



Queensland

Magistrates Amendment Act 2015

Act No. 1 of 2015



Queensland

Magistrates Amendment Act 2015

Contents

	Page
1 Short title	4
2 Act amended	4
3 Amendment of pt 10, hdg (Transitional provisions)	4
4 Insertion of new pt 10, div 8	4
Division 8 Validation provisions for particular magistrates and judicial registrars	
67 Definition for div 8.	4
68 Oaths or affirmations taken or made by magistrates .	4
69 Failure of magistrate to take oath or make affirmation	6
70 Oaths or affirmations taken or made by judicial registrars	8



Queensland

Magistrates Amendment Act 2015

Act No. 1 of 2015

An Act to amend the Magistrates Act 1991 for particular purposes

[Assented to 8 May 2015]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Magistrates Amendment Act 2015*.

2 Act amended

This Act amends the *Magistrates Act 1991*.

3 Amendment of pt 10, hdg (Transitional provisions)

Part 10, heading, after ‘Transitional’—

insert—

and validation

4 Insertion of new pt 10, div 8

Part 10—

insert—

**Division 8 Validation provisions for
particular magistrates and
judicial registrars**

67 Definition for div 8

In this division—

repealed regulation means the repealed
Magistrates Regulation 2003.

**68 Oaths or affirmations taken or made by
magistrates**

(1) This section applies if—

-
- (a) a person (the *magistrate*) was appointed under section 5 or 6; and
 - (b) at any time during the period from and including 12 April 2013 to and including 24 April 2015 the magistrate—
 - (i) took and subscribed the oath under section 3(1) of the repealed regulation (the *2003 oath*); or
 - (ii) made and subscribed the affirmation under section 3(2) of the repealed regulation (the *2003 affirmation*); and
 - (c) the 2003 oath was taken, or the 2003 affirmation was made—
 - (i) in the way permitted for the taking of oaths, or the making of affirmations, under section 9(2); and
 - (ii) within 3 months after the appointment of the magistrate.
- (2) It is declared that—
- (a) if subsection (1)(b)(i) applies—the magistrate’s act of taking and subscribing the 2003 oath is, was and always has been, as effective for all purposes as it would be if the magistrate had taken and subscribed the oath prescribed for section 9(1) by the *Magistrates Regulation 2013* (the *2013 oath*) instead of the 2003 oath; or
 - (b) if subsection (1)(b)(ii) applies—the magistrate’s act of making and subscribing the 2003 affirmation is, was and always has been, as effective for all purposes as it would be if the magistrate had made and subscribed the affirmation prescribed for section 9(1) by the *Magistrates Regulation 2013* (the *2013 affirmation*) instead of the 2003 affirmation.

- (3) It is also declared that—
- (a) a relevant exercise of jurisdiction by the magistrate is, or was and always has been, as valid as it would be if the magistrate had—
 - (i) taken and subscribed the 2013 oath instead of the 2003 oath; or
 - (ii) made and subscribed the 2013 affirmation instead of the 2003 affirmation; and
 - (b) the magistrate did not, and does not, cease to hold office as a magistrate under section 9(3), or cease to be a magistrate under section 42(e), only because the magistrate did not take the 2013 oath or make the 2013 affirmation within the period prescribed by section 9(3).
- (4) In this section—
- relevant exercise of jurisdiction*, by a magistrate—
- (a) means an exercise of the jurisdiction, powers and functions conferred on a magistrate, or on 2 justices, by or under any law of the State (including the making of any decision or order), by the magistrate, after the magistrate took the 2003 oath or made the 2003 affirmation; and
 - (b) includes a relevant exercise of jurisdiction after the commencement.

69 Failure of magistrate to take oath or make affirmation

- (1) This section applies if—

-
- (a) a person (the *magistrate*) was appointed under section 5 or 6 before the commencement; and
- (b) the magistrate did not take and subscribe an oath or make and subscribe an affirmation in relation to the appointment.
- (2) It is declared that, despite section 9—
- (a) a relevant exercise of jurisdiction by the magistrate is, or was and always has been, as valid as it would be if the magistrate had, on the day the magistrate was appointed, taken, or made, and subscribed a prescribed oath; and
- (b) the magistrate did not, and does not, cease to hold office as a magistrate under section 9(3), or cease to be a magistrate under section 42(e), only because the magistrate did not take, or make, a prescribed oath within the period prescribed by section 9(3).
- (3) However, if the magistrate does not, within 3 months after the commencement, take the 2013 oath or make the 2013 affirmation, the magistrate ceases to hold office as, and be, a magistrate when that period ends.

- (4) In this section—

2013 affirmation see section 68(2)(b).

2013 oath see section 68(2)(a).

prescribed oath, for a magistrate, means an oath or affirmation in a form and taken or made in a way sufficient to comply with section 9 at the time of the magistrate's appointment.

relevant exercise of jurisdiction, by a magistrate, means an exercise of the jurisdiction, powers and functions conferred on a magistrate, or on 2 justices, by or under any law of the State

(including the making of any decision or order), by the magistrate, during the relevant period.

relevant period means the period from and including the day the magistrate was appointed to and including—

- (a) if the magistrate takes the 2013 oath or makes the 2013 affirmation within the period prescribed by subsection (3)—the day on which the magistrate takes the 2013 oath or makes the 2013 affirmation; or
- (b) if the magistrate does not or can not take the 2013 oath or make the 2013 affirmation within the period prescribed by subsection (3)—the day on which the magistrate ceased or ceases to hold office as a magistrate or be a magistrate.

70 Oaths or affirmations taken or made by judicial registrars

- (1) This section applies if—
 - (a) a person (the *judicial registrar*) was appointed under section 53 or 53A; and
 - (b) at any time during the period from and including 12 April 2013 to and including 24 April 2015 the judicial registrar—
 - (i) took the oath under section 4(1) of the repealed regulation (the *2003 oath*); or
 - (ii) made the affirmation under section 4(2) of the repealed regulation (the *2003 affirmation*); and
 - (c) the 2003 oath was taken, or the 2003 affirmation was made—
 - (i) in the way permitted for the taking of oaths, or the making of affirmations, under section 53F(2); and

-
- (ii) within 3 months after the appointment of the judicial registrar.
- (2) It is declared that—
- (a) if subsection (1)(b)(i) applies—the judicial registrar’s act of taking the 2003 oath is, was and always has been, as effective for all purposes as it would be if the judicial registrar had taken the oath prescribed for section 53F(1) by the *Magistrates Regulation 2013* (the **2013 oath**) instead of the 2003 oath; or
- (b) if subsection (1)(b)(ii) applies—the judicial registrar’s act of making the 2003 affirmation is, was and always has been, as effective for all purposes as it would be if the judicial registrar had made the affirmation prescribed for section 53F(1) by the *Magistrates Regulation 2013* (the **2013 affirmation**) instead of the 2003 affirmation.
- (3) It is also declared that—
- (a) a relevant exercise of a power or function by the judicial registrar is, or was and always has been, as valid as it would be if the judicial registrar had—
- (i) taken the 2013 oath instead of the 2003 oath; or
- (ii) made the 2013 affirmation instead of the 2003 affirmation; and
- (b) the judicial registrar did not, and does not, cease to hold office as a judicial registrar under section 53F(3), or cease to be a judicial registrar under section 53N(1)(f), only because the judicial registrar did not take the 2013 oath or make the 2013 affirmation within the period prescribed by section 53F(3).
- (4) In this section—

relevant exercise of a power or function, for the judicial registrar—

- (a) means an exercise of a power or the performance of a function of a judicial registrar (including the making of any decision or order whether as a judicial registrar, or when exercising the jurisdiction and powers of a magistrate or constituting, and exercising the jurisdiction and powers of, a Magistrates Court), by the judicial registrar, after the judicial registrar took the 2003 oath or made the 2003 affirmation; and
- (b) includes an exercise of a power or function of a judicial registrar, by the judicial registrar, after the commencement.

© State of Queensland 2015

Authorised by the Parliamentary Counsel