



Statutory Instruments Act 1992

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Queensland

Statutory Instruments Act 1992

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Statutory Instruments Act 1992

An Act relating to statutory instruments and for other purposes related to legislation

Part 1 Preliminary

1 Short title

This Act may be cited as the *Statutory Instruments Act 1992*.

2 Purposes of Act

The purposes of this Act are to—

- (a) facilitate the interpretation of statutory instruments; and
- (b) facilitate improvement in the presentation of statutory instruments; and
- (c) rationalise notification, publication, tabling and disallowance requirements for subordinate legislation; and
- (d) generally ensure that Queensland subordinate legislation is of the highest standard.

3 Act applies to all statutory instruments

This Act applies to all statutory instruments.

4 Displacement of Act by contrary intention

The application of this Act may be displaced, wholly or partly, by a contrary intention appearing in any instrument.

5 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

5A Act binds the State

This Act binds the State.

Part 2 Types of statutory instruments

Division 1 General concepts

6 Meaning of *instrument*

An *instrument* is any document.

7 Meaning of *statutory instrument*

- (1) A *statutory instrument* is an instrument that satisfies subsections (2) and (3).
- (2) The instrument must be made under—
 - (a) an Act; or
 - (b) another statutory instrument; or
 - (c) power conferred by an Act or statutory instrument and also under power conferred otherwise by law.

Example of paragraph (c)—

an instrument made partly under an express or implied statutory power and partly under the Royal Prerogative

- (3) The instrument must be of 1 of the following types—
 - a regulation
 - an order in council
 - a rule

- a local law
 - a by-law
 - an ordinance
 - a subordinate local law
 - a statute
 - a proclamation
 - a notification of a public nature
 - a standard of a public nature
 - a guideline of a public nature
 - another instrument of a public nature by which the entity making the instrument unilaterally affects a right or liability of another entity.
- (4) However, to remove doubt, an Executive Council minute is not itself a statutory instrument.

8 Meaning of *statutory rule*

A *statutory rule* is a statutory instrument—

- (a) that is made by the Governor or the Governor in Council; or
- (b) that is made by another person or body, but—
 - (i) is required by law to be approved, confirmed or otherwise consented to by the Governor or Governor in Council; or
 - (ii) is subject to being disapproved or otherwise disallowed by the Governor or Governor in Council.

9 Meaning of *subordinate legislation*

- (1) Subject to subsection (2), the following instruments are *subordinate legislation*—

- (a) a statutory rule that is a regulation, rule, by-law, ordinance or statute;
 - (b) a statutory rule that is an order in council or proclamation of a legislative character;
 - (c) any statutory instrument (including an order in council or proclamation) that is declared to be subordinate legislation by an Act or a regulation made under this Act;
 - (d) any other statutory instrument that fixes or otherwise determines the commencement of—
 - (i) an Act or a provision of an Act; or
 - (ii) an instrument, or a provision of an instrument, mentioned in paragraph (a), (b) or (c).
- (2) The following instruments are not subordinate legislation—
- (a) a local law or other statutory instrument made by a local government;
 - (b) a rule, order, direction or practice of the Legislative Assembly;
 - (c) a statutory rule (other than a regulation) that is mentioned in schedule 1A or declared not to be subordinate legislation by—
 - (i) an Act; or
 - (ii) in the case of a statutory rule made under a provision commencing before the commencement of this Act—a regulation made under this Act.

Division 2 Orders in council, proclamations and rules of court

10 Meaning of *order in council*

An *order in council* is an order made by the Governor in Council and—

- (a) in the case of an order that is subordinate legislation—notified under section 47; or
- (b) in any other case—published in the gazette.

11 Meaning of *proclamation*

A *proclamation* is a proclamation made by the Governor and—

- (a) in the case of a proclamation that is subordinate legislation—notified under section 47; or
- (b) in any other case—published in the gazette.

12 Meaning of *rules of court*

Rules of court, in relation to a court or tribunal, are rules made by the person or body having power to make rules regulating the practice and procedure of the court or tribunal.

Part 3 Provision relating to instruments

13 Power to do matter by instrument

If—

- (a) an Act or statutory instrument (the *authorising law*) authorises or requires a matter to be done; and
- (b) the matter is capable of being done by instrument;

the authorising law authorises the matter to be done by instrument.

Part 4 **Provisions relating to statutory instruments**

Division 1 **Provisions of Acts Interpretation Act 1954 that apply to statutory instruments**

14 **Applicable provisions**

- (1) Subject to this division, a provision of the *Acts Interpretation Act 1954* mentioned in schedule 1 applies to a statutory instrument, and to matters authorised or required to be done by a statutory instrument, in the same way as it applies to an Act, and matters authorised or required to be done by an Act, as if—
 - (a) a reference to an Act included a reference to a statutory instrument; and
 - (b) a reference to enactment or passage included a reference to making.
- (2) A copy of the *Acts Interpretation Act 1954* showing the text of the Act as it applies to a statutory instrument because of this Act may be authorised by the parliamentary counsel.
- (3) If a copy mentioned in subsection (2) is authorised under that subsection, the copy—
 - (a) is to indicate that fact in a suitable place; and
 - (b) is a reprint authorised by the parliamentary counsel under the *Legislative Standards Act 1992*, section 10A.

14A **Modified application—s 6**

For the purposes of applying the *Acts Interpretation Act 1954*, section 6(1), after ‘In an Act’, insert ‘or statutory instrument’.

14B Modified application—s 14

For the purposes of applying section 14(7) of the *Acts Interpretation Act 1954*, add the following example—

‘Example of an endnote to subordinate legislation—

ENDNOTES

- 1 Made by the Governor in Council on 9 December 2004.
- 2 Notified in the gazette on 10 December 2004.
- 3 Laid before the Legislative Assembly on 22 February 2005.
- 4 The administering agency is the Department of Education and the Arts.’.

15 Modified application—s 14B

For the purposes of applying section 14B of the *Acts Interpretation Act 1954*—

extrinsic material means relevant material not forming part of the statutory instrument or the Act under which the statutory instrument was made, including, for example—

- (a) material that is extrinsic material, within the meaning of that section, in relation to the Act under which the statutory instrument was made; and
- (b) material set out in—
 - (i) if the statutory instrument is subordinate legislation—an official copy of the subordinate legislation; or
 - (ii) otherwise—a document containing the text of the statutory instrument as printed by or under the authority of the government printer; and
- (c) a report of a Royal Commission, Law Reform Commission, commission or committee of inquiry, or a similar body, that was laid before the Legislative Assembly—
 - (i) if the statutory instrument is subordinate legislation—before the end of 14 sitting days after

- the statutory instrument was laid before the Legislative Assembly; or
- (ii) in any other case—before the statutory instrument was made; and
- (d) a report of a committee of the Legislative Assembly that was made to the Legislative Assembly—
 - (i) if the statutory instrument is subordinate legislation—before the end of 14 sitting days after the statutory instrument was laid before the Legislative Assembly; or
 - (ii) in any other case—before the statutory instrument was made; and
- (e) a treaty or other international agreement that is mentioned in the statutory instrument; and
- (f) if the statutory instrument is subordinate legislation—an explanatory note or memorandum relating to the statutory instrument, or any other relevant document, that was laid before, or given to the members of, the Legislative Assembly—
 - (i) before the end of 14 sitting days after the statutory instrument was laid before the Legislative Assembly; and
 - (ii) by the clerk of the Parliament or the member who laid the statutory instrument before the Legislative Assembly; and
- (g) material in an official record of proceedings in the Legislative Assembly; and
- (h) a document that is declared by an Act or statutory instrument to be a relevant document for the purposes of this section; and
- (i) if the statutory instrument was made under another statutory instrument—material that is extrinsic material within the meaning of this section in relation to the other statutory instrument.

15A Modified application—section 14F

For the purposes of applying section 14F(1) of the *Acts Interpretation Act 1954*, omit the examples and insert—

‘Examples of citations—

- 1 *Statutory Instruments Regulation 2002*
- 2 *Statutory Instruments Regulation 2002*, SL No. 218
- 3 SL No. 218 of 2002
- 4 2002 SL No. 208’.

16 Modified application—s 27A

For the purposes of applying section 27A of the *Acts Interpretation Act 1954*, omit subsection (12) and insert—

- ‘(12) If a statutory instrument authorises the delegation of a power, the power may be subdelegated only if the statutory instrument, or the Act under which the statutory instrument is made, expressly authorises the power to be subdelegated.’.

17 Modified application—s 36 and sch 1 (definition provision)

For the purposes of applying section 36 and schedule 1 of the *Acts Interpretation Act 1954*, insert after paragraph (c) of the definition *provision* in schedule 1—

‘(d) any words of notification.’.

18 Modified application—s 49A

For the purposes of applying section 49A of the *Acts Interpretation Act 1954*, a reference to an Act includes a reference to a statutory instrument that is a statutory rule.

Division 2 Provisions of Acts Interpretation Act 1954 that do not apply to statutory instruments

19 Non-applicable provisions

A provision of the *Acts Interpretation Act 1954* mentioned in schedule 2 does not apply to a statutory instrument.

Division 3 Other provisions applying to statutory instruments

Subdivision 1 Making statutory instruments

20 Presumption of validity

All conditions and preliminary steps required for the making of a statutory instrument are presumed to have been satisfied and performed in the absence of evidence to the contrary.

20A Regulation may be used instead of another type of subordinate legislation

- (1) If—
- (a) an Act authorises or requires the Governor, the Governor in Council, a Minister, an officer of the public service or the holder of a prescribed office established by or under an Act to make provision with respect to a matter by subordinate legislation; and
 - (b) the Act or another Act—
 - (i) does not specify the type of subordinate legislation to be used; or
 - (ii) specifies that a type of subordinate legislation other than a regulation is to be used;

the Governor in Council may make provision with respect to the matter by regulation made under the Act.

- (2) Subsection (1) applies even though the Act would not, apart from this section, confer power on the Governor in Council to make a regulation for the purposes of the Act.

Example 1—

If an Act provides that provision may be made with respect to a matter by order in council, provision may now be made by regulation.

Example 2—

If provision has already been made with respect to a matter by order in council, the order in council may be repealed or amended by a regulation.

- (3) If subsection (1) applies to a provision of an Act, a reference in a law (including the Act) to subordinate legislation of a particular type made under the provision, or the Act generally, includes a reference to a regulation that makes provision with respect to a matter for the purposes of the provision.

Example—

If a provision of an Act refers to orders in council made under section 6 of the Act and subsection (1) applies in relation to section 6, the reference includes a reference to a regulation that makes provision with respect to a matter for the purposes of section 6.

20B Correct year in statutory instrument's short title etc.

If—

- (a) a statutory instrument is made in a particular year (the *year of making*); and
- (b) apart from this section, the statutory instrument's citation would include a single year other than the year of making;

the citation of, and a reference to, the statutory instrument may be given by omitting the other year and inserting the year of making.

20C Continuance etc. of statutory instruments made under amended provisions

- (1) This section applies if—
 - (a) a provision of a law expressly or impliedly authorises or requires a statutory instrument to be made for a purpose; and
 - (b) the provision is amended; and
 - (c) under the amended provision—
 - (i) a type of instrument is no longer specified for the purpose; or
 - (ii) another type of instrument is specified for the purpose; or
 - (iii) the same type of instrument is specified for the purpose.
- (2) If subsection (1)(c)(i) applies, a statutory instrument that was in force immediately before the commencement of the amendment—
 - (a) continues to have effect after the commencement; and
 - (b) may be amended or repealed by an instrument of the type specified in the provision before the amendment.
- (3) If subsection (1)(c)(ii) applies, a statutory instrument that was in force immediately before the commencement of the amendment—
 - (a) continues to have effect after the commencement; and
 - (b) is taken to be an instrument of the type specified in the amended provision.
- (4) If subsection (1)(c)(iii) applies, a statutory instrument that was in force immediately before the commencement of the amendment continues to have effect after the commencement as if it had been made under the amended provision.
- (5) In this section—

amend includes omit and re-enact in the same law (with or without modification), but does not include omit and re-enact in another law.

Subdivision 2 Whether statutory instruments within power

21 Statutory instrument to be interpreted not to exceed powers conferred by authorising law

- (1) A statutory instrument is to be interpreted as operating—
 - (a) to the full extent of, but not to exceed, the power conferred by the law under which it is made (the *authorising law*); and
 - (b) distributively.
- (2) Without limiting subsection (1), if a provision of a statutory instrument would, apart from this section, be interpreted as exceeding power—
 - (a) the provision is valid to the extent to which it does not exceed power; and
 - (b) the remainder of the statutory instrument is not affected.
- (3) Without limiting subsection (1), if the application of a provision of a statutory instrument to a person, matter or circumstance would, apart from this section, be interpreted as exceeding power, the provision's application to other persons, matters or circumstances is not affected.
- (4) This section applies to a statutory instrument in addition to, and without limiting, any provision of the statutory instrument or authorising law.

22 Power to make statutory instrument under Act etc.

- (1) If an Act or statutory instrument (the *authorising law*) authorises or requires the making of a statutory instrument under the authorising law or an Act or statutory instrument

(the *other law*), the power enables a statutory instrument to be made with respect to any matter that—

- (a) is required or permitted to be prescribed by the authorising law or other law; or
 - (b) is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law or other law.
- (2) Subsection (1) applies to the authorising law even though the authorising law also authorises the making of a statutory instrument for a particular purpose.
 - (3) Power conferred by the authorising law to make a statutory instrument for a particular purpose is in addition to, and does not limit the effect of, power conferred by the authorising law to make a statutory instrument under the authorising law or other law unless the authorising law expressly provides otherwise.

23 Statutory instrument may make provision by applying another document

- (1) If an Act or statutory instrument (the *authorising law*) authorises or requires the making of a statutory instrument with respect to a matter, a statutory instrument made under the authorising law may make provision for the matter by applying, adopting or incorporating (with or without modification) the provisions of—
 - (a) an Act, statutory instrument or other law; or
 - (b) another document (whether of the same or a different kind);as in force at a particular time or from time to time.
- (2) If a statutory instrument made after 1 January 1992 applies, adopts or incorporates the provisions of a document, the provisions applied, adopted or incorporated are the provisions as in force from time to time unless the statutory instrument expressly provides otherwise.
- (3) In this section—

law includes a law of the Commonwealth, another State, a Territory or a foreign country.

23A Statutory instrument may make provision in relation to land by reference to map, plan or register

- (1) This section applies if an Act authorises or requires provision to be made by statutory instrument in relation to land, whether the expression ‘declare’, ‘dedicate’, ‘set apart’, ‘specify’ or another expression is used.
- (2) Provision may be made by reference to—
 - (a) a map or plan held by a person, department or body; or
 - (b) a particular entry in a register kept by a person, department or body;

if the map, plan or register is available for inspection by members of the public.

- (3) In this section—

land includes Queensland waters.

24 Statutory instrument may be of general or limited application

A statutory instrument may—

- (a) apply generally throughout the State or be limited in its application to a particular part of the State; or
- (b) apply generally to all persons and matters or be limited in its application to—
 - (i) particular persons or matters; or
 - (ii) particular classes of persons or matters; or
- (c) otherwise apply generally or be limited in its application by reference to specified exceptions or factors.

25 Statutory instrument may make different provision for different categories

A statutory instrument may—

- (a) make different provision in relation to—
 - (i) different persons or matters; or
 - (ii) different classes of persons or matters; or
- (b) apply differently by reference to specified exceptions or factors.

26 Statutory instrument may authorise determination etc. by specified person etc.

A statutory instrument may authorise any matter to be determined, applied or regulated, from time to time, by any specified person or body.

Example—

If an Act provides that an application is to be in a prescribed form, the regulation concerned may provide that the prescribed form is to be that approved, or made available for use, by the Minister.

27 Statutory instrument may prohibit

If an Act or statutory instrument authorises or requires a matter to be regulated by statutory instrument, the power may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter.

28 Relationship between authorising law and statutory instrument concerning the same matter

If an Act or statutory instrument (the *authorising law*) authorises or requires provision to be made with respect to a matter by statutory instrument, a statutory instrument made under the authorising law may make provision with respect to a particular aspect of the matter despite the fact that provision is made by the authorising law in relation to another aspect of the matter or in relation to another matter.

29 Statutory instrument may provide review

- (1) A statutory instrument may provide for the review of, or a right of appeal against, a decision made under—
 - (a) the statutory instrument; or
 - (b) the Act or other statutory instrument under which the statutory instrument is made or in force.
- (2) A statutory instrument that is a statutory rule may, for the purpose of subsection (1), confer jurisdiction on any court, tribunal, person or body.

30 Statutory instrument may require verification of form etc.

A statutory instrument may require a form prescribed by or under the statutory instrument, or information or documents (whether or not included in, attached to or given with a form), to be verified by statutory declaration.

30A Reasonable cost etc. may be prescribed as fee

If a power is conferred by a law for a statutory instrument to be made with respect to a fee for doing a thing, the power includes a power to prescribe the fee as an amount—

- (a) that a specified person or body considers to be reasonable; and
- (b) that is not more than the reasonable cost of doing the thing.

30B Statutory instrument may exempt from fee

- (1) If a power is conferred under a law for a statutory instrument to prescribe a fee, the power includes a power to—
 - (a) exempt any person or matter from payment of the fee; or
 - (b) waive payment of the fee for any person or matter.
- (2) If—

[s 31]

- (a) a law requires payment of a fee prescribed under a statutory instrument by a person or for a matter; and
- (b) either—
 - (i) the person or matter is exempted under the statutory instrument from payment of the fee; or
 - (ii) the fee is waived for the person or matter under the statutory instrument;

the requirement to pay the fee is taken to have been satisfied.

31 Statutory instruments purporting to be made under a particular power

A statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under a particular Act or another statutory instrument (the *authorising law*) or a particular provision of the authorising law.

Subdivision 3 Commencement of statutory instruments

32 Prospective commencement

- (1) Subject to section 34, a statutory instrument commences—
 - (a) if it is required to be notified under section 47 or published in the gazette—on the day on which it is notified or published; or
 - (b) if it is not required to be notified under section 47 or published in the gazette—on the day on which it is made; or
 - (c) if a later day or time is fixed in the statutory instrument—on that day or at that time.
- (2) If a statutory instrument that is required to be notified under section 47 or published in the gazette is notified or published on a day after the day or time fixed by the statutory instrument

for its commencement, the statutory instrument is valid, but commences on the day on which it is notified or published.

33 Commencement of citation and commencement provisions

- (1) The provisions of a statutory instrument providing for its citation and commencement commence, by force of this subsection—
 - (a) if the statutory instrument is required to be notified under section 47 or published in the gazette—on the day on which it is notified or published; or
 - (b) if it is not required to be notified under section 47 or published in the gazette—on the day on which it is made.
- (2) A reference—
 - (a) in an Act to the commencement of a statutory instrument (the *law concerned*); or
 - (b) in a statutory instrument to the commencement of an Act, the statutory instrument, or another statutory instrument, (also the *law concerned*);is a reference to—
 - (c) if the provisions of the law concerned (other than those providing for its citation and commencement) commence, or are required to commence, on a single day or at a single time—the commencement of the remaining provisions; or
 - (d) if paragraph (a) does not apply and the reference is in a provision of the law concerned—the commencement of the provision; or
 - (e) in any other case—the commencement of the relevant provision of the law concerned.
- (3) Subsection (1) applies to a statutory instrument despite anything in the statutory instrument unless the statutory instrument expressly provides that it does not apply.

34 Beneficial retrospective commencement

(1) A beneficial provision of a statutory instrument may be given retrospective operation if the statutory instrument expressly provides for that operation.

(2) In this section—

beneficial provision means a provision that does not operate to the disadvantage of a person (other than the State, a State authority or a local government) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

35 Subdivision does not apply until necessary Governor or Governor in Council action taken

If—

- (a) an Act or statutory instrument provides for the making of a statutory instrument by a person or body other than the Governor or Governor in Council; but
- (b) the instrument is required by law to be approved, confirmed or otherwise consented to by the Governor or Governor in Council;

this subdivision does not apply to the instrument until the approval, confirmation or consent has been given.

Subdivision 4 Terms and references in statutory instruments

37 Words and expressions

Words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in the Act or statutory instrument (the *authorising law*), or relevant provisions of the authorising law, under which the statutory instrument is made or in force.

38 References to certain instruments

In a statutory instrument—

Act or *the Act*, without mentioning a particular Act, means the Act under which the statutory instrument is made or in force.

these rules of court includes any statutory instrument made under the rules.

this by-law includes any statutory instrument made under the by-law.

this order in council includes any statutory instrument made under the order.

this ordinance includes any statutory instrument made under the ordinance.

this regulation includes any statutory instrument made under the regulation.

this rule includes any statutory instrument made under the rule.

39 Reference to enactment etc. of Acts

In a statutory instrument, a reference to the enactment of an Act or the passing of an Act is a reference to the fact of the Act's having received the royal assent.

Subdivision 5 Miscellaneous

39A Automatic repeal of commencement instrument

A statutory instrument made after 31 December 1994 that merely provides for the commencement of a law (including a provision of a law) is automatically repealed at the beginning of the day after the commencement, or, if different commencements are provided for, at the beginning of the day after the last commencement.

Division 2 Tabling in Legislative Assembly

49 Subordinate legislation must be tabled

- (1) Subordinate legislation must be tabled in the Legislative Assembly within 14 sitting days after it is notified under section 47.

Note—

Under the *Legislative Standards Act 1992*, section 22, explanatory notes must be tabled with subordinate legislation.

- (2) If subordinate legislation is not tabled under subsection (1), it ceases to have effect.
- (3) In this section—

subordinate legislation includes a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

Division 3 Disallowance procedures

50 Disallowance

- (1) The Legislative Assembly may pass a resolution disallowing subordinate legislation if notice of a disallowance motion is given by a member within 14 sitting days after the legislation is tabled in the Legislative Assembly.
- (2) If the disallowance motion is not moved on the day for its consideration, the motion lapses.
- (3) If the resolution is passed, the subordinate legislation ceases to have effect.
- (4) Also, if the resolution has not been disposed of at the end of 14 sitting days after notice is given (whether by withdrawal or lapsing of the disallowance motion or in another way), the subordinate legislation ceases to have effect.
- (5) In this section—

subordinate legislation includes—

- (a) a provision of subordinate legislation; and
- (b) a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

Division 4 General

51 Limited saving of operation of subordinate legislation that ceases to have effect

- (1) This section applies if subordinate legislation ceases to have effect because it is not tabled or is disallowed.

Note—

Section 49 deals with tabling of subordinate legislation and section 50 deals with disallowance of subordinate legislation.

- (2) The subordinate legislation is taken never to have been made or approved and any law or provision of a law repealed or amended by the legislation is revived.
- (3) However, subsection (2) does not affect anything done or suffered under the legislation before it ceased to have effect.
- (4) In this section—

subordinate legislation includes—

- (a) a provision of subordinate legislation; and
- (b) a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

52 Other notification, gazettal, tabling or disallowance provisions of no effect

A provision of another Act that provides for, or to the extent that it provides for, the notification, gazettal, tabling or disallowance of a particular type of subordinate legislation is of no effect.

[s 56]

- (a) subordinate legislation, other than exempt subordinate legislation, published on the Queensland legislation website;
 - (b) subordinate legislation prescribed by regulation.
- (2) The notice must be given at least 1 year before the expiry.
 - (3) Failure to give the notice does not affect the expiry.

56 Exemptions from expiry—uniform subordinate legislation

- (1) A regulation under this Act made before uniform subordinate legislation expires under this part may exempt the legislation from expiry for a stated period of not more than 5 years after the uniform subordinate legislation would otherwise expire.
- (2) If a regulation is made under subsection (1), the period of exemption stated in the regulation may be extended by regulation made under subsection (1) for further periods of not more than 5 years each.

56A Exemptions from expiry—other subordinate legislation

- (1) A regulation under this Act made before subordinate legislation, other than uniform subordinate legislation, expires under this part may exempt the legislation from expiry, for a stated period of not more than 1 year after the subordinate legislation would otherwise expire—
 - (a) for either of the following reasons—
 - (i) replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends;
 - (ii) the subordinate legislation is not proposed to be replaced by other subordinate legislation made under the Act under which or in relation to which it was made or preserved when it expires at the end of the stated period; or
 - (b) for the stated reason that the Act or provision under which or in relation to which the subordinate legislation,

or part of the subordinate legislation, is made or preserved is subject to review.

- (2) If a regulation is made under subsection (1), the period of exemption stated in the regulation may be further extended by regulation (*extension regulation*) for further periods of not more than 1 year each.
- (3) However, an extension regulation—
 - (a) must be made before the subordinate legislation expires; and
 - (b) may be made only for the stated reason under subsection (1)(b).
- (4) Within 7 sittings days after the extension regulation is made, the responsible Minister for the subordinate legislation being exempted must table in the Legislative Assembly a report stating—
 - (a) how the Act or provision is subject to review; and
 - (b) if subsection (6)(a) applies—
 - (i) the extent to which the Act or provision is being reviewed; and
 - (ii) when the Minister expects the review to end.
- (5) However, failure to comply with subsection (4) does not affect the validity of the extension regulation.
- (6) For this section, an Act or provision is *subject to review* if—
 - (a) the Act or provision is being reviewed by any Minister; or
 - (b) because of a review of an Act or provision by any Minister, a Bill for an Act to repeal or amend the Act or provision is being drafted or has been introduced into the Legislative Assembly; or
 - (c) an Act repealing or amending the Act or provision has been enacted because of a review of an Act or provision by any Minister, but the repeal or amendment has not yet entirely commenced.

(7) In this section—

responsible Minister, for subordinate legislation, means the Minister responsible for administering the Act or provision under which or in relation to which the subordinate legislation is made or preserved.

57 Part does not apply to some subordinate legislation

(1) This part does not apply to subordinate legislation requiring a resolution of the Legislative Assembly before it may be repealed or the status of land to which it applies may be changed.

Note—

Under some Acts, for example, the *Nature Conservation Act 1992*, a resolution of the Legislative Assembly is necessary before action can be taken to revoke a dedication of land or change its status to a lesser category of protection.

- (2) Also, this part does not apply to subordinate legislation mentioned in schedule 2A.
- (3) A regulation may list subordinate legislation to which subsection (1) applies.
- (4) However, the application of subsection (1) to subordinate legislation is not affected by whether or not it is listed in a regulation under subsection (3).

Part 9 Miscellaneous

59 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may declare subordinate legislation to be uniform subordinate legislation for this Act if there are reasonable grounds for considering the subordinate legislation to be uniform subordinate legislation.

Part 10 Transitional

Division 1 Transitional provision for Act No. 83 of 1994

62 Transitional provisions about expiry of amending subordinate legislation

- (1) If subordinate legislation (the *expired legislation*) made before 1 July 1994 expires under this Act, any subordinate legislation made before 1 July 1994 (the *amending legislation*) that amends the expired legislation, and consists only of provisions of the following types, expires at the same time—
- (a) words of notification;
 - (b) a provision about the amending legislation's citation;
 - (c) a provision about the amending legislation's commencement;
 - (d) a provision providing for the amendment or repeal of an Act, subordinate legislation or other instrument (including a provision identifying the amended or repealed instrument);
 - (e) a provision declaring subordinate legislation or a provision of subordinate legislation to be a law to which section 20A of the *Acts Interpretation Act 1954* applies;
 - (f) a provision that is spent, has expired or otherwise ceased to have effect;
 - (g) a savings, transitional or validating provision relating only to—
 - (i) the expired legislation or an instrument amending the expired legislation; or
 - (ii) a time or event that has passed.

Editor's note—

Under the *Acts Interpretation Act 1954*, section 22C as applied to subordinate legislation, amending subordinate legislation notified or published after 30 June 1994 is automatically repealed on the day after the last of its provisions takes effect.

- (2) If subordinate legislation (the *unexpired legislation*) made before 1 July 1994 does not expire under this Act because it has been exempted from expiry, then, while the unexpired legislation is exempted from expiry, any subordinate legislation made before 1 July 1994 that amends the unexpired legislation, and includes provisions not of a type mentioned in subsection (1)(a) to (g), is also exempted from expiry.

Division 2 Transitional provision for Statutory Instruments and Another Act Amendment Act 1999

62A Transitional provisions for exemptions

- (1) Section 56A(6)(b) and (c) apply even though the review mentioned in the provisions started or happened before the commencement of the provisions.
- (2) For the period from the commencement of this section—
 - (a) for section 56(1), subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, schedule 2A is taken to have been exempted under a regulation made under section 56(1); and
 - (b) for section 56A(1)(a), subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, section 8 or schedule 3 or 4 is taken to have been exempted under a regulation made under section 56A(1)(a).

Division 3 **Transitional provisions for Treasury
and Trade and Other Legislation
Amendment Act 2013**

63 **Tabling of subordinate legislation**

- (1) This section applies to subordinate legislation, other than exempt subordinate legislation, that—
- (a) was notified or published in the gazette before the commencement of this section; and
 - (b) at the commencement, has not been tabled under section 49.
- (2) Section 49 applies in relation to the subordinate legislation as if the reference to notified under section 47 were a reference to notified or published in the gazette.

Note—

See also the *Acts Interpretation Act 1954*, section 57 in relation to references to subordinate legislation notified in the gazette.

64 **Notice of impending expiry**

Section 55 as in force before the commencement of this section continues to apply to subordinate legislation expiring, under this Act, on 1 September first occurring after the commencement.

Schedule 1 Provisions of Acts Interpretation Act 1954 that apply to statutory instruments

section 14(1) of this Act

section 6

section 7

sections 9 and 9A

section 13A

section 13B

sections 14–14D

sections 14F–14J

section 15B

section 15D(1)

section 15E

section 17

sections 18–25

sections 27A–29B

part 8 and schedule 1 (other than schedule 1, definitions
enactment and *passing*)

parts 9–11

part 12A

sections 49 and 49A

section 52

**Schedule 1A Statutory rules that are not
subordinate legislation**

section 9(2)(c)

- 1 a statutory rule under the *Constitution of Queensland 2001*,
section 15, 40, 41, 43 or 44
- 2 a proclamation under the *Senate Elections Act 1960*, section 3

Schedule 2 **Provisions of Acts
Interpretation Act 1954 that do
not apply to statutory
instruments**

section 19 of this Act

part 1
sections 10–13
sections 15–15A
section 15C
section 16
section 17A

**Schedule 2A Subordinate legislation to
which part 7 does not apply**

section 57

*Drugs Misuse Regulation 1987**Superannuation (State Public Sector) Deed 1990**Traffic Regulation 1962**Weapons Categories Regulation 1997**a management plan under the Wet Tropics World Heritage
Protection and Management Act 1993**a proclamation under the Fair Work (Commonwealth Powers)
and Other Provisions Act 2009*

rules of court made under any of the following—

- the *Childrens Court Act 1992*
- the *Industrial Relations Act 2016*
- the *Land Court Act 2000*
- the *Magistrates Courts Act 1921*
- the *Mental Health Act 2016*
- the *Planning and Environment Court Act 2016*

Note—

See also the *Supreme Court of Queensland Act 1991* for rules of court made under that Act and the QCAT Act for rules of court made under that Act.

Schedule 3 Dictionary

section 5 of this Act

benefits includes—

- (a) advantages; and
- (b) direct and indirect economic, environmental and social benefits.

costs includes—

- (a) burdens and disadvantages; and
- (b) direct and indirect economic, environmental and social costs.

government entity means—

- (a) the Commonwealth, a State or a local government; or
- (b) an instrumentality or agency of the Commonwealth, a State or a local government.

instrument see section 6 of this Act.

make includes prepare.

order in council see section 10 of this Act.

proclamation see section 11 of this Act.

rules of court see section 12 of this Act.

State includes Territory.

statutory instrument see section 7 of this Act.

statutory rule see section 8 of this Act.

subordinate legislation see section 9 of this Act.

uniform subordinate legislation means subordinate legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or declared under a regulation under section 59(2) to be uniform subordinate legislation.

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2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 June 1992	1 June 1992
2	1992 Act No. 68	7 December 1992	9 December 1992

Reprint No.	Amendments to	Effective	Reprint date
3	1993 Act No. 32	3 June 1993	23 June 1993
4	1993 Act No. 76	14 December 1993	23 December 1993
5	1994 Act No. 15	1 July 1994	1 July 1994
6	1994 Act No. 87	1 December 1994	21 December 1994
6A	1995 Act No. 58	28 November 1995	25 June 1996
6B	1997 Act No. 9	15 May 1997	23 May 1997
7	1997 Act No. 9	15 May 1997	20 June 1997
7A	1997 Act No. 48	14 November 1997	21 November 1997
8	1997 Act No. 48	14 November 1997	3 July 1998
8A	1998 Act No. 42	27 November 1998	4 December 1998
8B	1998 Act No. 42	1 January 1999	5 February 1999
8C	1999 Act No. 30	16 June 1999	2 July 1999
9	1999 Act No. 30	1 January 2000	3 March 2000
9A	2000 Act No. 46	25 October 2000	8 November 2000
9B	2000 Act No. 58	17 November 2000	29 November 2000
10	2000 Act No. 58	17 November 2000	2 March 2001
10A	2001 Act No. 80	6 June 2002	14 June 2002
Reprint No.	Amendments included	Effective	Notes
10B	—	2 July 2003	provs exp 1 July 2003
10C	2004 Act No. 45	18 November 2004	
10D	2005 Act No. 53	18 November 2005	

Reprint No.	Amendments included	Effective	Notes
10E	2005 Act No. 70	8 December 2005	R10E withdrawn, see R11
11	—	8 December 2005	
11A	2009 Act No. 49	10 December 2009	
11B	2009 Act No. 50	1 July 2010	
11C	2011 Act No. 18	1 January 2012	
11D	2012 Act No. 17	14 August 2012	
11E	2012 Act No. 25	12 November 2012	

Current as at	Amendments included	Notes
23 September 2013	2013 Act No. 39	RA s 44
28 February 2015	2013 Act No. 35	
1 March 2017	2016 Act No. 63	
5 March 2017	2016 Act No. 5	
3 July 2017	2016 Act No. 27	

4 List of legislation

Statutory Instruments Act 1992 No. 22

date of assent 1 June 1992
commenced on date of assent
amending legislation—

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 1

date of assent 7 December 1992
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1

date of assent 3 June 1993
commenced on date of assent

Local Government Act 1993 No. 70 pt 1, s 804 sch

date of assent 7 December 1993
ss 1–2 commenced on date of assent
remaining provisions commenced 26 March 1994 (see s 2(5))

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 ss 1–3 sch 1

date of assent 14 December 1993
commenced on date of assent

Native Title (Queensland) Act 1993 No. 85 ss 1–2(2), pt 13 div 5

date of assent 17 December 1993
ss 1–2(2) commenced on date of assent
remaining provisions commenced 28 November 1994 (1994 SL No. 408)

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1

date of assent 10 May 1994
amdt 2 commenced 1 July 1994 (see ss 2, 3 sch 1)
remaining amdts commenced on date of assent

Statutory Instruments and Legislative Standards Amendment Act 1994 No. 83 pts 1–2

date of assent 1 December 1994
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1

date of assent 1 December 1994
commenced on date of assent

Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch

date of assent 22 November 1995
commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1–2(1), pt 20

date of assent 15 May 1997
commenced on date of assent

Weapons and Other Legislation Amendment Act 1997 No. 48 ss 1, 2(2), pt 4

date of assent 29 August 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 14 November 1997 (1997 SL No. 381)

Statutory Instruments Amendment Act 1998 No. 42

date of assent 27 November 1998
s 5 commenced 1 January 1999 (see s 2)
remaining provisions commenced on date of assent

Statutory Instruments and Another Act Amendment Act 1999 No. 24

date of assent 4 June 1999
commenced on date of assent

Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1, 2(2), (4), 98 sch 3 pt 2

date of assent 16 June 1999
sch 3 pt 2 commenced 1 January 2000 (see s 2(2))
remaining provisions commenced on date of assent (see s 2(4))

Nature Conservation and Other Legislation Amendment Act 2000 No. 44 s 1 pt 3

date of assent 25 October 2000
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000
commenced on date of assent

Superannuation and Other Legislation Amendment Act 2000 No. 52 s 1 pt 4

date of assent 17 November 2000
commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch

date of assent 17 November 2000
commenced date of assent

Constitution of Queensland 2001 No. 80 ss 1–2, 94 sch 2

date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004 No. 45 s 1, pt 6

date of assent 18 November 2004
commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 s 1, pt 11

date of assent 18 November 2005
commenced on date of assent

Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 23

date of assent 8 December 2005
commenced on date of assent

Fair Work (Commonwealth Powers) and Other Provisions Act 2009 No. 49 ss 1–2, pt 3 div 10

date of assent 19 November 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 10 December 2009 (2009 SL No. 289)

Trade Measurement Legislation Repeal Act 2009 No. 50 ss 1–2, 18 sch

date of assent 19 November 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (2010 SL No. 127)

Work Health and Safety Act 2011 No. 18 ss 1–2, 404 sch 4 pt 1

date of assent 6 June 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2012 (2011 SL No. 238)

Penalties and Sentences and Other Legislation Amendment Act 2012 No. 17 s 1, pt 13

date of assent 14 August 2012
commenced on date of assent

Fiscal Repair Amendment Act 2012 No. 25 ss 1, 2(6)(a), pt 10

date of assent 21 September 2012
ss 1–2 commenced on date of assent
remaining provisions commenced 12 November 2012 (2012 SL No. 192)

Justice and Other Legislation Amendment Act 2013 No. 35 ss 1, 2(f), pt 34

date of assent 29 August 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 28 February 2015 (2014 SL No. 321)

Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 s 1, ch 3 pt 6, s 111 sch 4

date of assent 23 September 2013
commenced on date of assent

Mental Health Act 2016 No. 5 ss 1–2, 923 sch 4

date of assent 4 March 2016
ss 1–2 commenced on date of assent
s 923 sch 4 commenced 5 March 2017 (automatic commencement under AIA s 15DA(2))

Planning (Consequential) and Other Legislation Amendment Act 2016 No. 27 pts 1, 58

date of assent 25 May 2016
ss 1–2 commenced on date of assent
pt 58 commenced 3 July 2017 (automatic commencement under AIA s 15DA(2))

Industrial Relations Act 2016 No. 63 ss 1, 2(2), 1157 sch 6

date of assent 9 December 2016
ss 1–2 commenced on date of assent
s 1157 sch 6 commenced 1 March 2017 (2017 SL No. 24)

5 List of annotations

Displacement of Act by contrary intention

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sub 1993 No. 76 s 3 sch 1
amd 1993 No. 70 s 804 sch; 1999 No. 30 s 98 sch 3

Meaning of subordinate legislation

s 9 amd 1993 No. 70 s 804 sch; 1998 No. 42 s 4

Meaning of order in council

s 10 amd 2013 No. 39 s 88

Meaning of proclamation

s 11 amd 2013 No. 39 s 89

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Modified application—s 14

s 14B ins 2005 No. 70 s 154

Modified application—s 14B

s 15 amd 1993 No. 32 s 3 sch 1; 2013 No. 39 s 91

Modified application—section 14F

s 15A ins 2005 No. 70 s 155

Modified application—s 36 and sch 1 (definition provision)

s 17 sub 2013 No. 39 s 92

Modified application—s 49A

s 18 amd 2000 No. 46 s 3 sch

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Regulation may be used instead of another type of subordinate legislation

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amd 1993 No. 32 s 3 sch 1

Correct year in statutory instrument's short title etc.

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Continuance etc. of statutory instruments made under amended provisions

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s 22 amd 1993 No. 76 s 3 sch 1

Statutory instrument may make provision in relation to land by reference to map, plan or register

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Commencement of citation and commencement provisions

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Beneficial retrospective commencement

s 34 amd 1992 No. 68 s 3 sch 1

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sdiv hdg prev sdiv 4 hdg om 2013 No. 39 s 95

pres sdiv 4 hdg (prev sdiv 5 hdg) reloc to before s 37 1992 No. 68 s 3 sch 1

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def *Act* or *the Act* ins 1994 No. 87 s 3 sch 1

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Automatic repeal of commencement instrument

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om 2012 No. 25 s 177

Effect of failure to comply with guidelines

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Other legislation requirements are not affected

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Preparation of regulatory impact statement

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amd 1994 No. 15 s 3 sch 1
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amd 1995 No. 51 s 4 sch; 2004 No. 45 s 136
(3)–(4) exp 31 December 1996 (see s 46(4))
amd 2011 No. 18 s 404 sch 4 pt 1; 2012 No. 17 s 49
om 2012 No. 25 s 177

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sub 1994 No. 83 s 4; 2013 No. 39 s 99

Copies to be available

s 48 (prev s 47) renum 1994 No. 15 s 3 sch 1
sub 1994 No. 83 s 4
om 2013 No. 39 s 100

Division 2—Tabling in Legislative Assembly

div hdg ins 1994 No. 83 s 4

Subordinate legislation must be tabled

s 49 ins 1994 No. 83 s 4
amd 2013 No. 39 s 101

Division 3—Disallowance procedures

div hdg ins 1994 No. 83 s 4

Disallowance

s 50 ins 1994 No. 83 s 4

Division 4—General

div hdg ins 1994 No. 83 s 4

Limited saving of operation of subordinate legislation that ceases to have effect

s 51 ins 1994 No. 83 s 4
amd 2013 No. 39 s 111 sch 4

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When subordinate legislation expires

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amd 1997 No. 9 s 74
exp 1 July 1998 (see s 61(2))

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s 62 ins 1994 No. 83 s 4
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exp 1 December 1995 (see orig s 63(2)(a))
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sch 1A ins 1998 No. 42 s 8
sub 2001 No. 80 s 94 sch 2

SCHEDULE 2—PROVISIONS OF ACTS INTERPRETATION ACT 1954 THAT DO NOT APPLY TO STATUTORY INSTRUMENTS

sch 2 amd 2005 No. 70 s 157; 2013 No. 39 s 111 sch 4

SCHEDULE 2A—SUBORDINATE LEGISLATION TO WHICH PART 7 DOES NOT APPLY

sch 2A ins 1997 No. 48 s 56
amd 1999 No. 24 s 8; 2000 No. 44 s 41; 2000 No. 52 s 34; 2005 No. 53 s 153; 2009 No. 49 s 72; 2012 No. 17 s 50; 2013 No. 39 s 108; 2013 No. 35 s 164; 2016 No. 63 s 1157 sch 6; 2016 No. 5 s 923 sch 4; 2016 No. 27 s 549

SCHEDULE 3—DICTIONARY

sch 3 ins 1994 No. 83 s 5
def *exempt subordinate legislation* om 2013 No. 39 s 111 sch 4
def *uniform subordinate legislation* ins 1999 No. 24 s 9

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