

**Subordinate legislation tabled
between 27 March 2019 and
14 May 2019**

Report No. 25, 56th Parliament
Transport and Public Works Committee
August 2019

Transport and Public Works Committee

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¹ Mr Joe Kelly MP, Member for Greenslopes, was the substitute Member and Chair replacing Mr Shane King MP, Member for Kurwongbah, for the period 10 May 2019 to 17 May 2019.

1. Introduction

1.1 Role of the committee

The Transport and Public Works Committee is a portfolio committee established by the Legislative Assembly of Queensland on 15 February 2018. The committee's primary areas of responsibility are Transport and Main Roads, Housing, Public Works, Digital Technology and Sport.²

Pursuant to section 93(1) of the *Parliament of Queensland Act 2001*, the committee is responsible for examining each item of subordinate legislation within its portfolio areas and considering:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles (FLPs) to the legislation, and
- the lawfulness of the subordinate legislation.

Section 93(2)(a) of the *Parliament of Queensland Act 2001* confers responsibility on the committee to monitor the content of explanatory notes in its portfolio areas to ensure they comply with part 4 of the *Legislative Standards Act 1992*.

1.2 Aim of this report

This report advises on subordinate legislation examined and, where applicable, presents any concerns the committee has identified in respect of subordinate legislation tabled between 27 March 2019 and 14 May 2019.

1.3 Subordinate legislation examined

SL No	Subordinate Legislation	Tabled Date	Disallowance Date*
41	Proclamation made under the <i>Plumbing and Drainage Act 2018</i>	30 April 2019	4 September 2019
42	Plumbing and Drainage Regulation 2019	30 April 2019	4 September 2019
51	Transport and Other Legislation Amendment Regulation (No. 1) 2019	30 April 2019	4 September 2019
54	Queensland Building and Construction Commission (Structural Landscaping Licences) Amendment Regulation 2019	30 April 2019	4 September 2019
65	Standard Plumbing and Drainage (Plumbing Code of Australia Compliance) Amendment Regulation 2019	14 May 2019	18 September 2019

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

² Schedule 6 – Portfolio Committees, *Standing Rules and Orders of the Legislative Assembly* as amended on 15 Feb 2018.

2. Subordinate legislation examined

2.1 Proclamation made under the *Plumbing and Drainage Act 2018* (SL 41)

The objective of the proclamation is to fix a commencement date of 1 July 2019 for certain provisions of the *Plumbing and Drainage Act 2018*.

Achievement of policy objectives

The explanatory notes advise:

*The Proclamation will ensure all provisions of the Act required to establish the State's new legislative framework for plumbing and drainage will be in force as of 1 July 2019.*³

Consultation

The explanatory notes advise that the Department of Housing and Public Works assessed the proposal for the proclamation and concluded it 'was exempt from the requirement for a regulatory impact analysis to be undertaken because it is of a "machinery nature"'.⁴

Comment

No FLP issues were detected and the explanatory notes tabled with the proclamation comply with part 4 of the *Legislative Standards Act 1992*.

2.2 Plumbing and Drainage Regulation 2019 (SL 42)

The objectives of the regulation are to:

- support the operation and implementation of the *Plumbing and Drainage Act 2018* (PD Act 2018) by prescribing matters provided for under the Act
- transition particular provisions of the *Plumbing and Drainage Act 2002* (PDA 2002), the *Plumbing and Drainage Regulation 2003* and the *Standard Plumbing and Drainage Regulation 2003* (SPDR 2003) into the regulation
- introduce shorter timeframes for obtaining authorisation for plumbing and drainage work
- approve a contemporary plumbing code that will include all plumbing and drainage standards for Queensland that are required to vary and complement national plumbing and drainage standards.⁵

Achievement of policy objectives

According to the explanatory notes, the regulation will achieve the policy objectives by:

- prescribing the categories of plumbing or drainage work, being permit work, notifiable work, minor work and unregulated work
- approving a new, contemporary plumbing code that:
 - encompasses all of Queensland's technical requirements, including the requirements currently set out in the to-be-repealed version of the Queensland Plumbing and Wastewater Code, the PDA 2002 and the SPDR 2003
 - varies and complements the national standards in the Plumbing Code of Australia
- prescribing the code requirements for plumbing and drainage work, which are the requirements that the work and plans for the work must comply with
- prescribing how compliance with the code requirements can be achieved
- prescribing the scope of work authorised by classes of licence and endorsements on licences
- providing for processes for obtaining, transferring or cancelling treatment plant approvals

³ Explanatory notes, p 1.

⁴ Explanatory notes, p 2.

⁵ Explanatory notes, p 2.

- providing for improved processes for obtaining authorisations for permit work, notifiable work (or both), including a fast-track process for particular work and a standard process for more complex work
- providing for processes for inspecting, enforcing and certifying permit work and notifiable work
- providing for the installation and maintenance of plumbing and drainage, and related matters
- prescribing the particulars of licensees to be included in the register of licensees for the Act
- providing for a register of notices about notifiable work
- providing for registers that must be kept by local governments
- providing for miscellaneous matters, including the fees payable to the Queensland Building and Construction Commission (QBCC) for various matters, including applications for licences
- providing for penalties that form part of a new, strong penalty framework introduced by the Act
- including amendments of other regulations, including amendments to the State Penalties Enforcement Regulation 2014 (SPER 2014) to ensure that there are penalty infringement notice offences for a large range of offences under the PD Act 2018 and the Regulation.⁶

Consultation

In regard to consultation on the regulation, the explanatory notes state:

The Regulation resulted from a review of Queensland's plumbing laws over the past five years, involving extensive analysis and consultation with stakeholders.

The policy objectives reflected in the Regulation have been informed and refined in partnership with industry and the community and formed part of the Queensland Building Plan discussion paper consultation process.

Over 112 representatives from 46 organisations, and representatives of relevant government agencies and community stakeholders participated in the review of Queensland's plumbing legislative framework...

The comprehensive consultation process conducted for the Act, the Regulation and the new plumbing code included:

- *preliminary consultation workshops with key plumbing and building stakeholders;*
- *an online survey published on the 'Get Involved' website;*
- *state-wide information forums held across Queensland between 20 June and 17 July 2014;*
- *the release of an exposure draft of the Regulation in November 2016 for a three-month consultation period as part of the Queensland Building Plan (QBP) consultation process;*
- *15 public consultation sessions held throughout Queensland to encourage participation in the QBP which were attended by over 1100 participants representing key industry stakeholders, including licensees, local governments and consumers;*
- *the release of a second consultation draft of the Regulation on 17 November 2018 for a three-week public consultation period;*
- *over 27 consultation workshops conducted with industry stakeholders by the Department throughout the review in the period from February 2014 to November 2018.*

All feedback received throughout the consultation process was considered by the Department of Housing and Public Works and the Regulation reflects much of that feedback.⁷

⁶ Explanatory notes, pp 2, 4, 5, 6.

⁷ Explanatory notes, pp 8, 9.

Comment

No FLP issues were detected and the explanatory notes tabled with the regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.3 Transport and Other Legislation Amendment Regulation (No. 1) 2019 (SL 51)

The objectives of the amendment regulation are to:

- facilitate the use of online registration certificates under the Transport Operations (Marine Safety) Regulation 2016 (Marine Safety Regulation)
- remove the requirement to display marine safety registration from 1 October 2019
- clarify that special interest vehicles have a concessional registration to be exempt from the requirement to possess a current certificate of inspection
- extend the time available to renew a certificate of inspection from one month to two months in relation to Certificate of Inspection vehicles
- allow conspicuity markings, which improve the visibility of a vehicle, to be fitted to a motor vehicle or trailer consistent with amendments to the Australian Light Vehicle Standards Rules (ALVSRs)
- update the definition of a moped to include mopeds with alternative power sources such as electric motors
- align safety certificate exemption requirements with corresponding vehicle duty exemptions, where there is a disposal of vehicles between spouses.⁸

Consultation

The explanatory notes advise the following in relation to consultation:

The amendments to the ALVSRs were developed by the NTC in consultation with all relevant stakeholders, including the National Heavy Vehicle Regulator, Heavy Vehicle Industry Australia, the Australian Trucking Association, the Australian Livestock and Rural Transporters' Association, the Federal Chamber of Automotive Industries and all State, Federal and Territory road agencies. The NTC also consulted automotive industry bodies and representatives, police and road safety experts, motoring organisations and members of the public. In addition to the national consultation undertaken by the NTC, TMR consulted key stakeholder groups including the Motor Trades Association of Queensland (MTAQ), the Heavy Vehicle Industry Association and the Royal Automobile Club of Queensland (RACQ).

TMR also consulted the RACQ and the MTAQ with respect to the remaining amendments to the VSS Regulation.

All stakeholders consulted support these amendments.

External stakeholders have not been consulted with respect to the remaining amendments in the amendment regulation, as these amendments are beneficial and administrative in nature.

The amendments to the Marine Safety Regulation will achieve significant cost savings for the Queensland Government and deliver a range of customer benefits. Since October 2014, registration labels have been systematically removed from light vehicles, trailers and heavy vehicles. With advancements in technology over recent years, enforcement officers and vessel owners now have the tools to easily check the registration status and details of vessels without relying on a registration label or certificate. Customers who do not want to use the online registration certificate service will continue to receive registration certificates by post. It is therefore expected that these amendments will have no significant impacts. A communications plan has been developed to ensure that various customer and industry groups are notified of the amendments before they are implemented.

⁸ Explanatory notes, pp 1, 2.

*The amendments to the TPC Regulation are technical amendments to section references that will not result in any significant impacts.*⁹

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.4 Queensland Building and Construction Commission (Structural Landscaping Licences) Amendment Regulation 2019 (SL 54)

The objectives of the amendment regulation are to enable a person who holds a licence in the landscape licence classes to:

- prepare and excavate a site for the purposes of constructing, maintaining or repairing tennis and other sporting courts
- undertake concreting for the purposes of constructing, maintaining or repairing a tennis or other sporting court
- undertake other work associated with a tennis or other sporting court, such as applying materials or other surface treatments to the court.¹⁰

The landscape class licence currently allows licensees to prepare a site, excavate and lay paving or concrete associated with landscaping, to typically build carports, decking, fences, gazebos, pergolas and certain retaining walls (and prefabricated sheds under part 54). These structures are limited to a concrete slab of under 10m². In general, a person must hold a Builder Open, Builder Medium Rise or Builder Low Rise licence to undertake construction, maintenance or repair of tennis or other sporting courts. This means that tennis and sporting court builders who hold a licence in a landscape class cannot undertake their trade without obtaining the qualifications for the more complex licences. This is not considered reasonable due to the limited scope of works involved in tennis and sporting court construction.¹¹

The amendments will permit such a licence holder to construct, maintain and repair tennis and sporting courts.

Consultation

Consultation was undertaken with Tennis Queensland, Sports and Play Industry Association Ltd, Landscape Queensland, Jordin Sports Surfaces, the Housing Industry Association and Master Builders Queensland. The explanatory notes advise that '[a]ll parties consulted support the Amendment Regulation'.¹²

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.5 Standard Plumbing and Drainage (Plumbing Code of Australia Compliance) Amendment Regulation 2019 (SL 65)

The objective of the amendment regulation is to amend the Standard Plumbing and Drainage Regulation 2003 (SPDR). The SPDR currently specifies the sections and parts of the Plumbing Code of Australia (PCA) that apply under law in Queensland.

⁹ Explanatory notes, p 6.

¹⁰ Explanatory notes, p 2.

¹¹ Explanatory notes, pp 1-2.

¹² Explanatory notes, p 3.

The PCA has been recently updated to introduce new sections and delete some sections, resulting in a renumbering of sections. The SDPR is required to be amended to ensure the PCA is correctly adopted and can be applied for meeting the performance requirements of the PCA.¹³

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

3. Recommendation

Recommendation 1

The Transport and Public Works Committee recommends that the Legislative Assembly notes the contents of this report.



Mr Shane King MP
Chair

¹³ Explanatory notes, p 1.