

**Subordinate legislation tabled
between 26 November 2014
and 5 May 2015**

**Report No. 2, 55th Parliament
Utilities, Science and Innovation Committee**

June 2015

Utilities, Science and Innovation Committee

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1. Introduction

Role of the Committee

The Utilities, Science and Innovation Committee is a portfolio committee established by the Legislative Assembly of Queensland 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.¹

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 26 November 2014 and 5 May 2015.

2. Subordinate Legislation

The Committee examined the following subordinate legislation, tabled on 26 March 2015:

- Proclamation - *Transport and Other Legislation Amendment Act 2014*
- Transport and Other Legislation Amendment Regulation (No.3) 2014
- Building Amendment Regulation (No.3) 2014
- Proclamation - *Queensland Building and Construction Commission and Other Legislation Amendment Act 2014*
- Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014
- Proclamation - *Building and Construction Industry Payments Amendment Act 2014*
- Building and Construction Industry Payments Amendment Regulation (No.1) 2014
- Transport Operations (Road Use Management – Driver Licensing) and Another Regulation Amendment Regulation (No. 1) 2014
- Transport and Other Legislation Amendment Regulation (No. 4) 2014
- Proclamation - *Electricity Competition and Protection Legislation Amendment Act 2014*
- Proclamation - *National Energy Retail Law (Queensland) Act 2014*
- Electricity – National Scheme (Queensland) Regulation 2014

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

- National Energy Retail Law (Consequential Amendments) Regulation 2014
- National Energy Retail Law (Queensland) Regulation 2014
- National Gas (Queensland) Regulation 2014
- Housing Amendment Regulation (No. 3) 2014
- Residential Tenancies and Rooming Accommodation Amendment Regulation (No. 1) 2014.

The Committee examined the following subordinate legislation, tabled on 5 May 2015:

- Traffic Amendment Regulation (No. 1) 2015
- Transport Operations (Road Use Management-Vehicle Standards and Safety) Amendment Regulation (No.1) 2015
- Building Amendment Regulation (No.1) 2015.

Summary of subordinate legislation examined

SL No. 278	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Proclamation - <i>Transport and Other Legislation Amendment Act 2014</i></p> <p>The objective of SL 278 is to fix a commencement date of 5 February 2015 for section 81 of the <i>Transport and Other Legislation Amendment Act 2014</i> (the Act).</p> <p>Section 81 of the Act authorises the Department of Transport and Main Roads to offer an online driver licence verification service, which will confirm the validity of driver licences to the licence holder or to a third party. The system changes needed to offer this service will be ready for release on 5 February 2015.</p>	
Committee comment	<p>The Committee notes the proclamation date for the <i>Transport and Other Legislation Amendment Act 2014</i> (SL No. 278) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

SL No. 279	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Transport and Other Legislation Amendment Regulation (No.3) 2014</p> <p>The objective of the Transport and Other Legislation Amendment Regulation (No.3) 2014 is to amend the Queensland Road Rules to implement reforms for cyclists and adopt nationally agreed amendments to the Australian Road Rules. Most of the nationally agreed amendments are minor and technical in nature. Two of the more significant amendments are discussed below:</p> <ul style="list-style-type: none"> • clarifies that a mobile phone may be used as a driver's aid provided it is not being held in the driver's hand • permits a passenger 16 years or older in a bus, taxi or tow truck to have a child less than one year old in their lap if there is no suitable child restraint available and the passenger is not in the front row of seats of a vehicle with two or more rows of seats. Court enforcement officers (sheriffs and bailiffs), corrective service officers and civilian watch house officers who are required to transport persons in their custody or care will be exempted from the requirement to ensure that all passengers in their vehicle are wearing a seatbelt. 	

	<p>The Amendment Regulation also implements cycling reforms based on recommendations of the former Transport, Housing and Local Government Committee's <i>Cycling Inquiry</i>:</p> <ul style="list-style-type: none"> • allows cyclists to ride across children's and pedestrian crossings if they stop at the crossing, proceeds slowly and safely, gives way to pedestrians on the crossing and keeps to the left of any oncoming cyclist or person using a mobility device • removes requirements for cyclists to ride to the far left side of the road when entering, exiting or in a single lane roundabout • removes the requirement for cyclists to ride in bicycle lanes. <p>The Amendment Regulation also amends the Transport Operations (Road Use Management-Driver Licensing) Regulation 2010 to facilitate electronic lodgement of learner driver logbooks.</p> <p>The Explanatory Notes advise the RACQ was consulted on the package of nationally agreed road rule amendments and the learner driver logbook amendments.</p>
Committee comment	<p>The Committee is satisfied the Transport and Other Legislation Amendment Regulation (No.3) 2014 (SL No. 279) 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>

SL No. 293	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Building Amendment Regulation (No.3) 2014</p> <p>The objective of the Building Amendment Regulation (No.3) 2014 is to amend the Building Regulation 2006 to approve (after stakeholder consultation) the replacement of the Queensland Development Code (QDC) Mandatory Part 1.4 – 'Building over or near relevant infrastructure' (MP 1.4) for building work over or near relevant infrastructure. MP 1.4 commenced on 1 November 2013 and applies to all building work for a building or structure to be carried out on, or adjacent to, a lot that contains relevant infrastructure (i.e. sewers, water mains, stormwater drains or combined sanitary drains).</p> <p>The Explanatory Notes advise that the Department of Housing and Public Works had undertaken a review of MP 1.4 in 2014 following feedback from the building and certification industries and some local governments and service providers. Further, the Department had discussed potential solutions with a number of key stakeholders, held State-wide public consultation sessions and a draft version of MP 1.4 was placed on the Department's website for four weeks' public consultation concluding on 1 August 2014.</p> <p>Three areas of MP 1.4 have been amended:</p> <ul style="list-style-type: none"> • a proximity exemption for all classes of building, which will remove the requirement to provide a Form 32 where the work is greater than 3m away (for class 1 and 10 buildings and structures) or 5m away (for class 2-9 buildings) • concessions on compliance with MP 1.4 for light-weight buildings and structures applications, which will allow simple building work over infrastructure, such as sheds, carports, garages, patios, decks, gazebos or rainwater tanks but exclude certain higher risk infrastructure (water mains, connections and maintenance covers) from being built over 	

	<ul style="list-style-type: none"> clarifying what happens when an easement is registered in favour of the relevant service provider. <p><i>Easements exemption</i></p> <p>The Department considered a concern raised about MP 1.4 not applying where an easement is registered in favour of a service provider given easements do not always afford the same protection as MP 1.4. Concern was raised that easements do not always provide the infrastructure with sufficient protection from building work and that building certifiers are obliged to apply the broad National Construction Code (NCC) provisions to ensure that sufficient protection is maintained. It was considered highly desirable that the more tailored provisions of MP 1.4 continue to apply rather than the broader NCC requirements.</p> <p>Consequently, the MP 1.4 exemption is being removed so that applicants will be required to satisfy both the easement conditions and the MP 1.4 requirements. This will normally mean the applicant will just satisfy the higher of the two standards.</p>
Committee comment	The Committee is satisfied the Building Amendment Regulation (No.3) 2014 (SL No. 293) 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> .

SL No. 308	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Proclamation - Queensland Building and Construction Commission and Other Legislation Amendment Act 2014</p> <p>The objective of SL No. 308 is to fix a commencement date of 15 December 2014 for certain provisions, and a date of 1 January 2015 for sections 11 and 12, of the <i>Queensland Building and Construction Commission and Other Legislation Amendment Act 2014</i>.</p>	
Committee comment	The Committee notes the proclamation date for the <i>Queensland Building and Construction Commission and Other Legislation Amendment Act 2014</i> (SL No. 308) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i> .	

SL No. 309	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014</p> <p>The objective of the Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014 is to amend certain provisions in the Queensland Building and Construction Commission Regulation 2003 (QBCC Regulation) and the Professional Engineers Regulation 2003 (PE Regulation) as set out below.</p> <p><u>Amendments to the QBCC Regulation</u></p> <p><i>Three year licence fees</i></p> <p>The <i>Queensland Building and Construction Commission and Other Legislation Amendment Act 2014</i> (Amendment Act) had inserted a new section 37 into the</p>	

Queensland Building and Construction Commission Act (QBCC Act) which allows an applicant for a contractor's licence, a nominee supervisor's licence, a site supervisor's licence or a fire protection occupational licence to choose to renew their licence for a period of either 1 or 3 years. The Explanatory Notes advise that this Amendment Regulation prescribes fees for circumstances where contractors and nominee supervisors choose to renew their licences for three years.

Fee for Restoration of Licence

The QBCC Act now provides that a licensee may request that the Queensland Building and Construction Commission restore a licence and requires the QBCC to restore the licence if the request is made within 3 months of the licence being cancelled and is accompanied by the prescribed fee. Schedule 1 of the QBCC Regulation is being amended to introduce a new fee for the restoration of a licence. The Explanatory Notes advise this will mean that the total cost to restore a licence will be the cost of the renewal plus the new restoration fee.

Insurance of building work carried out on residential parks

Under the QBCC Act, the QBCC administers a statutory insurance scheme for residential construction work (Scheme). The Scheme covers homeowners for loss suffered in the event of a contractor failing to complete a contract for residential construction work or carrying out defective residential construction work.

The QBCC Regulation excludes a manufactured home from the definition of 'residence'. A manufactured home is defined in the QBCC Regulation by reference to the definition of the term in the *Manufactured Homes (Residential Parks) Act 2003*, which provides that a manufactured home is a structure, other than a caravan or tent, that has the character of a dwelling house, is designed to be able to be moved from one position to another and is not permanently attached to land.

The Explanatory Notes advise that this Amendment Regulation removes ambiguity as to the types of work on a residential park that are to be insured under the Scheme. The ambiguity has arisen due to changes in construction methods resulting in some residential buildings on residential parks being the subject of uncertainty from a technical construction perspective as to whether they satisfy the legislative definition of a 'manufactured home'.

Under the Amendment Act all manufactured homes are to be insured as a residence under the Scheme. It is acknowledged that the amendment in this Regulation is inconsistent with this long term policy position to be implemented by the Amendment Act. However, given that the relevant amendment to the QBCC Act has not yet commenced, this regulation amendment is considered appropriate given the immediate need to address the operational, business and consumer protection uncertainty that the current Regulation provisions are causing to industry, consumers and the regulator.

The amendment in this Regulation means that, until the commencement of the relevant provisions of the Amendment Act, all building work on a residential park under the *Manufactured Homes (Residential Parks) Act 2003* will not be classified as residential construction work and will therefore not be insurable under the Scheme.

Amendments to the PE Regulation

Previously the *Professional Engineers Act 2002* (PE Act) only provided for the registration of practising professional engineers. Following its amendment on 10 November 2014, the PE Act now provides for the registration of non-practising professional engineers.

	The new category of registration allows retired engineers and engineers on maternity leave or other career breaks to maintain their registration and title and not be subject to the continuing registration requirements in respect of continuing professional development. Non-practising professional engineers are not entitled to offer or provide professional engineering services. This Amendment Regulation amends the PE Regulation to include a new registration fee for non-practising professional engineers.
Committee comment	The Committee is satisfied the Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014 (SL No. 309) 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> .

SL No. 310	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	Proclamation - <i>Building and Construction Industry Payments Amendment Act 2014</i> The objective is to fix a commencement date of 15 December 2014 for certain provisions of the <i>Building and Construction Industry Payments Amendment Act 2014</i> .	
Committee comment	The Committee notes the proclamation date for the <i>Building and Construction Industry Payments Amendment Act 2014</i> (SL No. 310) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i> .	

SL No. 311	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Building and Construction Industry Payments Amendment Regulation (No.1) 2014</p> <p>The <i>Building and Construction Industry Payments Act 2004</i> (the Act) entitles a person to receive, and to recover, progress payments if they undertake to carry out construction work, or supply related goods and services, under a construction contract. The Act establishes a procedure for making and responding to payment claims within statutory timeframes and for disputed or unpaid claims to be referred to adjudication for a decision.</p> <p>On commencement, the <i>Building and Construction Industry Payments Amendment Act 2014</i> established a single adjudication registry within the Queensland Building and Construction Commission (QBCC) to appoint adjudicators, based on skill, qualifications and experience. The amendments mean that the currently appointed authorised nominating authorities (ANAs) will no longer undertake this function.</p> <p>As part of implementing these reforms amendments need to be made to the <i>Building and Construction Industry Payments Regulation 2004</i>, including:</p> <ul style="list-style-type: none"> • introducing a new adjudication application and certificate fees, and remove fees that are no longer required • approving the Adjudicator Grading and Selection Criteria for Nomination of Adjudicators Policy 2014 • setting the hours the Registrar will accept adjudication applications • removing the bodies listed in Part 1 of Schedule 1 and the elements set out in Part 2 of Schedule 1. 	

Committee comment	The Committee is satisfied the Building and Construction Industry Payments Amendment Regulation (No.1) 2014 (SL No. 311) 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> .
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SL No. 324	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Transport Operations (Road Use Management – Driver Licensing) and Another Regulation Amendment Regulation (No. 1) 2014</p> <p>The Transport Operations (Road Use Management – Driver Licensing) and Another Regulation Amendment Regulation (No. 1) 2014 amends the Transport Operations (Road Use Management—Driver Licensing) Regulation 2010 (driver licensing regulation) to allow a returning driver to reobtain a licence they previously held, but which ceased to be valid more than five years ago, provided they pass the relevant road rules test and practical driving test or competency assessment. Returning drivers will not be required to meet minimum periods for holding a learner licence or other classes of licence before being eligible for a licence they previously held. Specifically, the amendments:</p> <ul style="list-style-type: none"> • provide that a person will be issued with a licence endorsed with a licence code and a certificate which, when carried, will allow them to learn to drive the class of vehicle they were previously licenced to drive • allow the person to immediately undertake a practical driving/competency test for the class of licence they previously held without having to progress through the graduated licencing system or meet the minimum periods for holding a particular licence • address consequential matters relating to testing, eligibility for particular classes and types of licence and the process for a returning driver to progress from a provisional licence through to an open licence • clarify that a person whose licence had been cancelled for a reason other than a court disqualification is not required to serve a probationary period following the period of cancellation. <p>The Amendment Regulation also amends the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2005 to allow returning drivers seeking motorbike licences to access Q-Ride training and assessment.</p>	
Committee comment	The Committee is satisfied the Transport Operations (Road Use Management – Driver Licensing) and Another Regulation Amendment Regulation (No. 1) 2014 (SL No. 324) 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> .	

SL No. 325	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Transport and Other Legislation Amendment Regulation (No. 4) 2014</p> <p>The objective of the changes contained in the Transport and Other Legislation Amendment Regulation (No. 4) 2014 is to reduce red tape and improve transport outcomes for motorcycle riders and other road users.</p>	

	<p>The Explanatory Notes advise that the Department of Transport and Main Roads released the <i>Motorcycle Discussion Paper: Road Rules for Motorcycle Riders</i> for public comment in mid-2014. The paper received 9242 responses, the majority of which supported introducing lane filtering, simplifying motorcycle control rules and broadening the approved motorcycle helmet standards.</p> <p>The amended Queensland Road Rules will allow motorcycle riders to lane filter by moving between stationary or slow moving vehicles travelling in the same direction provided it is safe to do so, the rider holds an open motorcycle licence or a non-Queensland equivalent licence, and is not travelling at more than 30km/hour. Lane filtering will not be permitted in school zones during school zone hours and riding a motorcycle at speed through moving traffic will be prohibited. Riders who fail to comply with these restrictions will face a penalty of three penalty units and three demerit points.</p> <p>Motorcycle riders who hold an open licence or a non-Queensland equivalent licence will also be permitted to pass stationary or slow moving traffic by travelling in an emergency stopping lane or on a sealed part of the road outside the edge line (edge filtering) provided the speed limit on the road is 90km/hour or more. This will assist where, for example, traffic is congested on a motorway or freeway. As with lane filtering, while edge filtering, the rider must not exceed 30km/hour and may only pass traffic in this manner if it is safe to do so.</p> <p>To assist traffic flow and to facilitate lane filtering, motorcycle riders will also be allowed to enter bicycle storage areas, which are areas of road at signalised intersections that allow cyclists to wait in front of stopped vehicles.</p> <p>The Queensland Road Rules will also be amended to simplify motorcycle control rules. Specifically, the rules governing where a rider must place their hands and feet will be removed and the rules specifying how a rider must sit on the motorcycle will be simplified to require them only to be astride the seat. Broader laws already require a rider to have proper control of their motorcycle, ride with due care and attention and not operate their motorcycle dangerously. These laws are considered to provide an appropriate level of direction as to acceptable motorcycle rider behaviour.</p> <p>The rules relating to approved motorcycle helmets will also be expanded to specifically allow helmets which meet the United Nations Economic Commission for Europe 22.05 standard in order to provide motorcycle riders and passengers with a wider range of helmets to choose from.</p> <p>To support the above changes, amendments will be made to the State Penalties Enforcement Regulation 2014 to introduce a fine of three penalty units for contravening lane filtering and edge filtering restrictions. The Transport Operations (Road Use Management—Driver Licensing) Regulation 2010 will also be amended to provide for the allocation of three demerit points for a rider who contravenes those restrictions.</p>
<p>Committee comment</p>	<p>The Committee identified a potential FLP breach in relation to the Transport and Other Legislation Amendment Regulation (No. 4) 2014 (SL No. 325) that may infringe on rights and liberties in relation to penalties.²</p> <p>The Department of Premier and Cabinet’s <i>Queensland Legislative Handbook</i> sets out that as a general rule, infringement notice fines prescribed in the State Penalties Enforcement Regulation 2000 for an infringement notice given under the <i>State</i></p>

² Note: Pursuant to SL 16/2015, from 1 July 2015 the value of a single penalty unit will rise from \$113.85 to \$117.80. (For the circumstances in which that amount applies see section 5 of the *Penalties and Sentences Act 1992* and 2B of the *Penalties and Sentences Regulation 2005*.)

	<p><i>Penalties Enforcement Act 1999</i> should not be more than one-tenth of the penalty prescribed in the Act or the subordinate legislation to which the infringement notice fine relates.³</p> <p>While the Explanatory Notes did not identify this potential breach, the Committee notes that Section 21 in the Amending Regulation contravenes this general rule.</p> <p>Section 21 in the Amending Regulation sets out that the State Penalties Enforcement Regulation 2014 will be amended in relation to the Transport Operations (Road Use Management – Road Rules) Regulation 2009 (TO-RUMRR Regulation). It will provide for 3 penalty units in relation to sections 151A(2) and 151B(2). The corresponding maximum penalty under the TO-RUMRR Regulation is 20 penalty units. Accordingly, the Amending Regulation contravenes the general rule set out in the Queensland Legislative Handbook and potentially infringes on rights and liberties in relation to penalty.</p> <p>On balance, however, the Committee considers the breach is justified in the circumstances of ensuring motoring safety.</p> <p>In conclusion, the Committee is satisfied the Transport and Other Legislation Amendment Regulation (No. 4) 2014 (SL No. 325) 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>
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SL No. 335	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Proclamation – <i>Electricity Competition and Protection Legislation Amendment Act 2014</i></p> <p>The objective is to fix a commencement date of 1 July 2015 for certain provisions of the <i>Electricity Act 1994</i> and the <i>National Energy Retail Law (Queensland) Act 2014</i>.</p> <p>Commencement of the Act on 1 July 2015 is required to ensure:</p> <ul style="list-style-type: none"> • amendments to the <i>Electricity Act 1994</i> to remove retail price regulation in South East Queensland and establish an effective market monitoring regime can commence on 1 July 2015 • consequential amendments to existing Queensland legislation to avoid duplication upon commencement of the <i>National Energy Retail Law (Queensland) Act 2014</i> can also commence on 1 July 2015. 	
Committee comment	<p>The Committee notes the proclamation date for the <i>Electricity Competition and Protection Legislation Amendment Act 2014</i> (SL No. 335) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

³ Department of Premier and Cabinet, *Queensland Legislation Handbook*, 6.10; note the Legislation Handbook refers to the SPER 2000 and this regulation is now SPER 2014.

SL No. 336	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Proclamation – National Energy Retail Law (Queensland) Act 2014</p> <p>The objective is to fix a commencement date of 1 July 2015 for certain provisions of the <i>National Energy Retail Law (Queensland) Act 2014</i>.</p> <p>Commencement of the Act on 1 July 2015 is required to ensure:</p> <ul style="list-style-type: none"> • the National Energy Retail Law can be applied as a law of Queensland from 1 July 2015 to regulate the sale and supply of energy (electricity and gas) to consumers • State-specific modifications to the application of the National Energy Retail Law to strengthen existing customer protection and support measures can commence on 1 July 2015. 	
Committee comment	<p>The Committee notes the proclamation date for the National Energy Retail Law (Queensland) Act 2014 (SL No. 336) and is satisfied that the Explanatory Notes comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

SL No. 337	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Electricity – National Scheme (Queensland) Regulation 2014</p> <p>The objective of the Electricity – National Scheme (Queensland) Regulation 2014 is to apply the national electricity connections framework in the National Electricity Rules to the Ergon Energy distribution systems that do not form part of the national grid, in order to improve transparency of the connections process for retail customers.</p> <p>This will give equivalent customer connection rights to prospective retail customers wishing to connect to these distribution systems as will apply for prospective retail customers in other parts of Queensland. The arrangements will increase the transparency of the connections process for customers and provide an efficient approach for Ergon Energy, which will be able to apply similar connection processes for all its customers.</p>	
Committee comment	<p>The Committee is satisfied the Electricity – National Scheme (Queensland) Regulation 2014 (SL No. 337) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.</p> <p>The Committee notes, however, that while the Explanatory Notes (see page 3 under the heading “Consultation”) do not outline the results of ‘broad industry and consumer stakeholder consultation’ in accordance with section 24((2)(ii) of the <i>Legislative Standards Act 1992</i>, it is satisfied that they otherwise comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

SL No. 338	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>National Energy Retail Law (Consequential Amendments) Regulation 2014</p> <p>The objectives of this National Energy Retail Law (Consequential Amendments) Regulation 2014 are to:</p> <ul style="list-style-type: none"> • avoid duplication when the majority of the provisions of the <i>National Energy Retail Law (Queensland) Act 2014</i> (the Act) and the <i>Electricity Competition and Protection Legislation Amendment Act 2014</i> are proclaimed into force • reflect changes in the regulatory scheme for energy retail, including transfers of responsibility from the Department of Energy and Water Supply (DEWS) to the Australian Energy Regulator (AER) • align terminology used in remaining provisions of the regulations with terminology used in the Act and the <i>Electricity Competition and Protection Legislation Amendment Act 2014</i> to ensure those provisions continue to operate effectively. <p>The Regulation will achieve its objectives by amending existing Queensland energy and other regulations in the manner and for the purposes described below:</p> <ul style="list-style-type: none"> • the Electrical Safety Regulation 2013 is to be amended to ensure that references to retailers align with the terminology of the Act • the Electricity Regulation 2006 is to be amended by removing or amending certain provisions concerning retailers or distributors to avoid duplication with the Act and the National Electricity Rules, and by amending certain other provisions to align with the terminology of the Act and the National Electricity Law • the Gas Supply Regulation 2006 is to be amended by removing or amending certain provisions concerning retailers or distributors to avoid duplication with the Act and the National Gas Rules, and by amending certain other provisions to align with the terminology of the Act • the Energy and Water Ombudsman Regulation 2007 is to be amended so that a provision prescribing participation fees applying to Maranoa and Western Downs Regional Councils, as energy entities, will reflect changes in the regulatory scheme for energy retail and align with the terminology of the Act • the Queensland Competition Authority Regulation 2007 is to be amended so that a provision prescribing fees payable by certain energy entities will reflect changes in the regulatory scheme for energy retail resulting from the commencement of the National Energy Retail Law in Queensland. 	
Committee comment	<p>The Committee is satisfied the National Energy Retail Law (Consequential Amendments) Regulation 2014 (SL No. 338) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.</p> <p>The Committee notes, however, that while the Explanatory Notes (see page 4 under the heading “Consultation”) do not outline the results of the ‘broad industry and consumer stakeholder consultation’ in accordance with section 24((2)(ii) of the <i>Legislative Standards Act 1992</i>, it is satisfied that they otherwise comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

SL No. 339	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
<p>Title and Objective</p>	<p>National Energy Retail Law (Queensland) Regulation 2014</p> <p>The National Energy Retail Law (Queensland) Regulation 2014 proposes to support the application, as a law of Queensland, of the National Energy Retail Law by making local instruments under that law:</p> <ul style="list-style-type: none"> • nominating local area retailers of electricity and gas • nominating Ergon Energy Corporation Limited as distributor for its small isolated electricity networks in regional Queensland and nominating Envestra Limited as distributor for its Wide Bay gas network in regional Queensland • declaring that the price comparator service maintained by the Australian Energy Regulator will apply for Queensland. <p>The Regulation proposes to support implementation of the national energy retail scheme by prescribing conditions that will apply to retail exemptions for gas to be held by Maranoa Regional Council and Western Downs Regional Council.</p> <p>The Regulation proposes to make modifications to the National Energy Retail Law:</p> <ul style="list-style-type: none"> • prescribing a regulator for modifications concerning price monitoring and associated electricity reforms • prescribing Ergon Energy Queensland Pty Ltd as an ‘assigned retailer’ for provisions ensuring that obligations to offer legislated standard retail contracts at regulated prices to small and large customers in regional Queensland continue to apply. <p>This Regulation also proposes to modify the application of the National Energy Retail Rules to:</p> <ul style="list-style-type: none"> • ensure that regional electricity customers can continue to access supply on a fair and reasonable basis, by: <ul style="list-style-type: none"> · creating new rules obliging electricity on-suppliers in regional Queensland to charge large consumers no more than the relevant regulated price · creating new standard connection and retail contracts applying for premises using card-operated meters in regional and remote Queensland. • support advancement of the Queensland Government’s electricity industry reform priorities, by creating new rules obliging electricity retailers to: <ul style="list-style-type: none"> · inform all customers of the available options to pay bills including in advance · charge for electricity meter tests after testing, and only if the meter is not faulty · provide customers with advance notice of increases in market contract prices · provide customers with advance notice of expiry of fixed term benefits · offer at least one market contract with no exit fee whenever they offer a market · contract with an exit fee · cap market contract exit fees at a maximum of \$20. <p>This Regulation proposes to support modifications to the National Energy Retail Rules by prescribing a regulator for each modified or new rule.</p> <p>The Explanatory Notes advise that the benefits of implementation are that it will support adoption of the national energy retail scheme, including Queensland-specific modifications, and support price monitoring and other Queensland Government electricity reforms, including new transitional customer protections associated with price monitoring.</p>	

	<p>Adoption of the national retail scheme will mean that most retailer-related regulatory functions and many distributor-related regulatory functions will transfer from the Queensland Competition Authority (QCA) and the Department of Energy and Water Supply (DEWS) to the Australian Energy Regulator (AER). A much smaller number of existing or modified regulatory functions will remain with QCA and DEWS. QCA and DEWS will also be responsible for regulating certain new Queensland-specific consumer protections associated with price monitoring and support for regional Queensland consumers (for example, QCA is prescribed as the regulator for new rules 152A and 152B, which will apply only in respect of regional Queensland).</p>
<p>Committee comment</p>	<p>The Committee identified a potential FLP breach in relation to the National Energy Retail Law (Queensland) Regulation 2014 (SL No. 339), that is, subordinate legislation should contain only matter appropriate to that level of legislation – <i>Legislative Standards Act 1992</i>, section 4(5)(c).</p> <p>The Committee notes that although an Act may legally empower the making of particular subordinate legislation there remains the issue of whether the making of that subordinate legislation under the power is appropriate. The Explanatory Notes state:</p> <ul style="list-style-type: none"> • <i>In respect of policy objective 2 [support the implementation of the national energy retail scheme contained in the National Energy Retail Law, as applied in Queensland]; this could have been achieved by provisions in the primary legislation. However, the primary legislation instead provided that the relevant conditions should be set out in a regulation, in recognition of the fact that it is more convenient and efficient to prescribe conditions of such length and complexity in subordinate legislation.</i> • <i>In respect of policy objective 3 [support modifications made to the National Energy Retail Law, as applied in Queensland], this could have been achieved by provisions in the primary legislation. However, it was anticipated that negotiations over which body is to be regulator might continue up to and beyond enactment of the primary legislation and that, post enactment, flexibility be retained for example, should electricity entity name changes be required as part of ongoing electricity sector reform. For these reasons it was considered more convenient and efficient to enable subordinate legislation to provide for these matters.</i> • <i>In respect of policy objective 4,</i> [modify the application of the National Energy Retail Rules: <ul style="list-style-type: none"> a) to ensure that regional electricity customers can continue to access supply on a fair and reasonable basis b) to support advancement of the Queensland Government’s electricity industry reform priorities by providing additional customer protection to small customers] <i>this could have been achieved by provisions in the primary legislation. However, it is more convenient and efficient to make changes in a statutory instrument (the National Energy Retail Rules) by means of subordinate legislation than by primary legislation, particularly as certain customer protections may need to be revisited depending on the outcome of market reviews contemplated in the primary legislation.</i>

	<ul style="list-style-type: none"> • <i>In respect of policy objective 5 [support the modifications made to the National Energy Retail Rules by prescribing a regulator for the modified provisions], it was considered appropriate that subordinate legislation should assign a regulator for provisions of a statutory instrument (the National Energy Retail Rules) modified in achieving policy objective 4, especially as those modifications will also be made by subordinate legislation.</i> <p>The Committee notes, however, that when Parliament delegates the power to make subordinate legislation, it retains the right to disallow particular subordinate legislation on any ground.⁴</p> <p>Therefore, on balance, the Committee is of the view that the matters, though appropriate to primary legislation, are justified in their placement in subordinate legislation in the circumstances.</p> <p>In conclusion, the Committee is satisfied the National Energy Retail Law (Queensland) Regulation 2014 (SL No. 339) 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>
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SL No. 340	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>National Gas (Queensland) Regulation 2014</p> <p>The objectives of the National Gas (Queensland) Regulation 2014 are to:</p> <ul style="list-style-type: none"> • apply the national gas connections framework in the National Gas Rules to the Envestra Limited Wide Bay network, which comprises the Maryborough – Hervey Bay and Bundaberg distribution networks, to increase efficiency for the business and to improve transparency of the connections process for retail customers • transition covered distribution pipelines to the national gas connections framework in the National Gas Rules in a way that does not disturb existing access arrangements for Queensland gas distribution businesses (the full framework will commence when new access arrangements start on 1 July 2016). 	
Committee comment	<p>The Committee is satisfied the National Gas (Queensland) Regulation 2014 (SL No. 340) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.</p> <p>The Committee notes, however, that while the Explanatory Notes (see page 3 under the heading “Consultation”) do not outline the results of the ‘broad industry and consumer stakeholder consultation’ in accordance with section 24((2)(ii) of the <i>Legislative Standards Act 1992</i>, it is satisfied that they otherwise comply with part 4 of the <i>Legislative Standards Act 1992</i>.</p>	

⁴ Office of Queensland Parliamentary Counsel, OQPC Notebook, page 165.

SL No. 341	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Housing Amendment Regulation (No. 3) 2014</p> <p>Under the <i>Housing Act 2003</i>, a housing service is a social housing service or an ancillary housing service. A provider, who provides an ancillary housing service as defined in the Act, is not required to be registered or exempted from registration under the Act in order to be eligible for funding.</p> <p>The objective of the Housing Amendment Regulation (No. 3) 2014 is to prescribe an additional kind of ancillary housing service. This allows providers who provide a housing-related education or employment service to be eligible to receive funding under the Act as an ancillary housing provider.</p> <p>The Explanatory Notes advise that the Amendment Regulation is required to fund providers who provide a 'housing-related education or employment service' under the Act, as an ancillary housing provider.</p>	
Committee comment	<p>The Committee is satisfied the Housing Amendment Regulation (No. 3) 2014 (SL No. 341) 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>	

SL No. 342	Tabling Date: 26 March 2015	Disallowance Date: 17 July 2015
Title and Objective	<p>Residential Tenancies and Rooming Accommodation Amendment Regulation (No. 1) 2014</p> <p>Section 527C of the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> enables the transfer of public housing to community housing management for both tenants and providers by deeming the termination of existing State tenancy agreements and re-granting community housing provider tenancy agreements.</p> <p>The purpose of the Residential Tenancies and Rooming Accommodation Amendment Regulation (No. 1) 2014 is to prescribe the replacement terms of the community housing tenancy agreement.</p> <p>The Amendment Regulation prescribes the terms of the community housing provider tenancy agreement that will replace existing State tenancy agreements when a community housing provider becomes the replacement lessor under section 527C of the Act. This means that existing public housing tenants do not need to sign a new tenancy agreement with the replacement lessor.</p> <p>The Explanatory Notes advise that when the Logan Renewal Initiative commences, it is expected approximately 4 800 public housing tenancies will transfer from the State to the management of the replacement lessor. The amendments will also support future transfers of public housing services to non-government providers.</p>	
Committee comment	<p>The Committee is satisfied the Residential Tenancies and Rooming Accommodation Amendment Regulation (No. 1) 2014 (SL No. 342) 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>	

SL No. 13	Tabling Date: 5 May 2015	Disallowance Date: 16 September 2015
Title and Objective	<p>Traffic Amendment Regulation (No. 1) 2015</p> <p>The Traffic Amendment Regulation (No. 1) 2015 will approve a number of new speed camera devices for use in Queensland.</p> <p>These devices will form part of the broader Camera Detected Offence Program which is provided for in the <i>Transport Operations (Road Use Management) Act 1995</i> and is jointly administered by the Queensland Police Service and the Department of Transport and Main Roads.</p> <p>Brisbane’s Legacy Way tunnel will link the Western Freeway with the Inner City Bypass and is scheduled to open to traffic later in 2015. As part of a range of measures to ensure safety in the tunnel, a number of speed cameras will be installed to detect vehicles exceeding the speed limit.</p> <p>The amendments will approve new speed camera devices for use in the tunnel and elsewhere in Queensland and will insert or amend ‘datablocks’ which provide an explanation of the information that appears on images generated by those devices.</p>	
Committee comment	<p>The Committee is satisfied the Traffic Amendment Regulation (No. 1) 2015 (SL No. 13) 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>	

SL No. 18	Tabling Date: 5 May 2015	Disallowance Date: 16 September 2015
Title and Objective	<p>Transport Operations (Road Use Management-Vehicle Standards and Safety) Amendment Regulation (No.1) 2015</p> <p>The objective of the Transport Operations (Road Use Management-Vehicle Standards and Safety) Amendment Regulation (No.1) 2015 is to amend the Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010 to adopt changes to the Australian Vehicle Standards Rules (AVSRs) developed by the National Transport Commission and approved by the Transport and Infrastructure Council in May 2014.</p> <p>The AVSRs are national model legislation which set the standards heavy and light vehicles must meet to be used on roads and road-related areas. Subject to certain local variations, the AVSRs have been adopted in all Australian jurisdictions.</p> <p>The amendments are minor and technical in nature and are designed to enhance or clarify the operation of existing rules, for example to clarify that a non-compliant vehicle can be driven on a road to be taken to a place of repair or for testing during the course of repair provided it does not pose any safety risk.</p>	
Committee comment	<p>The Committee is satisfied the Transport Operations (Road Use Management-Vehicle Standards and Safety) Amendment Regulation (No.1) 2015 (SL No. 18) 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>	

SL No. 19	Tabling Date: 5 May 2015	Disallowance Date: 16 September 2015
Title and Objective	Building Amendment Regulation (No.1) 2015 The Building Amendment Regulation (No.1) 2015 amends the Building Regulation 2006 to approve the introduction of new Mandatory Part 2.4 (MP 2.4) into the Queensland Development Code. MP 2.4 – <i>Construction in Bushfire Prone areas</i> references the <i>National Association of Steel-framed Housing Standard for Steel-Framed Construction in Bushfire Areas</i> (the NASH Standard) as an acceptable solution for houses and associated buildings and structures in Queensland.	
Committee comment	The Committee is satisfied the Building Amendment Regulation (No.1) 2015 (SL No. 19) 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> . The Committee notes that, in respect of consultation, the Explanatory Notes advise that Queensland stakeholders were afforded an opportunity to contribute to a national consultation process that was undertaken as part of the development and adoption of the NASH Standard into the Building Code of Australia.	

3. Recommendation

<p>Recommendation</p> <p>The Utilities, Science and Innovation Committee recommends that the Legislative Assembly note:</p> <ul style="list-style-type: none"> ▪ the subordinate legislation tabled between 26 November 2014 and 5 May 2015 ▪ that the Committee did not identify any significant issues regarding consistency with fundamental legislative principles or the lawfulness of the subordinate legislation.



Mr Shane King MP
Chair