

Fair Trading Inspectors Bill 2013

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Jarrod Bleijie MP

Title of the Bill

Fair Trading Inspectors Bill 2013

Objectives of the Amendment

The policy objective of the amendment is to clarify the time allowed for applicants to file a notice of appeal to the Magistrate's Court in relation to particular decisions made under the Fair Trading Inspectors Bill 2013.

Under the Bill, appeals against decisions are by internal review in the first instance (clause 73(1)). More specifically, a person who has a right to appeal against a decision may apply to the chief executive for a review of the decision (clause 73(2)).

Clause 76 of the Bill imposes particular obligations on the chief executive, including a requirement to review and decide an application for review within 30 business days after receiving the application and to give the applicant notice of the review decision (clause 76(1)). If the chief executive does not give the applicant notice of the review decision within the required 30 days, the chief executive is taken to have confirmed the original decision (clause 76(3)).

Clause 77 provides a person who has applied for a review of a decision and is dissatisfied with the review decision with the ability to appeal to the Magistrate's Court against the decision.

Clause 78 provides the procedure for an appeal to the Court. Clause 78(3) provides that the notice of appeal must be filed within 28 days after the review notice day (that being, the day the review notice stating the chief executive's decision about the internal review is given to the applicant by the chief executive).

However, the Bill is not clear on the time for appeals in the unlikely event that the chief executive fails to provide the applicant with a review notice within the 30 day timeframe required under clause 76(1). The amendment seeks to improve the operation of the legislation by clearly stating the time for appeals in these circumstances.

Achievement of the Objectives

The objective of the amendment is to be achieved by omitting clause 78(3) and including a new clause 78(3) which states:

The notice of appeal must be filed—

- (a) if the chief executive gave a review notice of the review decision to the applicant within the 30 business days mentioned in clause 76(1)—within 28 days after the review notice day; or
- (b) otherwise—within 28 days after the end of the 30 business days mentioned in clause 76(1).

The amendment will clearly identify the timeframe within which a person must file a notice of appeal with the clerk of a court after the review notice day (where clause 76(1) applies) or after the 30 days (where clause 76(3) applies).

Alternative Ways of Achieving Policy Objectives

Legislative amendment is the only means of achieving the policy objective.

Estimated Cost for Government Implementation

The proposed amendment will not impose additional costs on Government to those outlined in the Explanatory Notes to the Bill.

Consistency with Fundamental Legislative Principles

The proposed amendment is consistent with fundamental legislative principles.

Consultation

The amendments to the Bill principally stem from clarifications sought by the Legal Affairs and Community Safety Committee in its inquiry into the Fair Trading Inspectors Bill 2013. The Parliamentary Committee sought comment on the Bill by inviting written submissions from all Queenslanders and holding a public hearing.

NOTES ON PROVISIONS

Amendment 1

Clause 78 (Procedure for an appeal to the court)

Amendment 1 amends clause 78 of the Bill to omit the current subclause 3 and insert a new subclause 3 which prescribes the timeframe for filing a notice of appeal with the Magistrates Court where a review notice is provided under clause 76(1) and the timeframe for filing a notice of appeal with the Magistrates Court where the chief executive is taken to have made a review decision confirming the original decision under 76(3).

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