

Public Trustee Regulation 2023

Explanatory Notes for SL 2023 No. 115

made under the *Public Trustee Act 1978*

General Outline

Short Title

Public Trustee Regulation 2023.

Authorising Law

Section 142 of the *Public Trustee Act 1978* (the Act).

Policy objectives and the reasons for them

The Act provides for the establishment and administration of the Public Trust Office. The Act includes provisions about the powers and functions of the Public Trustee, the management or estates of incapacitated persons and the management of unclaimed property.

Section 142 of the Act provides that the Governor in Council may make regulations under the Act.

The *Public Trustee Regulation 2012* (the expiring Regulation) will expire on 31 August 2023 under section 54 of the *Statutory Instruments Act 1992*.

The objective of the *Public Trustee Regulation 2023* (the Regulation) is to remake the current Regulation in substantially the same form, subject to revising the interest rates payable on amounts held in the Public Trustee’s common fund to ensure a fair and appropriate rate of return for persons whose moneys are held in the common fund.

Achievement of policy objectives

The Regulation achieves the policy objectives by:

- remaking the current regulation in substantially the same form, with some minor and technical amendments to reflect current drafting practice (for example, statements such as ‘For the Act, section 41’ with ‘For section 41 of the Act’) and reordering the sequence of the provisions so that related provisions are co-located; and
- revising some of the interest rates payable for amounts held in the common fund from the rates prescribed under the expiring Regulation as follows:

Funds held for	Interest Rate under expiring current Regulation (since 01/08/2023)	Interest Rate under Regulation (from 01/09/2023)
Class 1 & Class 5 Amounts:	0.21%	0.21%

Funds held for	Interest Rate under expiring current Regulation (since 01/08/2023)	Interest Rate under Regulation (from 01/09/2023)
General Trusts, Minor Beneficiaries, Life Interest Estates, Trusts and Deceased Estates		
Class 2(c) & Class 3 amounts: Agency Deposit At Call Accounts, Financial Management Customers and Enduring Powers of Attorney Accounts	1.48%	1.68%
Term Deposit Amounts: Term Investment Accounts	1.48%	1.68%

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act. The revision of the interest rates payable on amount held in the common fund is consistent with the policy objective of ensuring that estates having moneys in the common fund are credited, at least annually, with interest and that the interest payments are of an amount that is appropriate having regard to comparable market returns.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The implementation of the Regulation generally will not impose any cost on the community. Implementing the Regulation will not result in an increase in costs for Government as administration will remain subject to existing processes and staffing.

The change to the interest rates prescribed under the expiring Regulation will only affect persons whose money is held in the common fund. The benefit of the Regulation is to align the interest rates payable on amounts held in the Public Trustee's common fund with the interest rate review undertaken by the Public Trustee using the methodology endorsed by the Public Trust Office Investment Board.

Consistency with fundamental legislative principles

The Regulation is consistent with the fundamental legislative principles.

Consultation

The Department of the Premier and Cabinet (DPC) and Queensland Treasury (QT) were consulted about the remaking of the Regulation. The Public Trustee undertook a sunset review of the expiring Regulation, which was assessed by the Office of Best Practice Regulation (OBPR) within QT. OBPR's assessment concluded that:

- the sunset review indicated the Regulation continues to be required and is effective but will benefit from streamlining and modernised language; and
- no further regulatory impact analysis is required under the *Queensland Government Guide to Better Regulation*.

The Regulation reflects the modernisation and streamlining referred to by OBPR.

In relation to the new interest rates set under the Regulation, the Public Trust Office Investment Board was consulted in March 2021 in relation to the methodology adopted by the Public Trustee when setting interest rates payable. The methodology that was endorsed by the Public Trust Office Investment Board and subsequently considered and approved by the Public Trustee of Queensland and Chief Executive Officer, has been applied to the July 2023 review. The methodology is provided to the Public Trust Office Investment Board on a monthly basis as part of the interest rates payable submission paper.

The change in interest rates from the rates prescribed under the expiring Regulation will not impose any cost on the community. The adjustment to interest rates is an administrative matter provided for under the *Public Trustee Act 1978* and considered by the Public Trustee to be machinery in nature. The adjustment to interest rates is therefore excluded from further regulatory impact analysis under the *Queensland Government Guide to Better Regulation* (Table 1(g) of the Guide).