

**Portfolio subordinate legislation
tabled between 5 August 2014 and
9 September 2014**

Report No. 54

Finance and Administration Committee

November 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 5 August 2014 and 9 September 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
November 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 5 August 2014 and 9 September 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
186	<i>Statutory Instruments Amendment Regulation (No.1) 2014</i>	9 September 2014	12 February 2015
188	<i>Government Owned Corporations Regulation 2014</i>	9 September 2014	12 February 2015

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:

- *Statutory Instruments 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 186 of 2014 – Statutory Instruments Amendment Regulation (No.1) 2014

Section 54 of the *Statutory Instruments Act 1992* states that 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 (ss56, 56A) enables agencies to extend the expiry date of subordinate legislation. S56 allows an extension of up to 5 years for uniform legislation. S56A 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;
- (a)(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 seven 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 report does not affect the validity of the extension regulation. Seven sitting days from the making of this regulation was 29 October 2014. Therefore, under the provisions of the Act, the section 56A reports needed to be tabled by 29 October 2014.

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, the Committee identified that a number of items of subordinate legislation exempted from further expiry by this regulation had not had section 56A reports tabled to explain the need for that further extension. The Committee referred this information to the relevant parliamentary committee for their consideration and action.

There was one regulation included on the list of regulations being extended that falls within the Committee's portfolio as follows:

- *Motor Accident Insurance Regulation 2004 (MAI Regulation)*

The reason cited for the extension of this regulation is 'subject to review'. The regulation is subject to automatic ten year expiry provisions and did not require the tabling of a section 56A report.

The Committee wrote to the Treasurer and Minister for Trade seeking an update on the proposed review of the regulation, including the anticipated time frame for the review, of the MAI Regulation. The Minister advised that the extension is required because the compulsory third party (CTP) insurance scheme is currently under review and it is appropriate to await the outcomes of this review before considering options for the MAI Regulation. The Minister advised that he anticipates that the government will consider the findings of the CTP scheme review in the first half of 2015 and a review of the MAI Regulation would then occur either on a standalone basis or as an integral part of any broader legislative reform process.

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