

# Duties Regulation 2023

Explanatory notes for SL 2023 No. 104

made under the

*Duties Act 2001*

## General Outline

### Short title

*Duties Regulation 2023*

### Authorising law

Sections 79, 156D, 349, 366, 495, 508, and Schedule 6 of the *Duties Act 2001*.

### Policy objectives and the reasons for them

The *Duties Regulation 2013* provides for particular administrative matters which are necessary for the proper administration of the *Duties Act 2001*. Specifically, it prescribes for the rounding of amounts expressed as fee units, declared public unit trusts, apportionment of insurance premiums for the purposes of calculating insurance duty where the property or risk insured is in more than one jurisdiction, duty payable for travel insurance policies, how transfer duty concessions and exemptions apply to electronic lodgement network transfers or lodgements, the fees payable for certain administrative functions, the activities which qualify as prescribed businesses for the purposes of concessional duty treatment, and recognised stock exchanges for duty exemption purposes.

The *Duties Regulation 2013* will automatically expire on 1 September 2023 in accordance with section 54 of the *Statutory Instruments Act 1992*, which provides for the automatic expiry of subordinate legislation on 1 September first occurring after the tenth anniversary of the day of its making.

The Queensland Revenue Office conducted a sunset review of the *Duties Regulation 2013* in accordance with *The Queensland Government Guide to Better Regulation*. The sunset review confirmed that the provisions of the *Duties Regulation 2013* are still necessary and appropriate for the proper operation and administration of the *Duties Act 2001*, and identified some minor changes are necessary to ensure it remains current. Changes include not remaking provisions which prescribe specific commencement dates for certain provisions relating to recognised stock exchanges and declared public unit trusts, and updating the definition of 'federal interstate motor vehicle'.

Therefore, the *Duties Regulation 2013* is to be remade as the *Duties Regulation 2023* with these changes relating to not remaking provisions which prescribe specific commencement dates for certain provisions and the updated definition of 'federal interstate motor vehicle', along with changes necessary to facilitate the remake.

## **Achievement of policy objectives**

The *Duties Act 2001* provides the general framework for the imposition of various duties. The *Duties Act 2001* replaced the *Stamp Act 1894* to modernise and simplify the previous duties framework, while also further harmonising duties legislation across jurisdictions as far as possible and appropriate to better facilitate interstate transactions.

In particular, the *Duties Act 2001* contains provisions relating to transfer duty, landholder duty, corporate trustee duty, additional foreign acquirer duty, mortgage duty, insurance duty and vehicle registration duty. The *Duties Act 2001* sets out how these duties apply, the circumstances in which concessions, deductions or exemptions may be available, and certain administrative matters.

The *Duties Act 2001* contemplates a regulation providing for certain matters relating to the administration and payment of duties in Queensland. The *Duties Act 2001* also contains a general regulation making power, which authorises regulations to be made with respect to particular matters.

The *Duties Regulation 2013* provides for matters authorised under regulation-making heads of power identified above. The *Duties Regulation 2023* remakes the provisions of the *Duties Regulation 2013* to prescribe for the rounding of amounts expressed as fee units, declared public unit trusts, apportionment of insurance premiums for the purposes of calculating insurance duty where the property or risk insured is in more than one jurisdiction, duty payable for travel insurance policies, how transfer duty concessions and exemptions apply to electronic lodgement network transfers or lodgements, the fees payable for certain administrative functions, the activities which qualify as prescribed businesses for the purposes of concessional duty treatment, and recognised stock exchanges for duty exemption purposes.

The *Duties Regulation 2023* makes changes to the *Duties Regulation 2013* to not remake provisions which prescribe specific commencement dates for sections 9(c) and (e) and schedule 1, part 2, item 5 that pre-date commencement of the *Duties Regulation 2023* and will be retained within the relevant provisions of the *Duties Regulation 2013* following its expiry, and to update the definition of 'federal interstate motor vehicle' to reflect the repeal of the *Interstate Road Transport Act 1985* (Cwlth). These changes ensure the *Duties Regulation 2023* remains current and effective.

## **Consistency with policy objectives of authorising law**

The *Duties Regulation 2023* is consistent with the policy objectives of the *Duties Act 2001*, to provide the general framework for the imposition of various duties. Additionally, the *Duties Act 2001* authorises the making of regulations with respect to matters included in the *Duties Regulation 2023*.

## **Inconsistency with policy objectives of other legislation**

The *Duties Regulation 2023* is not inconsistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

An alternative way of achieving the policy objectives is to let the *Duties Regulation 2013* expire and enact its provisions in the *Duties Act 2001*. This was not adopted as the provisions are of an administrative nature which are more appropriately contained in a regulation.

## **Benefits and costs of implementation**

The *Duties Regulation 2023* supports the proper operation of the *Duties Act 2001*. The provisions contained in the *Duties Regulation 2023* are necessary for the administration and payment of duties in Queensland under the *Duties Act 2001*.

The *Duties Regulation 2023* remakes the *Duties Regulation 2013*, with the changes relating to not remaking provisions which prescribe specific commencement dates for provisions relating to recognised stock exchanges and declared public unit trusts, and updating the definition of 'federal interstate motor vehicle', along with changes necessary to facilitate the remake. Accordingly, implementation costs for Government are not expected to be significant and can be met within existing allocations.

## **Consistency with fundamental legislative principles**

The *Duties Regulation 2023* is consistent with fundamental legislative principles. Its provisions are consistent with the objectives of, and are within scope of the regulation making power in, the *Duties Act 2001*.

## **Consultation**

Community consultation was not undertaken in relation to the *Duties Regulation 2023*. This was on the basis that it remakes the *Duties Regulation 2013*, with changes that are minor in nature and ensure the *Duties Regulation 2023* remains current and effective.

The Office of Best Practice Regulation (OBPR) was consulted on the sunset review of the *Duties Regulation 2013*. OBPR noted that the *Duties Regulation 2013* continues to be required, effective and efficient, and did not identify any significant adverse impacts. Accordingly, OBPR advised that no further regulatory impact analysis was required under *The Queensland Government Guide to Better Regulation*.