

**Subordinate legislation tabled  
between 14 October 2014 and 25  
November 2014**

**Report No. 1, 55<sup>th</sup> Parliament  
Utilities, Science and Innovation Committee**

**May 2015**

# Transport, Housing and Local Government Committee

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## 1. Introduction

### *Role of the Committee*

The Utilities, Science and Innovation Committee (the Committee) is a portfolio committee established by the Legislative Assembly of Queensland (the Legislative Assembly) on 26 March 2015. The Committee's primary areas of responsibility are main roads, road safety, ports, energy and water supply, housing, public works, science and innovation.<sup>1</sup>

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
- the lawfulness of the subordinate legislation
- the content of the explanatory notes to ensure they comply with part 4, section 24 of the *Legislative Standards Act 1992*.

Section 93(2)(b) of the *Parliament of Queensland Act 2001* confers responsibility on portfolio committees to monitor the operation of part 8 of the *Statutory Instruments Act 1992*. The Committee monitors all forms approved or made under an Act or subordinate legislation relevant to the Committee, and reports to the Legislative Assembly on the operation of Part 8.

### *Aim of this report*

This report advises on subordinate legislation examined and, where applicable, presents any concerns that the Committee has identified in respect of subordinate legislation tabled between 14 October 2014 and 25 November 2014.

## 2. Subordinate Legislation

The Committee examined the following subordinate legislation, tabled on 14 October 2014:

- Water Amendment Regulation (No. 2) 2014
- Queensland Building and Construction Commission Amendment Regulation (No. 2) 2014.

The Committee examined the following subordinate legislation, tabled on 25 November 2014:

- Proclamation made under the Professional Engineers and Other Legislation Amendment Act 2014
- Building and Other Legislation Amendment Regulation (No.1) 2014
- Building (Transitional) Regulation 2014
- Plumbing and Drainage (Transitional) Regulation 2014
- Queensland Building and Construction Commission (Transfer) Regulation 2014
- Transport Operations (Marine Safety - Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Amendment Standard (No.1) 2014

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<sup>1</sup> Schedule 6 – Portfolio Committees, *Standing Rules and Orders of the Legislative Assembly* as amended on 27 March 2015.

**Summary of subordinate legislation examined**

SL No. 231	Tabling Date: 14 October 2014	Disallowance Date: 6 May 2015 <sup>2</sup>
<p><b>Title and objective</b></p>	<p><b>Water Amendment Regulation (No.2) 2014</b></p> <p>The authorising law for the Water Amendment Regulation (No.2) 2014 (the Regulation) is sections 690, 691, 695A, 696 and 1041(1) of the <i>Water Act 2000</i> (the Act). The Regulation amends the Water Regulation 2002 (the Water Regulation).</p> <p>The objective of the Regulation is to dissolve eight category 2 water authorities and their authority areas previously established in accordance with the <i>Water Act 2000</i>:</p> <ul style="list-style-type: none"> <li>• two of the water authorities – Murray Valley Water Management Board and Stagnant Creek Drainage Board - are to dissolve absolutely</li> <li>• two water authorities – East Euroma Drainage Board and Orchard Creek Drainage Board - (and their authority areas) are to amalgamate into a new water authority called the Orchard Creek and East Euroma Drainage Board</li> <li>• four water authorities – Cowley Drainage Board, Marathon Bore Water Supply Board, Mourilyan Drainage Board and Palmgrove Water Board - are converting to alternative institutional structures in the form of closed water activity agreements.</li> </ul> <p>The Department of Natural Resources and Mines has advised that the eight water authorities are voluntarily dissolving in accordance with the Government’s policy objectives. These objectives derive from the recommendations of the 2008-2009 Webbe-Weller review of government boards, committees and statutory authorities which were adopted by the Queensland Government as part of its public sector reform to cut red tape and allow water authorities to operate more efficiently and autonomously by reducing reporting, regulatory and approval requirements including through the conversion of category 2 water authorities to alternative institutional structures.</p> <p>The Explanatory Notes advise that the Department has, over the past two years, worked with water authorities in transitioning to new arrangements, amalgamating or dissolving absolutely. Fifteen water authorities were dissolved and transitioned to new arrangements in the 2013-14 financial year. The water authorities have issued information notices of their decisions to dissolve, amalgamate and convert and obtained rate payers approval. Canegrowers Queensland and the Queensland Farmers Federation were also consulted in regard to the changes to the eight water authorities.</p> <p>The Regulation also seeks to ensure consistency with naming conventions between the <i>Water Resource (Fitzroy Basin) Plan 2011</i> (the WRP), and the Water Regulation. If the new names are not prescribed in the relevant sections of the Water Regulation, the Water Regulation and the Water Sharing Rules will not be in alignment with the WRP. This would mean the department could not implement the water sharing rules resulting in an adverse impact to clients.</p>	
<p><b>Committee comment</b></p>	<p>The Committee is satisfied the Water Amendment Regulation (No. 2) 2014 (SL No. 231) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

<sup>2</sup> Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

<b>SL No. 233</b>	<b>Tabling Date: 14 October 2014</b>	<b>Disallowance Date: 6 May 2015</b>
<b>Title and objective</b>	<p><b>Queensland Building and Construction Commission Amendment Regulation (No.2) 2014</b></p> <p>The objective of the Queensland Building and Construction Commission Amendment Regulation (No.2) 2014 (the amendment regulation) is to introduce policies made by the Queensland Building and Construction Board (the QBC Board).</p> <p>Section 10 of the <i>Queensland Building and Construction Commission Act 1991</i> (the Act) establishes the QBCC Board. A function of the QBC Board is to make and review policies governing the administration of the Act and section 19 of the Act provides that the QBC Board with the authority to make such a policy. To have effect, section 19(3) of the Act requires that QBC Board policies be approved by regulation.</p> <p>The amendment regulation approves two policies made by the QBC Board:</p> <ul style="list-style-type: none"> <li>• the Rectification of Building Work policy (made by the QBC Board on 16 May 2014) replaces an older version which was last amended by the former Queensland Building Services Board (QBS Board) on 12 May 2010.</li> <li>• the Minimum Financial Requirements for Licensing policy (made by the Board on 20 June 2014) replaces the Financial Requirements for Licensing policy which was made by the former QBS Board on 19 July 2012.</li> </ul> <p>The Explanatory Notes to the amending regulation advise that the Queensland Building and Construction Commission's (QBCC's) Industry Reference Group and Consumer Reference Group were consulted and were supportive of the new policies.</p> <p>As a consequence of the approval of the new Minimum Financial Requirements for Licensing policy, the amendment regulation also makes minor amendments to the fee schedule in the Queensland Building and Construction Commission Regulation 2003. The Explanatory Notes advise that this amendment is necessary to ensure licensees are not inadvertently elevated to a higher fee bracket as a result of the new policy.</p>	
<b>Committee comment</b>	The Committee is satisfied the Queensland Building and Construction Commission Amendment Regulation (No.2) 2014 (SL No. 233) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i> .	
<b>SL No. 254</b>	<b>Tabling Date: 25 November 2014</b>	<b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Proclamation made under the <i>Professional Engineers and Other Legislation Amendment Act 2014</i></b></p> <p>The objective of SL 254 is to fix a commencement date of 10 November 2014 for certain provisions of the <i>Professional Engineers and Other Legislation Amendment Act 2014</i> (the Act). Section 2 of the Act provides that the Act will commence on a day to be fixed by Proclamation. The Proclamation commenced all the provisions of the Act that were not already in force.</p>	
<b>Committee comment</b>	The Committee notes the proclamation date for <i>Professional Engineers and Other Legislation Amendment Act 2014</i> (SL No. 254) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i> .	

<b>SL No. 255</b>	<b>Tabling Date: 25 November 2014</b>	<b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Building and Other Legislation Amendment Regulation (No.1) 2014</b></p> <p>The objective of the Building and Other Legislation Amendment Regulation (No.1) 2014 (the amending regulation) is to help facilitate the transfer of operational functions relating to pool safety and plumbing and drainage to the Queensland Building and Construction Commission (QBCC).</p> <p>These transfers were legislated in 2014 through the passage of the <i>Professional Engineers and Other Legislation Amendment Act 2014</i> (PEOLA) which amended the <i>Queensland Building and Construction Commission Act 1991</i> (QBCC Act) the <i>Building Act 1975</i> (BA) and the <i>Plumbing and Drainage Act 2002</i> (PDA).</p> <p>This amending regulation includes amendments to associated regulations to complement the amendments in the PEOLA. The Explanatory Notes to the amending regulation state that the amendments aim to produce a range of benefits, including a reduction in red tape and the costs of administering the functions transferred to the QBCC. Specifically, the Explanatory Notes state that the changes will ensure:</p> <ul style="list-style-type: none"> <li>• construction industry practitioners, including pool safety inspectors and plumbers, will have a one-stop shop for their licensing needs in the QBCC</li> <li>• licensees will be able to apply to a single regulator for both occupational and contractual licences</li> <li>• the community will have a consistent and experienced arbiter of issues relating to the conduct of construction, pool safety and plumbing licensees.</li> </ul>	
<b>Committee comment</b>	<p>The Committee is satisfied the Building and Other Legislation Amendment Regulation (No.1) 2014 (SL No. 255) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	
<b>SL No. 256</b>	<b>Tabling Date: 25 November 2014</b>	<b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Building (Transitional) Regulation 2014</b></p> <p>The Building (Transitional) Regulation 2014 (the regulation) is required to facilitate the transfer of functions relating to pool safety to the QBCC.</p> <p>Specifically, the regulation:</p> <ul style="list-style-type: none"> <li>• deals with the review of a decision about the allocation of demerit points by the Pool Safety Council to a pool safety inspector that is pending before the commencement of the PEOLA and this regulation (the commencement). The regulation allows such a review to be completed, or started and completed, as if the unamended provision of the BA continued in effect after the commencement</li> <li>• deals with any legal proceedings potentially or actually involving the Chief Executive of the Department of Housing and Public Works before the commencement. It allows the QBCC Commissioner to deal with the proceedings as though they had always involved the Commissioner</li> <li>• deals with details about building certificates (final inspection certificates) issued for new swimming pools that are given to the Chief Executive within three months after the commencement. It requires the Chief executive to give the details to the QBCC Commissioner as soon as practicable</li> </ul>	

	<ul style="list-style-type: none"> <li>ensures that an approval, notice, requirement, request or decision of the Chief Executive in relation to pool safety continues in effect after the commencement as if it had been given or made by the QBCC Commissioner</li> <li>ensures that if the Chief Executive receives a notice or other information from a person in response to an approval, a notice, requirement, request or decision of the Chief Executive, after the commencement, the Chief Executive must give it to the QBCC Commissioner as soon as practicable.</li> </ul>
<b>Committee comment</b>	The Committee is satisfied the Building Transitional Regulation 2014 (SL No. 256) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>
<b>SL No. 257</b>	<b>Tabling Date: 25 November 2014</b> <b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Plumbing and Drainage (Transitional) Regulation 2014</b></p> <p>The objective of the Plumbing and Drainage (Transitional) Regulation 2014 (the regulation) is to act as a transitional regulation to help facilitate the transfer of functions from the Plumbing Industry Council (PIC) and the Chief Executive of the Department of Housing and Public Works to the Queensland Building and Construction Commission.</p> <p>Specifically, the regulation will ensure:</p> <ul style="list-style-type: none"> <li>that a notice of notifiable work given to the former council before the commencement of the PEOLA and this regulation (the commencement) is taken to have been given to the QBCC Commissioner when the notice was given to the PIC. As a consequence, a rectification notice for the work may be given under section 29B of the Standard Plumbing and Drainage Regulation 2003 within 12 months of the day the notice of the notifiable work was given to the PIC</li> <li>the Chief Executive's approval of the electronic system for sending a receiving electronic communications under section 87A of the PDA continues in effect as if it had been given by the QBCC Commissioner. As a consequence, after the commencement, plumbers and drainers will be able to submit notices of notifiable work to the QBCC Commissioner using the same electronic system as the one they have used to submit such notices to the department in the past.</li> </ul>
<b>Committee comment</b>	The Committee is satisfied the Plumbing and Drainage (Transitional) Regulation 2014 (SL No. 257) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i> .

<b>SL No. 258</b>	<b>Tabling Date: 25 November 2014</b>	<b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Queensland Building and Construction Commission (Transfer) Regulation 2014</b></p> <p>The objective of the Queensland Building and Construction (Transfer) Regulation 2014 (the regulation) is to provide for the transfer to the QBCC of the departmental employees who carry out the operational functions in relation to pool safety and plumbing and drainage.</p>	
<b>Committee comment</b>	<p>The Committee is satisfied the Plumbing and Drainage (Transitional) Regulation 2014 (SL No. 257) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	
<b>SL No. 262</b>	<b>Tabling Date: 25 November 2014</b>	<b>Disallowance Date: 3 June 2015</b>
<b>Title and Objective</b>	<p><b>Transport Operations (Marine Safety – Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Amendment Standard (No.1) 2014</b></p> <p>The Transport Operations (Marine Safety–Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Standard 2005 (the Standard) refers to certain qualifications being required in accordance with the Australian Qualifications Framework (AQF).</p> <p>The objective of the Amendment to the Standard is to update the reference to the AQF in the Standard as recommended by the Department of Education, Training and Employment (DETE) and make other minor amendments:</p> <ul style="list-style-type: none"> <li>• updating the definition of “AQF” to refer to the Australian Qualifications Framework as defined under the <i>Higher Education Support Act 2003</i> (Cwlth) rather than the <i>Vocational Education, Training and Employment Act 2000</i> (Qld)</li> <li>• replacing the reference to “a teaching diploma or degree recognised by the Queensland Studies Authority” with “a qualification mentioned in section 5 of the Education (Queensland College of Teachers) Regulation 2005” (the regulation). The Explanatory Notes state that DETE advised that the Queensland Studies Authority has never recognised teaching qualifications and this reference should be to qualifications recognised by the Queensland College of Teachers, which is what section 5 of the regulation deals with. In practice, this is not intended to change the qualification required to hold a BoatSafe accreditation, it is merely correcting a reference.</li> </ul>	
<b>Committee comment</b>	<p>The Committee is satisfied the Transport Operations (Marine Safety–Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Amendment Standard 2014 (SL No. 262) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	



### 3. Recommendation

#### Recommendation 1

The Committee recommends that the Legislative Assembly note:

- the subordinate legislation tabled on 14 October 2014 and 25 November 2014
- that the Committee did not identify any significant issues regarding consistency with fundamental legislative principles or the lawfulness of the subordinate legislation.

A handwritten signature in black ink that reads "Shane King". The signature is written in a cursive, slightly slanted style.

Mr Shane King MP  
Chair