

Economics and Governance Committee

Report No. 17, 56th Parliament

Subordinate legislation tabled between 13 June 2018 and 21 August 2018

Introduction

Role of the committee

The Economics and Governance Committee (the committee) is a portfolio committee of the Legislative Assembly.¹ The committee's primary areas of responsibility include:

- Premier and Cabinet, and Trade
- Treasury
- Aboriginal and Torres Strait Islander Partnerships
- Local Government, Racing and Multicultural Affairs.

The committee is responsible for examining each item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles, and the lawfulness of the legislation.²

Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 13 June 2018 and 21 August 2018. It reports on any identified fundamental legislative principle issues and the explanatory notes' compliance with the *Legislative Standards Act 1992*.

Subordinate legislation considered

The committee considered the following subordinate legislation.

| SL No. | Subordinate legislation | Tabled date | Disallowance date |
|-------------|--|----------------|-------------------|
| 65 of 2018 | Revenue Legislation (Fees) Amendment Regulation 2018 | 21 August 2018 | 1 November 2018 |
| 66 of 2018 | Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018 | 21 August 2018 | 1 November 2018 |
| 103 of 2018 | Proclamation made under the <i>Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018</i> | 21 August 2018 | 1 November 2018 |
| 113 of 2018 | Motor Accident Insurance Regulation | 21 August 2018 | 1 November 2018 |
| 114 of 2018 | Superannuation (State Public Sector) Amendment of Deed Regulation 2018 | 21 August 2018 | 1 November 2018 |

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, s 93.

SL 65 of 2018 - Revenue Legislation (Fees) Amendment Regulation 2018

The objective is to increase fees and charges administered by the Office of State Revenue by 3.5 per cent in the following regulations:

- Duties Regulation 2013
- Land Tax Regulation 2010
- Mineral Resources Regulation 2013
- Petroleum and Gas (Production and Safety) Regulation 2004, and
- State Penalties Enforcement Regulation 2014.³

The increase in fees and charges is consistent with the Government endorsed indexation rate of 3.5 per cent.

According to the explanatory notes for the regulation, the amendments are consistent with the policy objectives of each of the respective authorising laws, all of which contemplate prescription of the relevant fees as part of the administration provided for under each Act.⁴

The amendments are consistent with increases applied in 2012-13 through to 2017-18 financial years.⁵

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles of the Revenue Legislation (Fees) Amendment Regulation 2018.

The committee notes that the explanatory notes comply with the *Legislative Standards Act 1992*.

SL 66 of 2018 - Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018

The objective of the regulation is to increase the following amounts in respect to awarding legal costs by courts:

- the declared costs limit
- the lower offer limit, and
- the upper offer limit.⁶

The declared costs limit is the maximum legal costs payable in specified circumstances. The lower and upper offer limits provide thresholds for the awarding of legal costs by a court.⁷

The increase in fees is based on the percentage change in average weekly earnings (AWE), which is 3.08 per cent for this 12 month period. The reference to AWE is set out in section 100A of the *Motor Accident Insurance Act 1994* and is calculated using Australian Bureau of Statistics data.⁸

The amendment regulation is consistent with the main objects of the *Motor Accident Insurance Act 1994*, that is, to encourage the speedy resolution of personal injury claims resulting from motor vehicle accidents and to keep the costs of Compulsory Third Party (CTP) motor vehicle insurance at a consistent level.⁹

³ Revenue Legislation (Fees) Amendment Regulation 2018, explanatory notes, p 1.

⁴ Revenue Legislation (Fees) Amendment Regulation 2018, explanatory notes, p 1.

⁵ Revenue Legislation (Fees) Amendment Regulation 2018, explanatory notes, p 2.

⁶ Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018, explanatory notes, p 1.

⁷ Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018, explanatory notes, p 1.

⁸ Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018, explanatory notes, p 1. AWE is defined in the *Motor Accident Insurance Act 1994* as the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year.

⁹ Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018, explanatory notes, p 2.

Committee comment

The committee is satisfied that, in providing for indexation of the declared costs limit and the lower offer and upper offer limits, the amendment regulation maintains the relative value of these amounts over time in line with wages growth.

The committee identified no issues regarding consistency with fundamental legislative principles of the Motor Accident Insurance (Prescribed Amounts) Amendment Regulation 2018.

The committee notes the explanatory notes comply with the requirements of the *Legislative Standards Act 1992*.

SL 103 of 2018 - Proclamation made under the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018

The objective of the proclamation is to fix a commencement date of 20 July 2018 for certain provisions of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* (Councillor Complaints Act).¹⁰

Staged commencement of the Councillor Complaints Act is proposed for the implementation of the new councillor complaints system. The objective of the Proclamation is to fix 20 July 2018 as the commencement date for those sections of the Councillor Complaints Act necessary to provide for the:

- establishment, functions and appointment of the Independent Assessor and members of the Councillor Conduct Tribunal
- establishment, functions and staff of the Office of the Independent Assessor
- appointment and functions of investigators
- making of the code of conduct for councillors by the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, and
- making of the model meeting procedures by the chief executive of the Department of Local Government, Racing and Multicultural Affairs.¹¹

Committee comment

The committee identified no issues regarding consistency with fundamental legislative principles of the proclamation made under the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018*.

The committee notes the explanatory notes comply with the requirements of the *Legislative Standards Act 1992*.

SL 113 of 2018 - Motor Accident Insurance Regulation 2018

The objective is to replace the Motor Accident Insurance Regulation 2004 (the 2004 regulation) which expires on 31 August 2018.¹²

The Motor Accident Insurance Regulation 2018 is required to support the effective operation of the *Motor Accident Insurance Act 1994* which governs the operation of Queensland's CTP insurance scheme. The regulation continues the basis for many fundamental aspects created by the Act, including:

- the classification of motor vehicles for fixing insurance premiums

¹⁰ Proclamation-Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018, explanatory notes, p 1.

¹¹ Proclamation-Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018, explanatory notes, p 1.

¹² Motor Accident Insurance Regulation 2018, explanatory notes, p 1.

- the setting of the insurers' premium
- the fixing of levies and the administration fee
- the information required in a notice of claim
- procedures relating to the management of claims
- information relating to applications for a CTP licence and reporting requirements, and
- an Industry Deed outlining the agreement between all licensed insurers, the Motor Accident Insurance Commission and transport administration on procedural matters.¹³

The 2004 regulation was first due to expire on 1 September 2014 but was exempted from expiry on two occasions because of reforms associated with the implementation of the National Injury Insurance Scheme Queensland. Further extensions preserved the 2004 regulation until 31 August 2018 while a review of the Compulsory Third Party (CTP) scheme was undertaken.¹⁴

The CTP Review supported retention of existing key features of the statutory insurance scheme and did not propose fundamental scheme reforms nor amendments to the subordinate legislation.¹⁵

Therefore, the Motor Accident Insurance Regulation 2018 is to be made in substantially similar form to the 2004 regulation, apart from some changes to remove redundant or obsolete provisions and to update drafting styles. This will ensure that the prescribed matters continue to support the effective operation of the Motor Accident Insurance Act 1994.¹⁶

Committee comment

The committee is satisfied the Motor Accident Insurance Regulation 2018 will provide for the same matters as dealt with by the expiring regulation except where amendments were necessary to update wording based on current drafting style, and to remove obsolete references and redundant transitional provisions.

The committee identified no issues regarding consistency with fundamental legislative principles of the Motor Accident Insurance Regulation 2018.

The committee notes the explanatory notes comply with the requirements of the *Legislative Standards Act 1992*.

SL 114 of 2018 - Superannuation (State Public Sector) Amendment of Deed Regulation 2018

The objective of the regulation is to amend the Superannuation (State Public Sector) Deed 1990 to include provision for 'downsizer' contributions.

The Australian Parliament passed legislation (the *Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures (No.1) Act 2017* (Cwth)), to allow, from 1 July 2018, a person aged 65 or over to contribute into superannuation up to \$300,000 from the sale of their main residence. This is referred to in the Commonwealth legislation as a downsizer contribution.¹⁷

Contribution caps, superannuation balance limits, and employment requirements that would ordinarily apply to contributions made by persons aged 65 or over are not imposed for downsizer contributions.¹⁸

¹³ Motor Accident Insurance Regulation 2018, explanatory notes, p 2.

¹⁴ Motor Accident Insurance Regulation 2018, explanatory notes, p 1.

¹⁵ Motor Accident Insurance Regulation 2018, explanatory notes, p 2.

¹⁶ Motor Accident Insurance Regulation 2018, explanatory notes, p 1.

¹⁷ Superannuation (State Public Sector) Amendment of Deed Regulation 2018, explanatory notes, p 1.

¹⁸ Superannuation (State Public Sector) Amendment of Deed Regulation 2018, explanatory notes, p 1.

The QSuper Board administers QSuper in accordance with the Superannuation (State Public Sector) Deed 1990 (QSuper Deed). The QSuper Board has consented to the QSuper Deed being amended to allow it to accept downsizer contributions.¹⁹

The explanatory notes state that the QSuper Board and the Government Superannuation Officer have been consulted and both parties agree on the amendment to the QSuper Deed.²⁰

The Office of Best Practice Regulation was consulted on the need to prepare a Regulatory Impact Statement (RIS) for the amending regulation. A RIS was considered unnecessary because the amendment is unlikely to create significant adverse impacts on the Queensland community.²¹

Committee comment

The committee is satisfied that allowing the QSuper Board to accept downsizer contributions aligns QSuper's contribution rules with Commonwealth superannuation legislation.

The committee identified no issues regarding consistency with fundamental legislative principles of the Superannuation (State Public Sector) Amendment of Deed Regulation 2018.

The committee notes the explanatory notes comply with the requirements of the Legislative Standards Act 1992.

Recommendation

The committee recommends that the Legislative Assembly note this report.



Linus Power MP

Chair

Economic and Governance Committee

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| Chair: | Linus Power MP, Member for Logan | Contact details | |
| Deputy Chair: | Ray Stevens MP, Member for Mermaid Beach | Post | Parliament House Brisbane, Queensland, 4000 |
| Members: | Ms Nikki Boyd MP, Member for Pine Rivers | Email: | egc@parliament.qld.gov.au |
| | Mr Sam O'Connor MP, Member for Bonney | Phone: | 07 3553 6637 |
| | Mr Dan Purdie MP, Member for Ninderry | Web: | www.parliament.qld.gov.au/egc |
| | Ms Kim Richards MP, Member for Redlands | | |

¹⁹ Superannuation (State Public Sector) Amendment of Deed Regulation 2018, explanatory notes, p 1.

²⁰ Superannuation (State Public Sector) Amendment of Deed Regulation 2018, explanatory notes, p 2.

²¹ Superannuation (State Public Sector) Amendment of Deed Regulation 2018, explanatory notes, p 2.