

## Legal Affairs and Community Safety Committee

### Report No. 34

## Subordinate legislation tabled between 14 November 2018 and 12 February 2019

### 1 Aim of this report

This report summarises the committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled between 14 November 2018 and 12 February 2019. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992*.

### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
184	Storage Liens Regulation 2018	12 February 2019	2 May 2019
185	Fair Trading (Fuel Price Reporting) Regulation 2018	12 February 2019	2 May 2019
192	State Penalties Enforcement (Police Powers and Responsibilities) Amendment Regulation 2018	12 February 2019	2 May 2019
193	Uniform Civil Procedure (Corporations Proceedings) Amendment Rule 2018	12 February 2019	2 May 2019
203	Introduction Agents Regulation 2018	12 February 2019	2 May 2019
209	State Penalties Enforcement (Water Supply (Safety and Reliability) and Other Matters) Amendment Regulation 2018	12 February 2019	2 May 2019
214	Uniform Civil Procedures (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018	12 February 2019	2 May 2019

### 3 Committee consideration of the subordinate legislation

Apart from the matters discussed below, no significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified.

The explanatory notes tabled with the regulations comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

## 4 Fair Trading (Fuel Price Reporting) Regulation 2018

The objective of the Fair Trading (Fuel Price Reporting) Regulation 2018 is to promote the interests of consumers by improving access to accurate, timely and comprehensive information about retail fuel prices. This will be achieved by establishing a mandatory fuel price reporting scheme in Queensland.

An electronic aggregation system will be established and maintained, for the purposes receiving fuel price information and for publishing the information to the public.<sup>1</sup>

The regulation requires a responsible fuel retailer to enter information relating to retail fuel prices into the aggregation system within a prescribed period of time (30 minutes after a change in normal fuel price).

Penalties apply for failure to enter information into the aggregation system within the prescribed period of time. The regulation however does provide defences for a responsible fuel retailer, although the retailer will be required to prove these defences.

### 4.1 Fundamental legislative principle issues

Clause 6 of the Regulation requires a responsible fuel retailer to enter certain information into the aggregation system, within 30 minutes after a change is made to the normal fuel price. A maximum penalty of 20 penalty units (\$1566.60) applies for failure to comply.

Clause 3 defines a responsible fuel retailer as a person who decides the normal fuel price (fuel price without discount applied) for retail sale at a service station.

Although 'person' is not further defined, section 32D of the *Acts Interpretation Act 1954* provides that a reference to a person generally includes a reference to a corporation as well as an individual.

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation have sufficient regard to the rights and liberties of individuals.

The regulation will require a fuel retailer to input information into the aggregation system which might be seen to have the ability to impact on the ordinary activities of the retailer. In turn, it might be argued that this could involve an interference with rights and liberties by, without sufficient justification, unduly restricting ordinary activity.

The explanatory notes do not specifically address this matter as a fundamental legislative principle, but relevantly do state:

*The Regulation will benefit consumers by improving access to accurate, timely and comprehensive information about retail fuel prices. This will enable motivated consumers to make savings by identifying, and buying fuel from, the service station offering the least expensive fuel in the consumer's local area.*<sup>2</sup>

The explanatory notes further provide:

*The Regulation is not intended to significantly increase the burden for those entities already reporting fuel prices through existing voluntary services and arrangements. However, there are likely to be some implementation costs for responsible fuel retailers, especially those that do not currently report fuel price information.*

### Committee comment

The committee considers that the overall benefit to the consumer outweighs any inconvenience caused to fuel retailers in having to comply with the aggregation system, and that any potential breach of fundamental legislative principle is therefore justified.

---

<sup>1</sup> Explanatory notes, p 1.

<sup>2</sup> Explanatory notes, p 2.

## 5 Uniform Civil Procedure (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018

The objective of the Uniform Civil Procedure (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018 is to ensure that court and tribunal fee waiver provisions do not facilitate vexatious litigants instituting vexatious proceedings, by preventing vexatious litigants from applying for fee waivers for a proceeding, or an application for leave to institute a proceeding, that is subject to a vexatious proceedings order under the *Vexatious Proceedings Act 2005*. Those vexatious litigants who would otherwise be eligible for a fee waiver, will be able to apply for a refund of the fees they have paid if an application for leave under section 11 of the Vexatious Proceedings Act is successful.<sup>3</sup>

### 5.1 Fundamental legislative principle issues

The explanatory notes recognise a potential breach of fundamental legislative principle, in that certain individuals (declared vexatious litigants) will be prevented from applying for fee waivers.

The explanatory notes state that the provisions are justified:

*... on the basis that only a very limited number of litigants are affected by the amendments; the litigant has been declared as being vexatious through a designated court process; and will deter a vexatious litigant pursuing vexatious proceedings; freeing up court and registry time and resources and saving respondents from incurring unnecessary costs.*<sup>4</sup>

No further details are provided as to the numbers of vexatious litigants nor the extent of anticipated savings of time and resources.

#### Committee comment

The committee considers sufficient justification has been provided for the potential breach of fundamental legislative principle.

## 6 Recommendation

The committee recommends that the House notes this report.



Peter Russo MP

**Chair**

### **Legal Affairs and Community Safety Committee**

<b>Chair</b>	Mr Peter Russo MP, Member for Toohey, Chair
<b>Deputy Chair</b>	Mr James Lister MP, Member for Southern Downs, Deputy Chair
<b>Members</b>	Mr Stephen Andrew MP, Member for Mirani Mr Jim McDonald MP, Member for Lockyer Mrs Melissa McMahon MP, Member for Macalister Ms Corrine McMillan MP, Member for Mansfield

---

<sup>3</sup> Explanatory notes, p 2.

<sup>4</sup> Explanatory notes, p 2.