

**Subordinate legislation tabled between
10 September 2014 and 25 March 2015**

Report No. 1

Health and Ambulance Services Committee

May 2015

Health and Ambulance Services Committee

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1 Introduction

1.1 Role of the committee

The Health and Ambulance Services Committee (Committee) is a portfolio committee of the Legislative Assembly which was established on 27 March 2015 under the *Parliament of Queensland Act 2001* and the Standing Rules and Order of the Legislative Assembly (Standing Orders).

The Committee's primary area of responsibility under Schedule 6 of the Standing Orders is health and ambulance services.

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 areas to consider:

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

1.2 Aim of this report

This report summarises the Committee's examination of subordinate legislation tabled in the Legislative Assembly between 14 October 2014 and 25 March 2015.

2 Subordinate legislation examined

SL No.	Name of subordinate legislation	Tabled date	Disallowance date
211	Health Legislation (Fees) Amendment Regulation (No.1) 2014	14/10/2014	06/05/2015
260	Health Legislation Amendment Regulation (No.4) 2014	25/11/2014	03/06/2015

2.1 SL 211 – Health Legislation (Fees) Amendment Regulation (No.1) 2014

The Health Legislation (Fees) Amendment Regulation (No.1) 2014 increased fees and charges in the following regulations by 3.5% from 1 October 2014:

- the Ambulance Service Regulation 2003, made under the *Ambulance Service Act 1991*, in relation to fees for ambulance services such as emergency and non-emergency transport, ambulance attendance and for the treatment of a person by an ambulance officer;
- the Food Regulation 2006, made under the *Food Act 2006*, in relation to fees for applications for approval, renewal or replacement of approval as an auditor, or a change in approval conditions;
- the Health (Drugs and Poisons) Regulation 1996 and the Health Regulation 1996, both made under the *Health Act 1937*, in relation to applications for an endorsement, or renewal of a drug licence, poison licence, treatment approval or wholesale representative licence and fees for the analysis of a drug or article by an analyst;
- the Pest Management Regulation 2003, made under the *Pest Management Act 2001*, in relation to pest management licence fees;

- the Private Health Facilities Regulation 2000, made under the *Private Health Facilities Act 1999*, in relation to private health facility licence fees and approvals; and
- the Radiation Safety Regulation 2010, made under the *Radiation Safety Act 1999*, in relation to possession, use, transport and related licences and approvals.

The increases were consistent with Queensland Government policy which applies an annual indexation of 3.5% to fees and charges.

Some of the fee increases were marginally greater than 3.5%, ranging from 3.6 to 4.4%, however the monetary amounts concerned were minimal and the higher percentage increases appeared to be the result of rounding to the nearest 50 cents.

The Committee did not identify any other fundamental legislative principles issues.

2.2 SL 260 - Health Legislation Amendment Regulation (No.4) 2014

The Health Legislation Amendment Regulation (No.4) 2014 amended the following three regulations:

- the Health Practitioners (Special Events Exemption) Regulation 2009;
- the Public Health (Infection Control for Personal Appearance Services) Regulation 2003; and
- the Hospital and Health Boards Regulation 2012.

As each of these amendments achieved very different policy objectives, the Committee's consideration of the amendments is set out separately below.

2.2.1 Amendment to Health Practitioners (Special Events Exemption) Regulation 2009

The above regulation was amended to declare the AFC Asian Cup 2015 and the ICC Cricket World Cup as special events under the *Health Practitioners (Special Events Exemption) Act 1998*.

These declarations removed the health practitioner registration requirements for overseas health practitioners accompanying and providing health services to sporting teams competing in the AFC Asian Cup 2015 and the ICC Cricket World Cup 2015.

The Committee notes both these events have now taken place and the declarations were not unusual.

No issues were identified with the amending regulation.

2.2.2 Amendment to the Public Health (Infection Control for Personal Appearance Services) Regulation 2003

This regulation was amended to prescribe a new infection control competency unit code for the purposes of meeting infection control qualification requirements set out in the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

As set out in the Explanatory Notes, the new competency code was prescribed as a consequence of the Ministerial Council for Vocational and Technical Education recently approving a change in a unit of competency. The regulation simply updates the competency code to ensure consistency with the Ministerial Council changes.

No issues were identified with the amending regulation.

2.2.3 Amendment to the Hospital and Health Boards Regulation 2012

The Hospital and Health Boards Regulation 2012 was amended to enable the disclosure of classified and forensic patient information for the purposes of identifying, engaging and supporting victims of crime where the alleged offender has been diverted to the forensic mental health system.¹

To enable this disclosure, the amending regulation prescribed a Memorandum of Understanding (MOU) between Queensland Health, the Metro North Hospital and Health Service and the Queensland Police Service as an agreement under which the disclosure of personal information is allowed. The MOU provides for the exchange of confidential patient where a patient has committed an alleged criminal offense involving personal harm to a victim.

The Explanatory Notes state the MOU outlines what information can be provided to each of the parties and under what circumstances the information may be shared.

Fundamental Legislative Principle - Rights and liberties of individuals

The Committee considered whether the Health Legislation Amendment Regulation (No.4) 2014 had sufficient regard for the rights and liberties of individuals, in accordance with section 4 of the *Legislative Standards Act 1992*.

The Committee considered the circumstances under which confidential information may be disclosed and whether appropriate safeguards and protocols were put in place to protect an individual's confidential information.

The Explanatory Notes were helpful in this regard, confirming the MOU contained appropriate safeguards and established appropriate protocols for requesting and disclosing information under the MOU, including:

- all requests for information must be in writing;
- records of what is disclosed must be kept;
- security measures to protect confidential information from misuse, loss and unauthorised access, modification or disclosure are in place;
- confidential information must not be disclosed to a third party unless permission is obtained from the appropriate authority i.e. Chief Executive of Queensland Health or Commissioner for Police;
- the intent of the *Hospital and Health Boards Act 2011* must be upheld and all parties must interpret the privacy rights of individuals broadly and opportunities for information disclosure narrowly; and
- the collection, disclosure, usage and storage of confidential information must comply with all applicable Queensland Government policy and legislative requirements, including the *Information Privacy Act 2009*.

¹ Explanatory Notes for SL 2014 No. 260, Health Legislation Amendment Regulation (No.4) 2014, page 1.

The Committee considered the prescription of the MOU under the regulation was necessary to achieve the desired policy objective and that having regard to the terms of the MOU itself, the amending regulation had sufficient regard to section 4(2)(a) of the Legislative Standards Act.

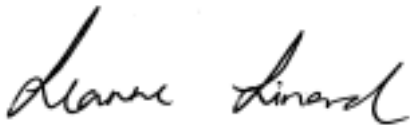
No other issues were identified with the amending regulation.

3 Recommendation

The Committee has examined the policy to be given effect by the subordinate legislation, the application of fundamental legislative principles and lawfulness and has not identified any significant issues.

Recommendation 1

The Committee recommends the Legislative Assembly note the contents of this report.



Leanne Linard MP
Chair