



Queensland

Magistrates Amendment Bill 2015

2015

A Bill

for

An Act to amend the *Magistrates Act 1991* for particular purposes

	The Parliament of Queensland enacts—	1
Clause 1	Short title	2
	This Act may be cited as the <i>Magistrates Amendment Act 2015</i> .	3 4
Clause 2	Act amended	5
	This Act amends the <i>Magistrates Act 1991</i> .	6
Clause 3	Amendment of pt 10, hdg (Transitional provisions)	7
	Part 10, heading, after ‘Transitional’—	8
	<i>insert—</i>	9
	and validation	10
Clause 4	Insertion of new pt 10, div 8	11
	Part 10—	12
	<i>insert—</i>	13
	Division 8	14
	Validation provisions for particular magistrates and judicial registrars	15 16
	67 Definition for div 8	17
	In this division—	18
	<i>repealed regulation</i> means the repealed <i>Magistrates Regulation 2003</i> .	19 20
	68 Oaths or affirmations taken or made by magistrates	21 22
	(1) This section applies if—	23

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- (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- (i) took and subscribed the oath under section 3(1) of the repealed regulation (the *2003 oath*); or
- (ii) made and subscribed the affirmation under section 3(2) of the repealed regulation (the *2003 affirmation*); and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.
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- (3) It is also declared that— 1
 - (a) a relevant exercise of jurisdiction by the 2
magistrate is, or was and always has been, 3
as valid as it would be if the magistrate 4
had— 5
 - (i) taken and subscribed the 2013 oath 6
instead of the 2003 oath; or 7
 - (ii) made and subscribed the 2013 8
affirmation instead of the 2003 9
affirmation; and 10
 - (b) the magistrate did not, and does not, cease to 11
hold office as a magistrate under section 12
9(3), or cease to be a magistrate under 13
section 42(e), only because the magistrate 14
did not take the 2013 oath or make the 2013 15
affirmation within the period prescribed by 16
section 9(3). 17
- (4) In this section— 18
 - relevant exercise of jurisdiction*, by a 19
magistrate— 20
 - (a) means an exercise of the jurisdiction, 21
powers and functions conferred on a 22
magistrate, or on 2 justices, by or under any 23
law of the State (including the making of 24
any decision or order), by the magistrate, 25
after the magistrate took the 2003 oath or 26
made the 2003 affirmation; and 27
 - (b) includes a relevant exercise of jurisdiction 28
after the commencement. 29

69 Failure of magistrate to take oath or make affirmation 30
31

- (1) This section applies if— 32

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- (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
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- (including the making of any decision or order), 1
by the magistrate, during the relevant period. 2
- relevant period* means the period from and 3
including the day the magistrate was appointed to 4
and including— 5
- (a) if the magistrate takes the 2013 oath or 6
makes the 2013 affirmation within the 7
period prescribed by subsection (3)—the 8
day on which the magistrates takes the 2013 9
oath or makes the 2013 affirmation; or 10
- (b) if the magistrate does not or can not take the 11
2013 oath or make the 2013 affirmation 12
within the period prescribed by subsection 13
(3)—the day on which the magistrate ceased 14
or ceases to hold office as a magistrate or be 15
a magistrate. 16

**70 Oaths or affirmations taken or made by judicial 17
registrars 18**

- (1) This section applies if— 19
- (a) a person (the *judicial registrar*) was 20
appointed under section 53 or 53A; and 21
- (b) at any time during the period from and 22
including 12 April 2013 to and including 24 23
April 2015 the judicial registrar— 24
- (i) took the oath under section 4(1) of the 25
repealed regulation (the *2003 oath*); or 26
- (ii) made the affirmation under section 4(2) 27
of the repealed regulation (the *2003 28
affirmation*); and 29
- (c) the 2003 oath was taken, or the 2003 30
affirmation was made— 31
- (i) in the way permitted for the taking of 32
oaths, or the making of affirmations, 33
under section 53F(2); and 34

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- (ii) within 3 months after the appointment
of the judicial registrar. 1
2
- (2) It is declared that— 3
- (a) if subsection (1)(b)(i) applies—the judicial
registrar’s act of taking the 2003 oath is, was 4
and always has been, as effective for all 5
purposes as it would be if the judicial 6
registrar had taken the oath prescribed for 7
section 53F(1) by the *Magistrates* 8
Regulation 2013 (the **2013 oath**) instead of 9
the 2003 oath; or 10
11
- (b) if subsection (1)(b)(ii) applies—the judicial 12
registrar’s act of making the 2003 13
affirmation is, was and always has been, as 14
effective for all purposes as it would be if 15
the judicial registrar had made the 16
affirmation prescribed for section 53F(1) by 17
the *Magistrates Regulation 2013* (the **2013** 18
affirmation) instead of the 2003 affirmation. 19
- (3) It is also declared that— 20
- (a) a relevant exercise of a power or function by 21
the judicial registrar is, or was and always 22
has been, as valid as it would be if the 23
judicial registrar had— 24
- (i) taken the 2013 oath instead of the 2003 25
oath; or 26
- (ii) made the 2013 affirmation instead of 27
the 2003 affirmation; and 28
- (b) the judicial registrar did not, and does not, 29
cease to hold office as a judicial registrar 30
under section 53F(3), or cease to be a 31
judicial registrar under section 53N(1)(f), 32
only because the judicial registrar did not 33
take the 2013 oath or make the 2013 34
affirmation within the period prescribed by 35
section 53F(3). 36
- (4) In this section— 37
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- relevant exercise of a power or function*, for the
judicial registrar— 1
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- (a) means an exercise of a power or the 3
performance of a function of a judicial 4
registrar (including the making of any 5
decision or order whether as a judicial 6
registrar, or when exercising the jurisdiction 7
and powers of a magistrate or constituting, 8
and exercising the jurisdiction and powers 9
of, a Magistrates Court), by the judicial 10
registrar, after the judicial registrar took the 11
2003 oath or made the 2003 affirmation; and 12
- (b) includes an exercise of a power or function 13
of a judicial registrar, by the judicial 14
registrar, after the commencement. 15

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