

**Subordinate legislation
tabled 10 May – 13 June 2017**

Report No. 43, 55th Parliament
Agriculture and Environment Committee
September 2017

Agriculture and Environment Committee

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1 Introduction

1.1 Role of the committee

The Agriculture and Environment Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 27 March 2015 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility are:

- Agriculture, Fisheries and Rural Economic Development
- Environment and Heritage Protection, and
- National Parks and the Great Barrier Reef.

Section 93(1) of the *Parliament of Queensland Act 2001* provided that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

1.2 Aim of this report

This report advises of portfolio subordinate legislation (SL) that the committee has examined.

2 Subordinate legislation considered

The table below lists the SL considered and the deadline for Members to give notice in the House of a disallowance motion under Standing Order 59² in respect of any of the legislation.

SL No	SL	Tabled On	Disallowance Date
67	Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2017	23/05/2017	06/09/2017
68	Animal Management (Cats and Dogs) (Approved Entities) Amendment Regulation 2017		
69	Nature Conservation (Protected Areas) (Bromley) Amendment Regulation 2017		
82	Environment and Heritage Protection Legislation (Fees) Amendment Regulation 2017	13/06/2017	11/10/2017
83	Nature Conservation and Other Legislation (Fees) Amendment Regulation 2017		

¹ *Parliament of Queensland Act 2001*, section 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 Findings and recommendations

3.1 Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2017

The objective of the Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2017 is to ensure that conservation and land use measures involving listed species are commensurate with their scientifically determined conservation status.

The Nature Conservation (Wildlife) Regulation 2006 is amended to give effect to recommendations for changes for the conservation status of a number of species. According to the explanatory notes, these recommendations for reclassification of species follow independent scientific assessment of available information by the Species Technical Committee (STC). This is a panel of government and non-government scientific experts, who consider the nominations against the criteria under the NC Act and guidelines of the International Union for Conservation of Nature. Recommendations made by the STC to change the conservation status of a species reflect assessment of the species' population size and trends, geographic range, area of occupancy and risk of extinction, as well as taxonomic knowledge. These recommendations are made to the Minister for consideration and any necessary action.

The Amendment Regulation also amends the Environmental Offsets Regulation 2014 to reflect the reclassification of species, correct a reference to the State Development Assessment Provisions made under the *Sustainable Planning Act 2009* and to remove koalas from the list of special least concern animals to reflect its current 'vulnerable' classification.

The actual reclassification of koalas occurred on 28 August 2015 through the Nature Conservation Legislation Amendment Regulation (No. 1) 2015. The reclassification was as a result of a recommendation from the STC. Using the criteria prescribed by the International Union for Conservation of Nature, the STC recommended the koala be listed as vulnerable in Queensland. This reassessment of conservation status was based on the estimate of the population size, the rate of habitat loss and calculated rates of koala mortality for the region. The reassessment also reflected improved knowledge of the koala's status in Queensland and aligns with its listing as 'vulnerable' under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).

Committee comment

The Amendment Regulation raises no fundamental legislative principle issues, and the explanatory notes comply with the *Legislative Standards Act 1992*.

3.2 Animal Management (Cats and Dogs) (Approved Entities) Amendment Regulation 2017

The Animal Management (Cats and Dogs) (Approved Amendment Entities) Amendment Regulation 2017 prescribes Canine Control Council (Queensland) Ltd (trading as Dogs Queensland), Gold Coast City Council and Logan City Council as approved entities that conduct accreditation schemes for dog breeders under the Animal Management (Cats and Dogs) Regulation 2009.

Under the *Animal Management (Cats and Dogs Act) 2008* there is a compulsory registration scheme for dog breeders. The requirement for a dog breeder to apply to be registered does not apply to a person who is an accredited breeder of an approved entity. Under s 43W of the *Animal Management (Cats and Dogs Act) 2008*, a regulation may prescribe an entity as an approved entity provided the Minister is satisfied that the entity can conduct an accreditation scheme for persons who breed dogs, give an accreditation number to each accredited person, require accredited persons to give the entity notice of changes to designated details within 7 days, and is able and willing to give the chief executive relevant information about its accredited breeders.

According to the explanatory notes, the purpose of the Amendment Regulation is to make dog breeder registration more convenient by prescribing approved entities while still promoting the responsible breeding of dogs, consistent with the purpose of the *Animal Management (Cats and Dogs) Act 2008*.³

The explanatory notes state that the Minister is satisfied that Dogs Queensland, Gold Coast City Council and Logan City Council meet the requirements to become approved entities under s 43W of the *Animal Management (Cats and Dogs) Act 2008*.⁴

Committee comment

The Amendment Regulation raises no fundamental legislative principles issues, and the explanatory notes comply with the *Legislative Standards Act 1992*.

3.3 Nature Conservation (Protected Areas) (Bromley) Amendment Regulation 2017

The Nature Conservation (Protected Areas) (Bromley) Amendment Regulation 2017 amends the Nature Conservation (Protected Areas) Regulation 1994 to dedicate two new national parks (Cape York Peninsula Aboriginal land). The Amendment Regulation furthers the objective of protecting Cape York's iconic natural areas and continuing arrangements for joint management of protected areas in the region with Traditional Owners.

According to the explanatory notes, the Queensland Government consulted with the Aboriginal people particularly concerned with the land, the Bromley Aboriginal Corporation Registered Native Title Body Corporate (RNTBC), the Cape York Land Council Aboriginal Corporation, the Balkanu Cape York Development Corporation and the Cook Shire Council in relation to creation of the protected areas. The Department of Aboriginal and Torres Strait Islander Partnerships carried out the consultation through correspondence and through meetings in Cairns, Lockhart River and on Cape York Peninsula. All parties agreed to the proposed actions.⁵

Committee comment

The Amendment Regulation raises no fundamental legislative principles issues, and the explanatory notes comply with the *Legislative Standards Act 1992*.

3.4 Environment and Heritage Protection Legislation (Fees) Amendment Regulation 2017

The objective of the Environment and Heritage Protection Legislation (Fees) Amendment Regulation is to index regulatory fees for the Department of Environment and Heritage Protection (EHP) for 2017-18. These regulatory fees have been subject to the annual review required under Government policy and then indexed by the approved Government indexation factor, which is 3.5% for 2017-18.

EHP is required to periodically self-assess whether fees are GST exempt under s.81.10 of *A New Tax System (Goods and Services Tax) Act 1999 (Cwth)*.

The explanatory notes advise that EHP has completed a review of the GST treatment on all regulatory and non-regulatory fees and has re-assessed waste tracking fees as GST exempt. These fees will therefore be reduced by 10% at the 2016-17 fee amount before the 3.5% whole of government indexation factor is applied to the 2017-18 fee to ensure there is no adverse impact on the client.⁶

The indexed fees have been rounded in accordance with EHP's current rounding policy.

Treasury's annual fee indexation determinations have been steady at 3.5% since 2012-13.

³ Explanatory notes, p 1.

⁴ Explanatory notes, p 2.

⁵ Explanatory notes, pp 2-3.

⁶ Explanatory notes, p 1.

Committee comment

The Amendment Regulation raises no fundamental legislative principles issues, and the explanatory notes comply with the *Legislative Standards Act 1992*.

3.5 Nature Conservation and Other Legislation (Fees) Amendment Regulation 2017

The objective of the Nature Conservation and Other Legislation (Fees) Amendment Regulation is to index regulatory fees for the Department of National Parks, Sport and Racing (NPSR) for 2017-18. These regulatory fees have been subject to the annual review required under Government policy and then indexed by the approved Government indexation factor, which is 3.5% for 2017-18.

Government is currently considering indexation of Apiary and Stock Grazing Permit fees. Accordingly, these fees have not been adjusted, and are left at the 2016-17 fee amount in this amendment Regulation.

A small number of fees have not been adjusted by the indexation factors as the amount of the fee is below a value for the indexation factor to affect an increase, taking into account coinage and rounding factors. The indexed fees have been rounded in accordance with NPSR's current rounding policy.

Treasury's annual fee indexation determinations have been steady at 3.5% since 2012-13.

Committee comment

The Amendment Regulation raises no fundamental legislative principles issues, and the explanatory notes comply with the *Legislative Standards Act 1992*.

Recommendation 1

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



Joe Kelly MP
Chair

September 2017