

Queensland Civil and Administrative Tribunal Regulation 2019

Explanatory notes for SL 2019 No. 164

Made under the

Queensland Civil and Administrative Tribunal Act 2009

General Outline

Short Title

Queensland Civil and Administrative Tribunal Regulation 2019

Authorising law

Section 242 of the *Queensland Civil and Administrative Tribunal Act 2009*

Policy objectives and the reasons for them

The purpose of the *Queensland Civil and Administrative Tribunal Regulation 2019* (QCAT Regulation) is to repeal the *Queensland Civil and Administrative Tribunal Regulation 2009* (current Regulation) and continue to provide for:

- prescribed fees payable under the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act);
- the form of an oath and how it is to be administered; and
- other matters which may be prescribed by regulation under the QCAT Act.

The QCAT Act establishes the Queensland Civil and Administrative Tribunal (QCAT).

QCAT has original, review or appellate jurisdiction to deal with matters it is empowered to deal with under the QCAT Act or an enabling Act. The QCAT Act sets out the practices and procedures to a QCAT proceeding. A provision in an enabling Act which modifies QCAT's procedures prevails over the provisions of the QCAT Act.

The QCAT Act also provides for the administration of QCAT, including the constitution and members of QCAT. Under the QCAT Act, the president and deputy president must be a Supreme Court judge and a District Court judge respectively. QCAT members include senior members, ordinary members (appointed on a full, part time or sessional basis) and judicial members. Adjudicators, justices of the peace and magistrates also hear matters as provided for in the QCAT Act.

Section 242(1) of the QCAT Act provides that the Governor in Council may make regulations under the Act. Under section 242(2), a regulation made under the QCAT Act may—(a) prescribe fees payable under this Act; or (b) provide for the form of an oath and how it is to be administered. The QCAT Act also provides for the QCAT Regulation to prescribe locations where a QCAT justice of the peace may constitute the tribunal (section 206E(1)) and the sitting fees payable to the QCAT justice of the peace (section 206R(2)).

Under section 54 of the *Statutory Instruments Act 1992*, the current Regulation is due to expire on 1 September 2019.

Achievement of policy objectives

The QCAT Regulation will repeal and remake the current Regulation. The QCAT Regulation will provide for the same matters as the current Regulation, with minor changes to reflect current drafting practice.

Consistency with policy objectives of authorising law

The QCAT Regulation is consistent with policy objectives of other legislation.

Inconsistency with policy objectives of other legislation

The QCAT Regulation is not inconsistent with policy objectives of any other legislation.

Benefits and costs of implementation

The QCAT Regulation will continue to ensure that fees payable under the QCAT Act; the form of an oath and how it is to be administered; the locations where a QCAT justice of the peace may constitute the tribunal; the sitting fees payable to the QCAT justices of the peace; and other matters which may be prescribed by regulation under the QCAT Act, will continue to be prescribed.

Any costs to departments or agencies will be met from existing resources.

Consistency with fundamental legislative principles

The QCAT Regulation is consistent with fundamental legislative principles.

Consultation

QCAT has been consulted and supports the QCAT Regulation.

The Office of Best Practice Regulation considers that the Department of Justice and Attorney-General has demonstrated a need for continued regulatory action and no further regulatory analysis is required under the Queensland Government Guide to Better Regulation at this time.