



# **Statutory Instruments Act 1992**

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Queensland

# Statutory Instruments Act 1992

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	5
2	Purposes of Act . . . . .	5
3	Act applies to all statutory instruments . . . . .	5
4	Displacement of Act by contrary intention . . . . .	5
5	Dictionary . . . . .	6
5A	Act binds the State . . . . .	6
<b>Part 2</b>	<b>Types of statutory instruments</b>	
<b>Division 1</b>	<b>General concepts</b>	
6	Meaning of instrument . . . . .	6
7	Meaning of statutory instrument . . . . .	6
8	Meaning of statutory rule . . . . .	7
9	Meaning of subordinate legislation . . . . .	7
<b>Division 2</b>	<b>Orders in council, proclamations and rules of court</b>	
10	Meaning of order in council . . . . .	8
11	Meaning of proclamation . . . . .	9
12	Meaning of rules of court . . . . .	9
<b>Part 3</b>	<b>Provision relating to instruments</b>	
13	Power to do matter by instrument . . . . .	9
<b>Part 4</b>	<b>Provisions relating to statutory instruments</b>	
<b>Division 1</b>	<b>Provisions of Acts Interpretation Act 1954 that apply to statutory instruments</b>	
14	Applicable provisions . . . . .	10
14A	Modified application—s 6 . . . . .	10
14B	Modified application—s 14 . . . . .	11
15	Modified application—s 14B . . . . .	11
15A	Modified application—section 14F . . . . .	13

Contents

---

16	Modified application—s 27A . . . . .	13
17	Modified application—s 36 and sch 1 (definition provision) . . . .	13
18	Modified application—s 49A . . . . .	13
<b>Division 2</b>	<b>Provisions of Acts Interpretation Act 1954 that do not apply to statutory instruments</b>	
19	Non-applicable provisions . . . . .	14
<b>Division 3</b>	<b>Other provisions applying to statutory instruments</b>	
<b>Subdivision 1</b>	<b>Making statutory instruments</b>	
20	Presumption of validity . . . . .	14
20A	Regulation may be used instead of another type of subordinate legislation . . . . .	14
20B	Correct year in statutory instrument's short title etc. . . . .	15
20C	Continuance etc. of statutory instruments made under amended provisions . . . . .	16
<b>Subdivision 2</b>	<b>Whether statutory instruments within power</b>	
21	Statutory instrument to be interpreted not to exceed powers conferred by authorising law . . . . .	17
22	Power to make statutory instrument under Act etc. . . . .	17
23	Statutory instrument may make provision by applying another document 18	
23A	Statutory instrument may make provision in relation to land by reference to map, plan or register . . . . .	19
24	Statutory instrument may be of general or limited application . . .	19
25	Statutory instrument may make different provision for different categories . . . . .	20
26	Statutory instrument may authorise determination etc. by specified person etc. . . . .	20
27	Statutory instrument may prohibit . . . . .	20
28	Relationship between authorising law and statutory instrument concerning the same matter . . . . .	20
29	Statutory instrument may provide review . . . . .	21
30	Statutory instrument may require verification of form etc. . . . .	21
30A	Reasonable cost etc. may be prescribed as fee . . . . .	21
30B	Statutory instrument may exempt from fee . . . . .	21
31	Statutory instruments purporting to be made under a particular power 22	
<b>Subdivision 3</b>	<b>Commencement of statutory instruments</b>	
32	Prospective commencement . . . . .	22
33	Commencement of citation and commencement provisions . . . .	23

34	Beneficial retrospective commencement . . . . .	24
35	Subdivision does not apply until necessary Governor or Governor in Council action taken . . . . .	24
<b>Subdivision 4</b>	<b>Terms and references in statutory instruments</b>	
37	Words and expressions . . . . .	24
38	References to certain instruments . . . . .	25
39	Reference to enactment etc. of Acts . . . . .	25
<b>Subdivision 5</b>	<b>Miscellaneous</b>	
39A	Automatic repeal of commencement instrument . . . . .	25
<b>Part 6</b>	<b>Procedures after making of subordinate legislation</b>	
<b>Division 1</b>	<b>Notification</b>	
47	Notification . . . . .	26
<b>Division 2</b>	<b>Tabling in Legislative Assembly</b>	
49	Subordinate legislation must be tabled . . . . .	27
<b>Division 3</b>	<b>Disallowance procedures</b>	
50	Disallowance . . . . .	27
<b>Division 4</b>	<b>General</b>	
51	Limited saving of operation of subordinate legislation that ceases to have effect . . . . .	28
52	Other notification, gazettal, tabling or disallowance provisions of no effect . . . . .	28
<b>Part 7</b>	<b>Staged automatic expiry of subordinate legislation</b>	
53	Purposes of part . . . . .	29
54	When subordinate legislation expires . . . . .	29
55	Notice by parliamentary counsel of impending expiry . . . . .	29
56	Exemptions from expiry—uniform subordinate legislation . . . . .	30
56A	Exemptions from expiry—other subordinate legislation . . . . .	30
57	Part does not apply to some subordinate legislation . . . . .	32
<b>Part 9</b>	<b>Miscellaneous</b>	
59	Regulation-making power . . . . .	32
<b>Part 10</b>	<b>Transitional</b>	
<b>Division 1</b>	<b>Transitional provision for Act No. 83 of 1994</b>	
62	Transitional provisions about expiry of amending subordinate legislation . . . . .	33
<b>Division 2</b>	<b>Transitional provision for Statutory Instruments and Another Act Amendment Act 1999</b>	
62A	Transitional provisions for exemptions . . . . .	34

Contents

---

<b>Division 3</b>	<b>Transitional provisions for Treasury and Trade and Other Legislation Amendment Act 2013</b>	
63	Tabling of subordinate legislation .....	35
64	Notice of impending expiry .....	35
<b>Schedule 1</b>	<b>Provisions of Acts Interpretation Act 1954 that apply to statutory instruments</b> .....	<b>36</b>
<b>Schedule 1A</b>	<b>Statutory rules that are not subordinate legislation</b> .....	<b>37</b>
<b>Schedule 2</b>	<b>Provisions of Acts Interpretation Act 1954 that do not apply to statutory instruments</b> .....	<b>38</b>
<b>Schedule 2A</b>	<b>Subordinate legislation to which part 7 does not apply</b> ....	<b>39</b>
<b>Schedule 3</b>	<b>Dictionary</b> .....	<b>40</b>

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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’.

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## 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.

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**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;



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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—

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*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—

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*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.

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**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]

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- (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



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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.

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### **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.

## Part 6                      Procedures after making of subordinate legislation

### Division 1                Notification

#### 47        Notification

- (1) Subordinate legislation other than exempt subordinate legislation must be notified by publication on the Queensland legislation website (*normal publication*) of—
  - (a) the subordinate legislation; and
  - (b) the date of publication.
- (2) However, if subordinate legislation can not for technical or other reasons be conveniently notified by normal publication, it may be notified (*alternative publication*) by—
  - (a) publishing it and the date of publication in another way decided by the parliamentary counsel; and
  - (b) normal publication as soon as practicable.
- (3) Notification of subordinate legislation by alternative publication happens on publication under subsection (2)(a).
- (4) Exempt subordinate legislation must be notified by publication of the subordinate legislation in the gazette.

*Note—*

Exempt subordinate legislation is subordinate legislation that is not drafted by the Office of the Queensland Parliamentary Counsel. See the *Legislative Standards Act 1992*, section 7(e) and schedule 1, definition *exempt subordinate legislation*.

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## 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.

*Notes—*

- 1 Under the *Legislative Standards Act 1992*, section 22, explanatory notes must be tabled with subordinate legislation.
  - 2 Under the *Human Rights Act 2019*, section 41, a human rights certificate 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.

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## **Part 7**                      **Staged automatic expiry of subordinate legislation**

### **53 Purposes of part**

The purposes of this part are to—

- (a) reduce substantially the regulatory burden on the people of Queensland without compromising law and order and essential economic, environmental and social objectives; and
- (b) ensure subordinate legislation is relevant to the economic, social and general wellbeing of the people of Queensland; and
- (c) otherwise ensure the part of the Queensland statute book consisting of subordinate legislation is of the highest standard.

### **54 When subordinate legislation expires**

- (1) Subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making unless—
  - (a) it is sooner repealed or expires; or
  - (b) a regulation is made exempting it from expiry.

*Note—*

Sections 56 and 56A specify the subordinate legislation that may be exempted from expiry, and how long the exemption lasts.

- (2) Subordinate legislation exempted from expiry under a regulation under this Act expires when the exemption ends.

### **55 Notice by parliamentary counsel of impending expiry**

- (1) The parliamentary counsel must notify administering departments and agencies of when the following subordinate legislation will expire under this Act—

[s 56]

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- (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,



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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.

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## 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).

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**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



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## 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.