

**Subordinate legislation tabled
between 3 June and
15 September 2015**

Report No. 6, 55th Parliament
Education, Tourism and Small Business
Committee
October 2015

Education, Tourism and Small Business Committee

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1 Introduction

Role of the Committee

The Education, Tourism and Small Business Committee (the committee) is a portfolio committee established by the Legislative Assembly on 27 March 2015.¹ It consists of government and non-government members. The committee's primary areas of responsibility are education, tourism, major events, small business and the Commonwealth Games.

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
- c) for subordinate legislation – its lawfulness.

The committee's responsibilities also include monitoring the operation of the *Statutory Instruments Act 1992* as it relates to subordinate legislation. The committee reports to the Legislative Assembly on all subordinate legislation it has considered.

Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 3 June and 15 September 2015. It reports on fundamental legislative principle issues identified by the committee and the Explanatory Notes' compliance with the *Legislative Standards Act 1992*.

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
-	<i>University of Queensland Election of Elected Members of Senate Statute 2015</i>	19 June 2015	10 November 2015
98	<i>Education (Capital Assistance) Regulation 2015</i>	15 September 2015	3 December 2015
120	<i>Major Events (Townsville 400) Amendment Regulation (No.1) 2015</i>	15 September 2015	3 December 2015

University of Queensland Election of Elected Members of Senate Statute 2015

The objective of the University of Queensland Election of Elected Members of Senate Statute 2015 (the Senate Statute) is to provide for conduct of a ballot for the election of elected members of the senate as mentioned in section 15 of the *University of Queensland Act 1998*.

Explanatory Notes

Explanatory Notes were not tabled with the subordinate legislation pursuant to section 22 of the *Legislative Standards Act 1992* (the Act). While the Act is silent about whether explanatory notes for exempt subordinate legislation are required, it could be implied that explanatory notes should be tabled pursuant to section 22 of the Act.

Fundamental legislative principles

¹ *Parliament of Queensland Act 2001*, s88 and Standing Order 194

The committee did not identify any issues regarding consistency with fundamental legislative principles or the lawfulness of the Senate Statute.

Education (Capital Assistance) Regulation 2015

The *Education (Capital Assistance) Act 1993* (the Act) authorises the provision of capital assistance to eligible non-state schools on a needs basis, for capital projects that consist of the planning, construction, alteration, extension, renovation, relocation or upgrading of certain education facilities.

The Act describes the administration and granting of state government capital assistance funding for non-state schools and requires that a regulation prescribe certain matters. The existing regulation currently prescribes matters including dates for applications for capital assistance, information to be provided in an application, schemes under which capital assistance may be obtained and the criteria used for assessing applications.

In accordance with section 54 of the *Statutory Instruments Act 1992*, the existing regulation expired on 1 September 2015.

The objective of the Education (Capital Assistance) Regulation 2015 (the Regulation) is to repeal the Education (Capital Assistance) Regulation 2005 which expired on 1 September 2015 and replace it with the Regulation.

Fundamental legislative principles

No issues were identified regarding consistency with FLPs or the lawfulness of the subordinate legislation. The Explanatory Notes complied with section 24 of the *Legislative Standards Act 1992*.

Major Events (Townsville 400) Amendment Regulation (No.1) 2015

The objective of the Major Events (Townsville 400) Amendment Regulation (No.1) 2015 (the Regulation) is to prescribe the Gold Coast 600 as a major event under the *Major Events Act 2014*. The Regulation also prescribes the major event organiser, major event area, the official title, the major event period and periods for carrying out temporary works for the event.

The Regulation amends the short title of the Major Events (Townsville 400) Regulation 2015 to the Major Events (Motor Racing Events) Regulation 2015 and provides for the particular legislative provisions triggered under the Major Events (Townsville 400) Regulation to also apply to the Gold Coast event.

Section (4) (2)(a) Legislative Standards Act 1992 – Rights and liberties of individuals

The proposed amendments will affect the rights and liberties of individuals in that the motor racing event at the Gold Coast will restrict traffic and parking, and increase activity and noise in the vicinity of the motor racing area.

The Explanatory Notes state:

Provisions in the Regulation have the following time limitations placed on them:

- *the major event period is between midday on 22 October 2015 and midday on 26 October 2015; and*
- *the periods for temporary works for the event are between 14 September 2015 and midday on 22 October 2015, and between midday on 26 October 2015 and 13 November 2015.*

The limitations will help ensure provisions in the Regulation do not have a significant impact outside of these times, and help ensure they have sufficient regard for the rights and liberties of individuals.

Fundamental legislative principles

The committee considered that on balance, the time limitations sufficiently mitigate the impact on the rights and liberties of individuals.

The Explanatory Notes complied with section 24 of the *Legislative Standards Act 1992*.

3 Recommendation

The committee has examined the policy to be given effect by the three pieces of subordinate legislation and the application of fundamental legislative principles and lawfulness.

In relation to the University of Queensland Election of Elected Members of Senate Statute 2015, the committee considered it would be good practice for the University of Queensland to table explanatory notes pursuant to section 22 of the *Legislative Standards Act 1992* for future subordinate legislation.

In relation to the Education (Capital Assistance) Regulation 2015, no significant issues regarding consistency with fundamental legislative principles or the lawfulness of the Regulation were identified.

In relation to the Major Events (Townsville 400) Amendment Regulation (No.1) 2015, the committee considered the time limitations sufficiently mitigate the impact on the rights and liberties of individuals.

Recommendation

The committee recommends that the Legislative Assembly note the contents of this report.



Scott Stewart MP
Chair