office of State Revenue (OSR). The explanatory notes state that the amendments are generally administrative in nature and are matters that are required to be prescribed by regulation, including increases to fees, charges and related amounts in accordance with government policy, prescription of a completing requirement for the purpose of the Great Start Grant and consequential amendments arising from amendments to some of the authorising laws.

The regulation also inserts a new section 7 in the *First Home Owner Grant Regulation 2010*. This section provides a definition of 'completed'. The *First Home Owner Grant Act 2000* makes available the grant to eligible applicants who enter into eligible transactions for the acquisition of their first home. The grant is payable when the eligible transaction has been completed. For the purposes of determining when an eligible transaction has been completed, the Act provides for completion requirements to be prescribed under a regulation. The explanatory notes state that the no completion requirements are currently prescribed. The explanatory notes also state that inclusion of this definition will provide greater certainty for affected grant applicants, without adding to their regulatory burden.

4.1.1 Lawfulness

The regulation is lawful and within regulatory power.

4.1.2 Committee Comments

The Committee did not identify any potential fundamental legislative issues. However, it sought clarification from the Treasurer and Minister for Trade regarding the amendment to the *First Home Owner Grant Regulation 2010*.

The Committee wrote to the Treasurer and Minister for Trade seeking an explanation of:

- the number of applicant's affected by the definition not being included previously; and
- the impact on applicant's by the definition not being included previously.

The Treasurer and Minister for Trade responded that although this is a new requirement in the legislation, it reflects long-standing Office of State Revenue (OSR) practice to require applicants to provide a copy of the final inspection certificate with their application. This long standing administrative practice is consistent with the legislation as section 16 of the *First Home Owners Grant Act* provides, among other things, that the application for the grant must be supported by the information required by the Commissioner of State Revenue. However, the new section 7 provides greater certainty by expressly prescribing the completion requirement rather than leaving it as an administrative requirement.⁴

The Committee was advised that as the amendment reflects long standing OSR practice, it is considered that there is no material impact on applicants, either pre or post amendment.⁵

The Committee is satisfied with the additional explanations provided by the Treasurer and Minister for Trade.

⁴ Correspondence from Treasurer and Minister for Trade to FAC dated 16 September 2014: 2

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