

**Portfolio subordinate legislation
tabled between 5 May 2015 and
14 July 2015**

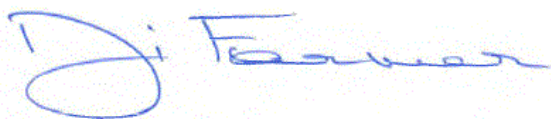
Report No. 14, 55th Parliament
Finance and Administration Committee
October 2015

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 May 2015 and 14 July 2015 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.



Di Farmer MP
Chair
October 2015

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 27 May 2015.¹ The Committee's primary areas of responsibility are:

- Premier, Cabinet and the Arts , and
- Treasury, Employment, Industrial Relations, Aboriginal and Torres Strait Islander Partnerships

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 May 2015 and 14 July 2015 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
42	<i>Public Sector Ethics Amendment Regulation (No.1) 2015</i>	14 July 2015	11 November 2015
45	<i>Revenue Legislation Amendment Regulation (No.1) 2015</i>	14 July 2015	11 November 2015
46	<i>Electrical Safety and Another Regulation Amendment Regulation (No.1) 2015</i>	14 July 2015	11 November 2015
48	<i>Contract Cleaning Industry (Portable Long Service Leave) Amendment Regulation (No.1) 2015</i>	14 July 2015	11 November 2015
68	<i>Proclamation – Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2015</i>	14 July 2015	11 November 2015
69	<i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment (Postponement) Repeal Regulation 2015</i>	14 July 2015	11 November 2015
72	<i>Superannuation (State Public Sector) Amendment of Deed Regulation (No.1) 2015</i>	14 July 2015	11 November 2015

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. Issues for consideration

The Committee identified potential fundamental legislative principle (FLP) and/or other issues with the following subordinate legislation highlighted in the table:

- *Revenue Legislation Amendment Regulation (No.1) 2015*

4.1 *SL No 45 of 2015 – Revenue Legislation Amendment Regulation (No.1) 2015*

The policy objective of the regulation is to amend various laws administered by the Office of State Revenue (OSR). The explanatory notes state that the amendments are generally administrative in nature and are matters that are required to be prescribed by regulation.

The amendments:

- Make changes to the list of recognised stock exchanges prescribed in the *Duties Regulation 2013*;
- Prescribe an interest rate under the *Taxation Administration Regulation 2012*; and
- Increase fees, charges and related amounts in accordance with government policy.

The following stock exchanges are currently prescribed under section 9 of the regulation as recognised stock exchanges:

- the Australia Pacific Exchange Limited;
- the National Stock Exchange of Australia Ltd;
- the New Zealand Exchange Limited; and
- a stock exchange that is a member of the World Federation of Exchanges.

The London Stock Exchange plc was formerly a member of the World Federation of Exchanges, however, it resigned its membership on or about 1 January 2014. As a consequence, it ceased to be recognised stock exchange for the purposes of the *Duties Act 2001*.

The amending regulation (section 5(2)) includes the London Stock Exchange plc as a recognised stock exchange and is taken to have commenced on 1 January 2014. This will ensure that transactions involving entities listed on the London Stock Exchange remain eligible for the same transfer duty relief and concessional landholder duty treatment that was available when the London Stock Exchange plc was a member of the World Federation of Exchanges.

The Australia Pacific Exchange Limited has changed its name to the Asia Pacific Stock Exchange Limited and the name will be amended in the regulation to reflect this change. The ACN, which is included in the regulation, remains unchanged.

As part of the amendments included in the *Payroll Tax, Revenue and Other Legislation Amendment Act 2015* the OSR became liable to pay interest on a refund arising from a decision made by the Commissioner on objection to be paid at the prescribed rate under section 61A of the *Taxation Administration Act 2001*. The prescribed interest rate, as set out in section 9 of the regulation, is an annual rate equal to the bank bill yield rate. The amending regulation amends section 9 so that it also applies to section 61A.

The regulation will also increase fees administered by OSR in accordance with government policy. The explanatory notes state that from 1 July 2015, all fees and charges are to be indexed at a rate of 3.5% for the financial year starting 1 July 2015. The amendment is consistent with increases applied in the 2012-13, 2013-14 and 2014-15 financial years. Any change to the fees administered by OSR must be effected through legislative amendment.

4.1.1 Fundamental legislative principles issues

The Committee identified an issue with respect to retrospectivity in relation to the subordinate legislation. The explanatory notes identify that even though the proposed amendments relating to the London Stock Exchange plc and the section 61A apply retrospectively, both are taxpayer beneficial and on this basis they considered that the amendments would not adversely affect rights and liberties or impose obligations to offend fundamental legislative principles.

No other issues of fundamental legislative principle were detected. Explanatory notes comply with part 4 of the Legislative Standards Act.

4.1.2 Committee Comments

In relation to the issue of retrospectivity, the Committee considered that the issues raised with regard to the FLPs are taxpayer beneficial and acceptable in the circumstances.