

Queensland Civil and Administrative Tribunal Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 127

made under the

Queensland Civil and Administrative Tribunal Act 2009

General Outline

Short title

Queensland Civil and Administrative Tribunal Amendment Regulation (No. 1) 2014

Authorising law

Sections 224 and 242 of the *Queensland Civil and Administrative Tribunal Act 2009*.

Policy objectives and the reasons for them

Amendments as a result of changes to the *Disability Services Act 2006*

The policy objective is to amend the *Queensland Civil and Administrative Tribunal Regulation 2009* (QCAT Regulation) and the *Queensland Civil and Administrative Tribunal Rules* (QCAT Rules) by making consequential amendments to replace references to provisions of the *Disability Services Act 2006* (DSA) renumbered or omitted by the *Disability Services (Restrictive Practices) and Other Legislation Amendment Act 2014* (the RP Act).

The RP Act makes a number of amendments to the DSA including: renumbering the DSA section 123ZK(8) to 123ZK(9) and removing section 123ZN from the DSA. Schedule 1, part 6 of the QCAT Regulation and rules 21, 28 and 36 of the QCAT Rules refer to DSA sections 123ZK(8) and 123ZN. Consequential amendments to these provisions of the QCAT Regulation and QCAT Rules are required to replace reference to the DSA section 123ZK(8) with 123ZK(9) and omit reference to 123ZN.

Amendments as a result of child protection reforms

On 1 July 2013, the Queensland Child Protection Commission of Inquiry (the Commission) released its report - *Taking Responsibility: A Roadmap for Queensland Child Protection*. The report outlines three tracks for reform including to reduce the number of children and young people in the child protection system; revitalise child protection frontline services and family support, breaking the intergenerational cycle of

abuse and neglect; and refocus oversight on learning, improving and taking responsibility.

On 20 May 2014, the *Public Guardian Act 2014* (PG Act), the *Family and Child Commission Act 2014* (FCC Act) and the *Child Protection Reform Amendment Act 2014* (CPRA Act) were passed.

The PG Act implements the recommendations from the Commission to establish the new Office of the Public Guardian. The Office of the Public Guardian is an independent statutory body reporting to the Attorney-General and Minister for Justice, which combines the current Adult Guardian with refocused child advocacy and visiting functions from the Commission for Children and Young People and Child Guardian (CCYPCG).

The FCC Act implements the recommendations from the Commission to establish a new entity, the Family and Child Commission (FCC), which is a statutory body reporting to the Premier to provide systemic oversight for the child protection system and to transfer related CCYPCG systemic oversight and research functions to the new entity. The CCYPCG will cease operating on 1 July 2014.

The CPRA Act implements other recommendations of the Commission relating to the oversight of the child protection system including: clarifying the leadership of the Childrens Court when constituted by Magistrates and District Court judges and the administration of the Court; providing a clear legislative framework in the *Child Protection Act 1999* (CP Act) to guide decision making about when a report about a child should be made to Child Safety, including a consolidated and consistent requirement for those professionals currently required by policy or legislation to mandatorily report as a first step to reduce the current levels of unsustainable demand on the child protection system; establishing a Child Death Review Panel under the CP Act to independently oversee the streamlined processes for the review of deaths of children known to Child Safety and some serious child injuries; and transferring administration of the working with children check (blue card system) to the Public Safety Business Agency (PSBA) under a stand alone Act (the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act)).

The policy objective is to amend the *Queensland Civil and Administrative Tribunal Rules* (QCAT Rules) as a result of the child protection reforms by:

- inserting a new rule into the QCAT Rules to facilitate the provision of applications relating to child protection matters to the Public Guardian;
- making consequential amendments to the QCAT Rules to reflect the transfer of the CCYPCG's functions to other entities. The majority of these amendments are to change references to the Adult Guardian or Commissioner for CCYPCG and the respective legislation to the Public Guardian and the PG Act, or the Chief Executive of the Public Safety Business Agency and the *Working with Children (Risk Management and Screening) Act 2000*;

Achievement of policy objectives

The policy objective is achieved by amending the QCAT Regulation and QCAT Rules to achieve the stated objective.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Queensland Civil and Administrative Tribunal Act 2009* (the QCAT Act).

Section 242 of the QCAT Act provides that the Governor in Council may make regulations under the Act.

Section 224 of the QCAT Act provides that, with the consent of the rules committee, the Governor in Council may make rules under the QCAT Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any policy objectives of any other legislation.

Benefits and costs of implementation

The amendment regulation will not impose any additional costs.

The benefit of these amendments is that the QCAT Regulation and Rules will apply to the enabling provisions of the DSA as intended.

Consistency with fundamental legislative principles

The amendment regulation does not conflict with fundamental legislative principles.

Consultation

The Queensland Civil and Administrative Tribunal rules committee, QCAT, the Department of Communities, Child Safety and Disability Services (DCCSDS), the Public Guardian designate and the CCYPCG have been consulted and support the proposed amendments.

The Queensland Civil and Administrative Tribunal rules committee has consented to the amendments to the QCAT Rules contained in the Amendment Regulation.

The Office of Best Practice Regulation has been consulted on the requirements under the Regulatory Impact System (RIS) and has advised that the Amendment Regulation is excluded from the RIS requirements.