

Queensland



# STATUTORY INSTRUMENTS ACT 1992

**Reprinted as in force on 2 July 1999  
(includes amendments up to Act No. 30 of 1999)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 8C**

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# Information about this reprint

This Act is reprinted as at 2 July 1999. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated into reprint**
- **editorial changes made in earlier reprints.**

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# STATUTORY INSTRUMENTS ACT 1992

[as amended by all amendments that commenced on or before 2 July 1999]

## **An Act relating to statutory instruments and for other purposes related to legislation**

### **PART 1—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Statutory Instruments Act 1992*.

#### **Purposes of Act**

2. The purposes of this Act are to—
  - (a) facilitate the interpretation of statutory instruments; and
  - (b) facilitate improvement in the presentation of statutory instruments; and
  - (c) rationalise notification, publication, tabling and disallowance requirements for subordinate legislation; and
  - (d) generally ensure that Queensland subordinate legislation is of the highest standard.

#### **Act applies to all statutory instruments**

3. This Act applies to all statutory instruments.

**Displacement of Act by contrary intention**

4. The application of this Act (other than part 5) may be displaced, wholly or partly, by a contrary intention appearing in any instrument.

**Dictionary**

5. The dictionary in schedule 3 defines particular words used in this Act.

**Act binds the State**

5A. This Act binds the State.

**PART 2—TYPES OF STATUTORY INSTRUMENTS***Division 1—General concepts***Meaning of “instrument”**

6. An “instrument” is any document.

**Meaning of “statutory instrument”**

7.(1) A “statutory instrument” is an instrument that satisfies subsections (2) and (3).

(2) The instrument must be made under—

- (a) an Act; or
- (b) another statutory instrument; or
- (c) power conferred by an Act or statutory instrument and also under power conferred otherwise by law.

*Example of paragraph (c)—*

An instrument made partly under an express or implied statutory power and partly under the Royal Prerogative.

(3) The instrument must be of 1 of the following types—

- a regulation
- an order in council
- a rule
- a local law
- a by-law
- an ordinance
- a local law policy
- a statute
- a proclamation
- a notification of a public nature
- a standard of a public nature
- a guideline of a public nature
- another instrument of a public nature by which the entity making the instrument unilaterally affects a right or liability of another entity.

(4) However, to remove doubt, an Executive Council minute is not itself a statutory instrument.

### **Meaning of “statutory rule”**

8. A “**statutory rule**” is a statutory instrument—

- (a) that is made by the Governor or the Governor in Council; or
- (b) that is made by another person or body, but—
  - (i) is required by law to be approved, confirmed or otherwise consented to by the Governor or Governor in Council; or
  - (ii) is subject to being disapproved or otherwise disallowed by the Governor or Governor in Council.

**Meaning of “subordinate legislation”**

**9.(1)** Subject to subsection (2), the following instruments are “subordinate legislation”—

- (a) a statutory rule that is a regulation, rule, by-law, ordinance or statute;
- (b) a statutory rule that is an order in council or proclamation of a legislative character;
- (c) any statutory instrument (including an order in council or proclamation) that is declared to be subordinate legislation by an Act or a regulation made under this Act;
- (d) any other statutory instrument that fixes or otherwise determines the commencement of—
  - (i) an Act or a provision of an Act; or
  - (ii) an instrument, or a provision of an instrument, mentioned in paragraph (a), (b) or (c).

**(2)** The following instruments are not subordinate legislation—

- (a) a local law or other statutory instrument made by a local government;
- (b) a rule, order, direction or practice of the Legislative Assembly;
- (c) a statutory rule (other than a regulation) that is mentioned in schedule 1A or declared not to be subordinate legislation by—
  - (i) an Act; or
  - (ii) in the case of a statutory rule made under a provision commencing before the commencement of this Act—a regulation made under this Act.

***Division 2—Orders in council, proclamations and rules of court*****Meaning of “order in council”**

**10.** An “order in council” is an order made by the Governor in Council and—

- (a) in the case of an order that is subordinate legislation—notified in the gazette; or
- (b) in any other case—published in the gazette.

### **Meaning of “proclamation”**

**11.** A “**proclamation**” is a proclamation made by the Governor and—

- (a) in the case of a proclamation that is subordinate legislation—notified in the gazette; or
- (b) in any other case—published in the gazette.

### **Meaning of “rules of court”**

**12.** “**Rules of court**”, in relation to a court or tribunal, are rules made by the person or body having power to make rules regulating the practice and procedure of the court or tribunal.

## **PART 3—PROVISION RELATING TO INSTRUMENTS**

### **Power to do matter by instrument**

**13.** If—

- (a) an Act or statutory instrument (the “**authorising law**”) authorises or requires a matter to be done; and
- (b) the matter is capable of being done by instrument;

the authorising law authorises the matter to be done by instrument.

## **PART 4—PROVISIONS RELATING TO STATUTORY INSTRUMENTS**

### *Division 1—Provisions of Acts Interpretation Act 1954 that apply to statutory instruments*

#### **Applicable provisions**

**14.(1)** Subject to this division, a provision of the *Acts Interpretation Act 1954* mentioned in schedule 1 applies to a statutory instrument, and to matters authorised or required to be done by a statutory instrument, in the same way as it applies to an Act, and matters authorised or required to be done by an Act, as if—

- (a) a reference to an Act included a reference to a statutory instrument; and
- (b) a reference to enactment or passage included a reference to making.

**(2)** A copy of the *Acts Interpretation Act 1954* showing the text of the Act as it applies to a statutory instrument because of this Act may be authorised by the parliamentary counsel.

**(3)** If a copy mentioned in subsection (2) is authorised under that subsection, the copy—

- (a) is to indicate that fact in a suitable place; and
- (b) is a reprint of a law authorised by the parliamentary counsel for the purposes of the *Reprints Act 1992*.

#### **Modified application—s 14B**

**15.** For the purposes of applying section 14B of the *Acts Interpretation Act 1954*—

**“extrinsic material”** means relevant material not forming part of the statutory instrument or the Act under which the statutory instrument was made, including, for example—

- (a) material that is extrinsic material, within the meaning of that

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- section, in relation to the Act under which the statutory instrument was made; and
- (b) material that is set out in the document containing the text of the statutory instrument as printed by the government printer; and
  - (c) a report of a Royal Commission, Law Reform Commission, commission or committee of inquiry, or a similar body, that was laid before the Legislative Assembly—
    - (i) if the statutory instrument is subordinate legislation—before the end of 14 sitting days after the statutory instrument was laid before the Legislative Assembly; or
    - (ii) in any other case—before the statutory instrument was made; and
  - (d) a report of a committee of the Legislative Assembly that was made to the Legislative Assembly—
    - (i) if the statutory instrument is subordinate legislation—before the end of 14 sitting days after the statutory instrument was laid before the Legislative Assembly; or
    - (ii) in any other case—before the statutory instrument was made; and
  - (e) a treaty or other international agreement that is mentioned in the statutory instrument; and
  - (f) if the statutory instrument is subordinate legislation—an explanatory note or memorandum relating to the statutory instrument, or any other relevant document, that was laid before, or given to the members of, the Legislative Assembly—
    - (i) before the end of 14 sitting days after the statutory instrument was laid before the Legislative Assembly; and
    - (ii) by the clerk of the Parliament or the member who laid the statutory instrument before the Legislative Assembly; and
  - (g) material in the Votes and Proceedings of the Legislative Assembly or in any official record of debates in the Legislative Assembly; and
  - (h) a document that is declared by an Act or statutory instrument to

be a relevant document for the purposes of this section; and

- (i) if the statutory instrument was made under another statutory instrument—material that is extrinsic material within the meaning of this section in relation to the other statutory instrument.

### **Modified application—s 27A**

**16.** For the purposes of applying section 27A<sup>1</sup> of the *Acts Interpretation Act 1954*, omit subsection (12) and insert—

‘(12) If a statutory instrument authorises the delegation of a power, the power may be subdelegated only if the statutory instrument, or the Act under which the statutory instrument is made, expressly authorises the power to be subdelegated.’

### **Modified application—s 36 (def “provision”)**

**17.** For the purposes of applying section 36<sup>2</sup> of the *Acts Interpretation Act 1954*, insert after paragraph (c) of the definition “provision”—

‘(d) any words of notification.’

### **Modified application—ss 49A–51**

**18.** For the purposes of applying sections 49A to 51 of the *Acts Interpretation Act 1954*, a reference to an Act includes a reference to a statutory instrument that is a statutory rule.

### ***Division 2—Provisions of Acts Interpretation Act 1954 that do not apply to statutory instruments***

### **Non-applicable provisions**

**19.** A provision of the *Acts Interpretation Act 1954* mentioned in schedule 2 does not apply to a statutory instrument.

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<sup>1</sup> Section 27A (Delegation of powers)

<sup>2</sup> Section 36 (Meaning of commonly used words and expressions)



***Division 3—Other provisions applying to statutory instruments******Subdivision 1—Making statutory instruments*****Presumption of validity**

**20.** All conditions and preliminary steps required for the making of a statutory instrument are presumed to have been satisfied and performed in the absence of evidence to the contrary.

**Regulation may be used instead of another type of subordinate legislation****20A.(1)** If—

- (a) an Act authorises or requires the Governor, the Governor in Council, a Minister, an officer of the public service or the holder of a prescribed office established by or under an Act to make provision with respect to a matter by subordinate legislation; and
- (b) the Act or another Act—
  - (i) does not specify the type of subordinate legislation to be used; or
  - (ii) specifies that a type of subordinate legislation other than a regulation is to be used;

the Governor in Council may make provision with respect to the matter by regulation made under the Act.

**(2)** Subsection (1) applies even though the Act would not, apart from this section, confer power on the Governor in Council to make a regulation for the purposes of the Act.

***Example 1—***

If an Act provides that provision may be made with respect to a matter by order in council, provision may now be made by regulation.

***Example 2—***

If provision has already been made with respect to a matter by order in council, the order in council may be repealed or amended by a regulation.

**(3)** If subsection (1) applies to a provision of an Act, a reference in a law (including the Act) to subordinate legislation of a particular type made under the provision, or the Act generally, includes a reference to a regulation that makes provision with respect to a matter for the purposes of the provision.

*Example—*

If a provision of an Act refers to orders in council made under section 6 of the Act and subsection (1) applies in relation to section 6, the reference includes a reference to a regulation that makes provision with respect to a matter for the purposes of section 6.

### **Correct year in statutory instrument's short title etc.**

**20B.** If—

- (a) a statutory instrument is made in a particular year (the “**year of making**”); and
- (b) apart from this section, the statutory instrument's citation would include a single year other than the year of making;

the citation of, and a reference to, the statutory instrument may be given by omitting the other year and inserting the year of making.

### **Continuance etc. of statutory instruments made under amended provisions**

**20C.(1)** This section applies if—

- (a) a provision of a law expressly or impliedly authorises or requires a statutory instrument to be made for a purpose; and
- (b) the provision is amended; and
- (c) under the amended provision—
  - (i) a type of instrument is no longer specified for the purpose; or
  - (ii) another type of instrument is specified for the purpose; or
  - (iii) the same type of instrument is specified for the purpose.

**(2)** If subsection (1)(c)(i) applies, a statutory instrument that was in force immediately before the commencement of the amendment—

- (a) continues to have effect after the commencement; and
- (b) may be amended or repealed by an instrument of the type specified in the provision before the amendment.

(3) If subsection (1)(c)(ii) applies, a statutory instrument that was in force immediately before the commencement of the amendment—

- (a) continues to have effect after the commencement; and
- (b) is taken to be an instrument of the type specified in the amended provision.

(4) If subsection (1)(c)(iii) applies, a statutory instrument that was in force immediately before the commencement of the amendment continues to have effect after the commencement as if it had been made under the amended provision.

(5) In this section—

“**amend**” includes omit and re-enact in the same law (with or without modification), but does not include omit and re-enact in another law.

### *Subdivision 2—Whether statutory instruments within power*

#### **Statutory instrument to be interpreted not to exceed powers conferred by authorising law**

**21.(1)** A statutory instrument is to be interpreted as operating—

- (a) to the full extent of, but not to exceed, the power conferred by the law under which it is made (the “**authorising law**”); and
- (b) distributively.

(2) Without limiting subsection (1), if a provision of a statutory instrument would, apart from this section, be interpreted as exceeding power—

- (a) the provision is valid to the extent to which it does not exceed power; and
- (b) the remainder of the statutory instrument is not affected.

(3) Without limiting subsection (1), if the application of a provision of a

statutory instrument to a person, matter or circumstance would, apart from this section, be interpreted as exceeding power, the provision's application to other persons, matters or circumstances is not affected.

(4) This section applies to a statutory instrument in addition to, and without limiting, any provision of the statutory instrument or authorising law.

### **Power to make statutory instrument under Act etc.**

**22.(1)** If an Act or statutory instrument (the “**authorising law**”) authorises or requires the making of a statutory instrument under the authorising law or an Act or statutory instrument (the “**other law**”), the power enables a statutory instrument to be made with respect to any matter that—

- (a) is required or permitted to be prescribed by the authorising law or other law; or
- (b) is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law or other law.

(2) Subsection (1) applies to the authorising law even though the authorising law also authorises the making of a statutory instrument for a particular purpose.

(3) Power conferred by the authorising law to make a statutory instrument for a particular purpose is in addition to, and does not limit the effect of, power conferred by the authorising law to make a statutory instrument under the authorising law or other law unless the authorising law expressly provides otherwise.

### **Statutory instrument may make provision by applying another document**

**23.(1)** If an Act or statutory instrument (the “**authorising law**”) authorises or requires the making of a statutory instrument with respect to a matter, a statutory instrument made under the authorising law may make provision for the matter by applying, adopting or incorporating (with or without modification) the provisions of—

- (a) an Act, statutory instrument or other law; or

(b) another document (whether of the same or a different kind);  
as in force at a particular time or from time to time.

(2) If a statutory instrument made after 1 January 1992 applies, adopts or incorporates the provisions of a document, the provisions applied, adopted or incorporated are the provisions as in force from time to time unless the statutory instrument expressly provides otherwise.

(3) In this section—

“**law**” includes a law of the Commonwealth, another State, a Territory or a foreign country.

### **Statutory instrument may make provision in relation to land by reference to map, plan or register**

**23A.(1)** This section applies if an Act authorises or requires provision to be made by statutory instrument in relation to land, whether the expression ‘declare’, ‘dedicate’, ‘set apart’, ‘specify’ or another expression is used.

(2) Provision may be made by reference to—

- (a) a map or plan held by a person, department or body; or
- (b) a particular entry in a register kept by a person, department or body;

if the map, plan or register is available for inspection by members of the public.

(3) In this section—

“**land**” includes Queensland waters.

### **Statutory instrument may be of general or limited application**

**24.** A statutory instrument may—

- (a) apply generally throughout the State or be limited in its application to a particular part of the State; or
- (b) apply generally to all persons and matters or be limited in its application to—
  - (i) particular persons or matters; or

- (ii) particular classes of persons or matters; or
- (c) otherwise apply generally or be limited in its application by reference to specified exceptions or factors.

### **Statutory instrument may make different provision for different categories**

**25.** A statutory instrument may—

- (a) make different provision in relation to—
  - (i) different persons or matters; or
  - (ii) different classes of persons or matters; or
- (b) apply differently by reference to specified exceptions or factors.

### **Statutory instrument may authorise determination etc. by specified person etc.**

**26.** A statutory instrument may authorise any matter to be determined, applied or regulated, from time to time, by any specified person or body.

*Example—*

If an Act provides that an application is to be in a prescribed form, the regulation concerned may provide that the prescribed form is to be that approved, or made available for use, by the Minister.

### **Statutory instrument may prohibit**

**27.** If an Act or statutory instrument authorises or requires a matter to be regulated by statutory instrument, the power may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter.

### **Relationship between authorising law and statutory instrument concerning the same matter**

**28.** If an Act or statutory instrument (the “**authorising law**”) authorises or requires provision to be made with respect to a matter by statutory instrument, a statutory instrument made under the authorising law may make provision with respect to a particular aspect of the matter despite the

fact that provision is made by the authorising law in relation to another aspect of the matter or in relation to another matter.

### **Statutory instrument may provide review**

**29.(1)** A statutory instrument may provide for the review of, or a right of appeal against, a decision made under—

- (a) the statutory instrument; or
- (b) the Act or other statutory instrument under which the statutory instrument is made or in force.

**(2)** A statutory instrument that is a statutory rule may, for the purpose of subsection (1), confer jurisdiction on any court, tribunal, person or body.

### **Statutory instrument may require verification of form etc.**

**30.** A statutory instrument may require a form prescribed by or under the statutory instrument, or information or documents (whether or not included in, attached to or given with a form), to be verified by statutory declaration.

### **Reasonable cost etc. may be prescribed as fee**

**30A.** If a power is conferred by a law for a statutory instrument to be made with respect to a fee for doing a thing, the power includes a power to prescribe the fee as an amount—

- (a) that a specified person or body considers to be reasonable; and
- (b) that is not more than the reasonable cost of doing the thing.

### **Statutory instrument may exempt from fee**

**30B.(1)** If a power is conferred under a law for a statutory instrument to prescribe a fee, the power includes a power to—

- (a) exempt any person or matter from payment of the fee; or
- (b) waive payment of the fee for any person or matter.

**(2)** If—

- (a) a law requires payment of a fee prescribed under a statutory instrument by a person or for a matter; and
- (b) either—
  - (i) the person or matter is exempted under the statutory instrument from payment of the fee; or
  - (ii) the fee is waived for the person or matter under the statutory instrument;

the requirement to pay the fee is taken to have been satisfied.

### **Statutory instruments purporting to be made under a particular power**

**31.** A statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under a particular Act or another statutory instrument (the “**authorising law**”) or a particular provision of the authorising law.

### *Subdivision 3—Commencement of statutory instruments*

#### **Prospective commencement**

**32.(1)** Subject to section 34<sup>3</sup>, a statutory instrument commences—

- (a) if it is required to be notified or published in the gazette—on the day on which it is notified or published; or
- (b) if it is not required to be notified or published in the gazette—on the day on which it is made; or
- (c) if a later day or time is fixed in the statutory instrument—on that day or at that time.

**(2)** If a statutory instrument that is required to be notified or published in the gazette is notified or published on a day after the day or time fixed by the statutory instrument for its commencement, the statutory instrument is valid, but commences on the day on which it is notified or published.

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<sup>3</sup> Section 34 (Beneficial retrospective commencement)



**Commencement of citation and commencement provisions**

**33.(1)** The provisions of a statutory instrument providing for its citation and commencement commence, by force of this subsection—

- (a) if the statutory instrument is required to be notified or published in the gazette—on the day on which it is notified or published; or
- (b) if it is not required to be notified or published in the gazette—on the day on which it is made.

**(2)** A reference—

- (a) in an Act to the commencement of a statutory instrument (the **“law concerned”**); or
- (b) in a statutory instrument to the commencement of an Act, the statutory instrument, or another statutory instrument, (also the **“law concerned”**);

is a reference to—

- (c) if the provisions of the law concerned (other than those providing for its citation and commencement) commence, or are required to commence, on a single day or at a single time—the commencement of the remaining provisions; or
- (d) if paragraph (a) does not apply and the reference is in a provision of the law concerned—the commencement of the provision; or
- (e) in any other case—the commencement of the relevant provision of the law concerned.

**(3)** Subsection (1) applies to a statutory instrument despite anything in the statutory instrument unless the statutory instrument expressly provides that it does not apply.

**Beneficial retrospective commencement**

**34.(1)** A beneficial provision of a statutory instrument may be given retrospective operation if the statutory instrument expressly provides for that operation.

**(2)** In this section—

**“beneficial provision”** means a provision that does not operate to the

disadvantage of a person (other than the State, a State authority or a local government) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

**Subdivision does not apply until necessary Governor or Governor in Council action taken**

**35.** If—

- (a) an Act or statutory instrument provides for the making of a statutory instrument by a person or body other than the Governor or Governor in Council; but
- (b) the instrument is required by law to be approved, confirmed or otherwise consented to by the Governor or Governor in Council;

this subdivision does not apply to the instrument until the approval, confirmation or consent has been given.

*Subdivision 4—Evidence of procedural details*

**Evidence of procedural details**

**36.(1)** This section applies to a copy of a statutory instrument if—

- (a) in the case of a copy in printed form—the copy is printed by the government printer; or
- (b) in any other case—the copy is authorised by the parliamentary counsel.

**(2)** In a copy of a statutory instrument to which this section applies, a statement of any of the following matters is evidence of the matters—

- (a) when and by whom the statutory instrument was made, approved, confirmed or otherwise consented to; or
- (b) when and where the statutory instrument was published or notified; or

(c) when the statutory instrument was laid before the Legislative Assembly.

(3) A document or matter purporting to be a copy of a statutory instrument to which this section applies is taken to be such a copy unless the contrary is established.

### *Subdivision 5—Terms and references in statutory instruments*

#### **Words and expressions**

37. Words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in the Act or statutory instrument (the “**authorising law**”), or relevant provisions of the authorising law, under which the statutory instrument is made or in force.

#### **References to certain instruments**

38. In a statutory instrument—

“**Act**” or “**the Act**”, without mentioning a particular Act, means the Act under which the statutory instrument is made or in force.

“**these rules of court**” includes any statutory instrument made under the rules.

“**this by-law**” includes any statutory instrument made under the by-law.

“**this order in council**” includes any statutory instrument made under the order.

“**this ordinance**” includes any statutory instrument made under the ordinance.

“**this regulation**” includes any statutory instrument made under the regulation.

“**this rule**” includes any statutory instrument made under the rule.

#### **Reference to enactment etc. of Acts**

39. In a statutory instrument, a reference to the enactment of an Act or the

passing of an Act is a reference to the fact of the Act's having received the royal assent.

### *Subdivision 6—Miscellaneous*

#### **Automatic repeal of commencement instrument**

**39A.** A statutory instrument made after 31 December 1994 that merely provides for the commencement of a law (including a provision of a law) is automatically repealed at the beginning of the day after the commencement, or, if different commencements are provided for, at the beginning of the day after the last commencement.

## **PART 5—GUIDELINES FOR REGULATORY IMPACT STATEMENTS**

### *Division 1—Introductory*

#### **What part provides**

**40.(1)** This part provides, in division 2, guidelines for regulatory impact statements about proposed subordinate legislation.

**(2)** Division 2 is directory only and does not create rights or impose legally enforceable obligations on the State, a Minister or anyone else.

**(3)** However, it is Parliament's intention that the guidelines in division 2 be complied with before subordinate legislation is made.

#### **Effect of failure to comply with guidelines**

**41.(1)** Failure to comply with division 2 in relation to subordinate legislation does not affect the legislation's validity.

**(2)** In addition, a decision made, or appearing to be made, under division 2—

- (a) is final and conclusive; and
- (b) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(3) In this section—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

### **Other legislation requirements are not affected**

**42.** If other legislation about a particular type of subordinate legislation provides requirements for publication or consultation about a proposal to make subordinate legislation—

- (a) division 2 does not affect the requirements; and
- (b) division 2 does not apply to the subordinate legislation if the requirements are of a comparable level to publication and consultation under the division.

### ***Division 2—Regulatory impact statements***

#### **Preparation of regulatory impact statement**

**43.** If proposed subordinate legislation is likely to impose appreciable costs on the community or a part of the community, then, before the

legislation is made, a regulatory impact statement must be prepared about the legislation.<sup>4</sup>

### **Content of regulatory impact statement**

**44.** A regulatory impact statement must include the following information about the proposed subordinate legislation in clear and precise language—

- (a) the provision of the Act or subordinate legislation under which the proposed legislation will be made (the **“authorising law”**);
- (b) a brief statement of the policy objectives of the proposed legislation and the reasons for them;
- (c) a brief statement of the way the policy objectives will be achieved by the proposed legislation and why this way of achieving them is reasonable and appropriate;
- (d) a brief explanation of how the proposed legislation is consistent with the policy objectives of the authorising law;
- (e) if the proposed legislation is inconsistent with the policy objectives of other legislation—
  - (i) a brief explanation of the relationship with the other legislation; and
  - (ii) a brief statement of the reasons for the inconsistency;
- (f) if appropriate, a brief statement of any reasonable alternative way of achieving the policy objectives (including the option of not making subordinate legislation) and why the alternative was rejected;
- (g) a brief assessment of the benefits and costs of implementing the proposed legislation that—
  - (i) if practicable and appropriate, quantifies the benefits and costs; and

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<sup>4</sup> Sections 42 and 46 specify particular circumstances when a regulatory impact statement is not required. Also, under section 60, a regulatory impact statement is not needed for subordinate legislation made before 1 July 1995 but may be prepared voluntarily.

- (ii) includes a comparison of the benefits and costs with the benefits and costs of any reasonable alternative way of achieving the policy objectives stated under paragraph (f);
- (h) a brief assessment of the consistency of the proposed legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.

### **Notification and making regulatory impact statement available**

**45.(1)** Preparation of a regulatory impact statement for proposed subordinate legislation must be notified in the gazette and in a newspaper likely to be read by people particularly affected by the proposed legislation.

**(2)** If the proposed subordinate legislation is likely to have a significant impact on a particular group of people, the notice must be published in a way likely to ensure members of the group understand the purpose and content of the notice.

**(3)** The notice must—

- (a) include a brief statement of the policy objectives sought to be achieved by the proposed subordinate legislation; and
- (b) state where copies of the regulatory impact statement may be obtained or inspected; and
- (c) if a draft of the proposed legislation may be obtained or inspected—state that the draft may be obtained or inspected and where; and
- (d) state that anyone may comment on the proposed legislation; and
- (e) state how and when comments may be made; and
- (f) state how consultation about the proposed legislation will take place.

**(4)** The notice must allow at least 28 days from publication of the notice for the making of comments.

**(5)** A copy of the regulatory impact statement must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

**When is preparation of a regulatory impact statement unnecessary?**

**46.(1)** A regulatory impact statement need not be prepared for proposed subordinate legislation<sup>5</sup> if the proposed legislation only provides for, or to the extent it only provides for, the following—

- (a) a matter that is not of a legislative character, including, for example, a matter of a machinery, administrative, drafting or formal nature;
- (b) a matter that does not operate to the disadvantage of any person (other than a government entity) by—
  - (i) decreasing the person's rights; or
  - (ii) imposing liabilities on the person;
- (c) an amendment of subordinate legislation to take account of current Queensland legislative drafting practice;
- (d) the commencement of an Act or subordinate legislation or a provision of an Act or subordinate legislation;
- (e) an amendment of subordinate legislation that does not fundamentally affect the legislation's application or operation;
- (f) a matter of a savings or transitional character;
- (g) a matter arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State;
- (h) a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, Queensland;
- (i) a matter advance notice of which would enable someone to gain unfair advantage;
- (j) an amendment of a fee, charge or tax consistent with announced government policy;

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<sup>5</sup> Section 42 also specifies particular circumstances when a regulatory impact statement is not required.



- (k) a notice about a code of practice approved under section 34 of the *Workplace Health and Safety Act 1989*.

(2) A regulatory impact statement also need not be prepared for proposed subordinate legislation if, or to the extent, it would be against the public interest because of the nature of the proposed legislation or the circumstances in which it is made.

*Example—*

The subordinate legislation may need to be made urgently for controlling the spread of a disease or dealing with another urgent situation.

## **PART 6—PROCEDURES AFTER MAKING OF SUBORDINATE LEGISLATION**

### *Division 1—Notification and making copies available*

#### **Notification**

**47.(1)** Subordinate legislation must be notified in the gazette.

(2) For subordinate legislation (other than exempt subordinate legislation<sup>6</sup>), subsection (1) may be complied with—

- (a) by publication in the gazette of a notice of the making of subordinate legislation and a place or places where copies are available; or
- (b) by publication in the gazette of the subordinate legislation.

(3) For exempt subordinate legislation, subsection (1) may only be complied with by publication in the gazette of the subordinate legislation.

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<sup>6</sup> Exempt subordinate legislation is subordinate legislation that is not drafted by the office of the Queensland parliamentary counsel—see *Legislative Standards Act 1992*, section 2, definition “exempt subordinate legislation” and section 7(e).

**Copies to be available**

**48.(1)** This section applies only to subordinate legislation notified under section 47(2)(a).

**(2)** On the day the subordinate legislation is notified (the “**notification day**”) or as soon as practicable after the notification day, copies of the subordinate legislation must be available (for purchase or free of charge) at the place, or each of the places, stated in the notice.

**(3)** If, on the notification day, copies of the subordinate legislation are not available at the place, or any of the places, stated in the notice, the relevant Minister must table in the Legislative Assembly within 14 sitting days a statement—

- (a) advising that copies of the legislation were not available; and
- (b) explaining why they were not available.

**(4)** However, failure to comply with subsection (2) or (3) does not affect the validity of the notification or the subordinate legislation.

**(5)** In this section—

“**relevant Minister**” means the Minister responsible for government printing and publishing.

***Division 2—Tabling in Legislative Assembly*****Subordinate legislation must be tabled**

**49.(1)** Subordinate legislation must be tabled in the Legislative Assembly within 14 sitting days after it is notified in the gazette.<sup>7</sup>

**(2)** If subordinate legislation is not tabled under subsection (1), it ceases to have effect.

**(3)** In this section—

“**subordinate legislation**” includes a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

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<sup>7</sup> Under the *Legislative Standards Act 1992*, section 22, explanatory notes must be tabled with significant subordinate legislation.

***Division 3—Disallowance procedures*****Disallowance**

**50.(1)** The Legislative Assembly may pass a resolution disallowing subordinate legislation if notice of a disallowance motion is given by a member within 14 sitting days after the legislation is tabled in the Legislative Assembly.

**(2)** If the disallowance motion is not moved on the day for its consideration, the motion lapses.

**(3)** If the resolution is passed, the subordinate legislation ceases to have effect.

**(4)** Also, if the resolution has not been disposed of at the end of 14 sitting days after notice is given (whether by withdrawal or lapsing of the disallowance motion or in another way), the subordinate legislation ceases to have effect.

**(5)** In this section—

**“subordinate legislation”** includes—

- (a) a provision of subordinate legislation; and
- (b) a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

***Division 4—General*****Limited saving of operation of subordinate legislation that ceases to have effect**

**51.(1)** This section applies if subordinate legislation ceases to have effect because it is not tabled or is disallowed.<sup>8</sup>

**(2)** The subordinate legislation is taken never to have been made or approved and any law or provision of a law repealed or amended by the

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<sup>8</sup> Section 49 deals with tabling of subordinate legislation and section 50 deals with disallowance of subordinate legislation.

legislation is revived.

(3) However, subsection (2) does not affect anything done or suffered under the legislation before it ceased to have effect.

(4) In this section—

“**subordinate legislation**” includes—

- (a) a provision of subordinate legislation; and
- (b) a form required, under an Act or a regulation under this Act, to be tabled in the Legislative Assembly.

### **Other notification, gazettal, tabling or disallowance provisions of no effect**

52. A provision of another Act that provides for, or to the extent that it provides for, the notification, gazettal, tabling or disallowance of a particular type of subordinate legislation is of no effect.

## **PART 7—STAGED AUTOMATIC EXPIRY OF SUBORDINATE LEGISLATION**

### **Purposes of part**

53. The purposes of this part are to—

- (a) reduce substantially the regulatory burden on the people of Queensland without compromising law and order and essential economic, environmental and social objectives; and
- (b) ensure subordinate legislation is relevant to the economic, social and general wellbeing of the people of Queensland; and
- (c) otherwise ensure the part of the Queensland statute book consisting of subordinate legislation is of the highest standard.

**When subordinate legislation expires**

**54.(1)** Subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making unless—

- (a) it is sooner repealed or expires; or
- (b) a regulation is made exempting it from expiry.<sup>9</sup>

**(2)** Subordinate legislation exempted from expiry under a regulation under this Act expires when the exemption ends.

**Notice by parliamentary counsel of impending expiry**

**55.(1)** The parliamentary counsel must notify administering departments and agencies of when the following subordinate legislation will expire under this Act—

- (a) subordinate legislation published in the Queensland Subordinate Legislation Series;
- (b) subordinate legislation prescribed by regulation.

**(2)** The notice must be given at least 6 months before the expiry.

**(3)** Failure to give the notice does not affect the expiry.

**Exemptions from expiry—uniform subordinate legislation**

**56.(1)** A regulation under this Act made before uniform subordinate legislation expires under this part may exempt the legislation from expiry for a stated period of not more than 5 years after the uniform subordinate legislation would otherwise expire.

**(2)** If a regulation is made under subsection (1), the period of exemption stated in the regulation may be extended by regulation made under subsection (1) for further periods of not more than 5 years each.

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<sup>9</sup> Section 56 specifies the subordinate legislation that may be exempted from expiry, and how long the exemption lasts. Also, under section 61, subordinate legislation that would expire before 1 July 1998 will not expire until 1 July 1998.

**Exemptions from expiry—other subordinate legislation**

**56A.(1)** A regulation under this Act made before subordinate legislation, other than uniform subordinate legislation, expires under this part may exempt the legislation from expiry, for a stated period of not more than 1 year after the subordinate legislation would otherwise expire—

- (a) for either of the following reasons—
  - (i) replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends;
  - (ii) the subordinate legislation is not proposed to be replaced by other subordinate legislation made under the Act under which or in relation to which it was made or preserved when it expires at the end of the stated period; or
- (b) for the stated reason that the Act or provision under which or in relation to which the subordinate legislation, or part of the subordinate legislation, is made or preserved is subject to review.

**(2)** If a regulation is made under subsection (1), the period of exemption stated in the regulation may be further extended by regulation (“**extension regulation**”) for further periods of not more than 1 year each.

**(3)** However, an extension regulation—

- (a) must be made before the subordinate legislation expires; and
- (b) may be made only for the stated reason under subsection (1)(b).

**(4)** Within 7 sittings days after the extension regulation is made, the responsible Minister for the subordinate legislation being exempted must table in the Legislative Assembly a report stating—

- (a) how the Act or provision is subject to review; and
- (b) if subsection (6)(a) applies—
  - (i) the extent to which the Act or provision is being reviewed; and
  - (ii) when the Minister expects the review to end.

**(5)** However, failure to comply with subsection (4) does not affect the validity of the extension regulation.

**(6)** For this section, an Act or provision is “**subject to review**” if—

- (a) the Act or provision is being reviewed by any Minister; or
- (b) because of a review of an Act or provision by any Minister, a Bill for an Act to repeal or amend the Act or provision is being drafted or has been introduced into the Legislative Assembly; or
- (c) an Act repealing or amending the Act or provision has been enacted because of a review of an Act or provision by any Minister, but the repeal or amendment has not yet entirely commenced.

(7) In this section—

**“responsible Minister”**, for subordinate legislation, means the Minister responsible for administering the Act or provision under which or in relation to which the subordinate legislation is made or preserved.

### **Part does not apply to some subordinate legislation**

**57.(1)** This part does not apply to subordinate legislation requiring a resolution of the Legislative Assembly before it may be repealed or the status of land to which it applies may be changed.<sup>10</sup>

**(2)** Also, this part does not apply to subordinate legislation mentioned in schedule 2A.

## **PART 8—FORMS**

### **Forms—notification and availability**

**58.(1)** This section applies if under an Act or subordinate legislation (the **“authorising law”**) forms are to be approved or made available by an entity.

**(2)** A form under the authorising law must have a heading stating the

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<sup>10</sup> Under some Acts, for example the *Nature Conservation Act 1992*, a resolution of the Legislative Assembly is necessary before action can be taken to revoke a dedication of land or change its status to a lesser category of protection.

name of the authorising law and briefly indicating the form's purpose.

(3) All forms under the authorising law must be numbered using a system that gives each form a unique number.

*Examples—*

1. Forms may be numbered consecutively starting with the number 1.
2. Forms may be numbered to reflect the provisions of the Act to which they relate.

(4) All versions of a form under the authorising law must be numbered consecutively using a system that gives each version of the form a unique number.

(5) The approval or availability under the authorising law of a form, or a new version of a form, must be notified in the gazette.

(6) Subsection (5) may be complied with—

- (a) by publication in the gazette of a notice of—
  - (i) the approval or availability of the form; and
  - (ii) the form's heading, number and version number; and
  - (iii) a place or places where copies are available; or
- (b) by publication in the gazette of the form.

(7) On the day the approval or availability of the form is notified or as soon as practicable after the day, copies of the form must be available (for purchase or free of charge) at the place, or each of the places, stated in the notice.

(8) Failure to comply with this section does not affect a form's validity.

(9) This section does not apply to a form declared by regulation under this Act to be a form to which this section does not apply.



## PART 9—MISCELLANEOUS

### Regulation-making power

**59.(1)** The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may declare subordinate legislation to be uniform subordinate legislation for this Act if there are reasonable grounds for considering the subordinate legislation to be uniform subordinate legislation.

## PART 10—TRANSITIONAL

### *Division 1—Transitional provision for Act No. 83 of 1994*

### Transitional provisions about expiry of amending subordinate legislation

**62.(1)** If subordinate legislation (the “**expired legislation**”) made before 1 July 1994<sup>11</sup> expires under this Act, any subordinate legislation made before 1 July 1994 (the “**amending legislation**”) that amends the expired legislation, and consists only of provisions of the following types, expires at the same time—

- (a) words of notification;
- (b) a provision about the amending legislation’s citation;
- (c) a provision about the amending legislation’s commencement;
- (d) a provision providing for the amendment or repeal of an Act, subordinate legislation or other instrument (including a provision identifying the amended or repealed instrument);

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<sup>11</sup> Under the *Acts Interpretation Act 1954*, section 22C as applied to subordinate legislation, amending subordinate legislation notified or published after 30 June 1994 is automatically repealed on the day after the last of its provisions takes effect.

*Statutory Instruments Act 1992*

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- (e) a provision declaring subordinate legislation or a provision of subordinate legislation to be a law to which section 20A of the *Acts Interpretation Act 1954* applies;
- (f) a provision that is spent, has expired or otherwise ceased to have effect;
- (g) a savings, transitional or validating provision relating only to—
  - (i) the expired legislation or an instrument amending the expired legislation; or
  - (ii) a time or event that has passed.

(2) If subordinate legislation (the “**unexpired legislation**”) made before 1 July 1994 does not expire under this Act because it has been exempted from expiry, then, while the unexpired legislation is exempted from expiry, any subordinate legislation made before 1 July 1994 that amends the unexpired legislation, and includes provisions not of a type mentioned in subsection (1)(a) to (g), is also exempted from expiry.

***Division 2—Transitional provision for Statutory Instruments  
Amendment Act 1999***

**Transitional provisions for exemptions**

**62A.(1)** Section 56A(6)(b) and (c) apply even though the review mentioned in the provisions started or happened before the commencement of the provisions.

- (2) For the period from the commencement of this section—
- (a) for section 56(1), subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, schedule 5 is taken to have been exempted under a regulation made under section 56(1); and
  - (b) for section 56A(1)(a), subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, section 8 or schedule 3 or 4 is taken to have been exempted under a regulation made under section 56A(1)(a).

## **PART 11—DECLARATORY PROVISION**

### **Exemptions**

**63.(1)** To remove any doubt, it is declared that the expiry of subordinate legislation on 1 July 1998 that was mentioned in expired section 61<sup>12</sup> was an expiry under part 7 for the purposes of the part.

**(2)** Also, it is declared that the *Statutory Instruments Amendment Regulation (No. 1) 1998*<sup>13</sup> is and always was valid and effectual.

**(3)** Without limiting subsection (2), it is declared that the subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, schedules 3 to 5 is, and from 1 July 1998 was, exempt from expiry under the Act for the exemption periods mentioned for the legislation in the regulation.

**(4)** For section 56(4), subordinate legislation mentioned in the *Statutory Instruments Regulation 1992*, schedule 5 is taken to have been exempted from expiry under a regulation made under section 56(3).

**(5)** This part expires on 1 July 2003.

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<sup>12</sup> Section 61 (Transitional provisions about expiry of subordinate legislation) expired 1 July 1998.

<sup>13</sup> 1998 SL No. 119

**SCHEDULE 1****PROVISIONS OF ACTS INTERPRETATION ACT 1954  
THAT APPLY TO STATUTORY INSTRUMENTS**

section 14(1) of this Act

section 7

sections 9 and 9A

section 13A

sections 14–14D

sections 14F–14J

section 15B

section 15D(1)

section 15E

section 17

sections 18–25

sections 27A–29B

part 8 (other than section 36, definitions “enactment” and “passing”)

parts 9–11

sections 48A–51

section 52(3)

**SCHEDULE 1A****STATUTORY RULES THAT ARE NOT  
SUBORDINATE LEGISLATION**

section 9(2)(c)

1. A statutory rule under the *Constitution Act 1867*, section 12 or 27<sup>14</sup>
2. A proclamation under the *Constitution (Office of Governor) Act 1987*, section 9<sup>15</sup>
3. A proclamation under the *Officials in Parliament Act 1896*, section 3<sup>16</sup>
4. A proclamation under the *Senate Elections Act 1960*, section 3<sup>17</sup>

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<sup>14</sup> Section 12 (Place and time of holding Parliament) or section 27 (Constitution of Legislative Assembly)

<sup>15</sup> Section 9 (Administration of Government in absence etc. of Governor)

<sup>16</sup> Section 3 (Governor may declare what Ministers may sit in Legislative Assembly)

<sup>17</sup> Section 3 (Power to fix dates for election and place of nomination)

**SCHEDULE 2**

**PROVISIONS OF ACTS INTERPRETATION ACT 1954  
THAT DO NOT APPLY TO STATUTORY  
INSTRUMENTS**

section 19 of this Act

part 1

sections 10–13

sections 15–15A

section 15C

section 16

section 17A

**SCHEDULE 2A**

**SUBORDINATE LEGISLATION TO WHICH PART 7  
DOES NOT APPLY**

section 57

Drugs Misuse Regulation 1987

Traffic Regulation 1962

Weapons Categories Regulation 1997

**SCHEDULE 3****DICTIONARY**

section 5 of this Act

**“benefits”** includes—

- (a) advantages; and
- (b) direct and indirect economic, environmental and social benefits.

**“costs”** includes—

- (a) burdens and disadvantages; and
- (b) direct and indirect economic, environmental and social costs.

**“exempt subordinate legislation”** has the same meaning as in the *Legislative Standards Act 1992*.

**“government entity”** means—

- (a) the Commonwealth, a State or a local government; or
- (b) an instrumentality or agency of the Commonwealth, a State or a local government.

**“instrument”** see section 6 of this Act.

**“make”** includes prepare.

**“order in council”** see section 10 of this Act.

**“proclamation”** see section 11 of this Act.

**“rules of court”** see section 12 of this Act.

**“State”** includes Territory.

**“statutory instrument”** see section 7 of this Act.

**“statutory rule”** see section 8 of this Act.

**“subordinate legislation”** see section 9 of this Act.



**“uniform subordinate legislation”** means subordinate legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or declared under a regulation under section 59(2) to be uniform subordinate legislation.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 2 July 1999. Future amendments of the Statutory Instruments Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	1 June 1992
2	to Act 68 of 1992	9 December 1992
3	to Act No. 32 of 1993	23 June 1993
4	to Act No. 85 of 1993	23 December 1993
5	to Act No. 15 of 1994	1 July 1994
6	to Act No. 87 of 1994	21 December 1994
6A	to Act No. 58 of 1995	25 June 1996
6B	to Act No. 9 of 1997	23 May 1997
7	to Act No. 9 of 1997	20 June 1997
7A	to Act No. 48 of 1997	21 November 1997
8	to Act No. 48 of 1997	3 July 1998
8A	to Act No. 42 of 1998	4 December 1998
8B	to Act No. 42 of 1998	5 February 1999

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	5
Corrected minor errors	4

## 6 List of legislation

### **Statutory Instruments Act 1992 No. 22**

date of assent 1 June 1992  
commenced on date of assent

as amended by—

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 1**

date of assent 7 December 1992  
commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1**

date of assent 3 June 1993  
commenced on date of assent

**Local Government Act 1993 No. 70 pt 1, s 804 sch**

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 ss 1–3 sch 1**

date of assent 14 December 1993

commenced on date of assent

**Native Title (Queensland) Act 1993 No. 85 pts 1, 13 div 5**

date of assent 17 December 1993

ss 1–2(2) commenced on date of assent

remaining provisions commenced 28 November 1994 (1994 SL No. 408)

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1**

date of assent 10 May 1994

amendment 2 commenced 1 July 1994 (see ss 2, 3 sch 1)

remaining amendments commenced on date of assent

**Statutory Instruments and Legislative Standards Amendment Act 1994 No. 83  
pts 1–2**

date of assent 1 December 1994

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1**

date of assent 1 December 1994

commenced on date of assent

**Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch**

date of assent 22 November 1995

commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 pt  
ss 1–2(1), pt 20**

date of assent 15 May 1997

commenced on date of assent

**Weapons and Other Legislation Amendment Act 1997 No. 48 ss 1, 2(2), pt 4**

date of assent 29 August 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 14 November 1997 (1997 SL No. 381)

rep 31 December 1998 (see s 58)

**Statutory Instruments Amendment Act 1998 No. 42**

date of assent 27 November 1998

s 5 commenced 1 January 1999 (see s 2)

remaining provisions commenced on date of assent

**Statutory Instruments and Another Act Amendment Act 1999 No. 24**

date of assent 4 June 1999  
 commenced on date of assent

**Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1, 2(2), (4), 98 sch 3 pt 2**

date of assent 16 June 1999  
 sch 3 pt 2 commences 1 January 2000 (see s 2(2))  
 remaining provisions commenced on date of assent (see s 2(4))

**7 List of annotations****Dictionary**

s 5 sub 1994 No. 83 s 3

**Act binds the State**

s 5A ins 1994 No. 83 s 3

**Meaning of “statutory instrument”**

s 7 amd 1992 No. 68 s 3 sch 1  
 sub 1993 No. 76 s 3 sch 1  
 amd 1993 No. 70 s 804 sch

**Meaning of “subordinate legislation”**

s 9 amd 1993 No. 70 s 804 sch; 1998 No. 42 s 4

**Modified application—s 14B**

s 15 amd 1993 No. 32 s 3 sch 1

**Regulation may be used instead of another type of subordinate legislation**

s 20A ins 1992 No. 68 s 3 sch 1  
 amd 1993 No. 32 s 3 sch 1

**Correct year in statutory instrument’s short title etc.**

s 20B ins 1993 No. 32 s 3 sch 1

**Continuance etc. of statutory instruments made under amended provisions**

s 20C ins 1993 No. 32 s 3 sch 1

**Statutory instrument to be interpreted not to exceed powers conferred by authorising law**

s 21 amd 1992 No. 68 s 3 sch 1  
 sub 1993 No. 32 s 3 sch 1

**Power to make statutory instrument under Act etc.**

prov hdg amd 1993 No. 76 s 3 sch 1  
 s 22 amd 1993 No. 76 s 3 sch 1

**Statutory instrument may make provision in relation to land by reference to map, plan or register**

s 23A ins 1992 No. 68 s 3 sch 1

**Reasonable cost etc. may be prescribed as fee**

s 30A ins 1993 No. 32 s 3 sch 1

**Statutory instrument may exempt from fee**

s 30B ins 1993 No. 76 s 3 sch 1

**Beneficial retrospective commencement**

s 34 amd 1992 No. 68 s 3 sch 1

**Subdivision 5—Terms and references in statutory instruments**

**sdv hdg** reloc to before s 37 1992 No. 68 s 3 sch 1

**References to certain instruments**

**prov hdg** sub 1994 No. 87 s 3 sch 1

s 38 def “**the Act**” om 1994 No. 87 s 3 sch 1  
def “**Act**” or “**the Act**” ins 1994 No. 87 s 3 sch 1

**Subdivision 6—Miscellaneous**

**div hdg** ins 1994 No. 87 s 3 sch 1

**Automatic repeal of commencement instrument**

s 39A ins 1994 No. 87 s 3 sch 1

**PART 5—GUIDELINES FOR REGULATORY IMPACT STATEMENTS**

**pt hdg** sub 1994 No. 83 s 4

**Division 1—Introductory**

**div hdg** ins 1994 No. 83 s 4

**What Part provides**

s 40 amd 1993 No. 32 s 3 sch 1  
sub 1994 No. 83 s 4

**Effect of failure to comply with guidelines**

s 41 sub 1994 No. 83 s 4

**Other legislation requirements are not affected**

s 42 sub 1994 No. 83 s 4

**Division 2—Regulatory impact statements**

**div hdg** ins 1994 No. 83 s 4

**Preparation of regulatory impact statement**

s 43 amd 1993 No. 76 s 3 sch 1  
sub 1994 No. 83 s 4

**Content of regulatory impact statement**

s 44 sub 1993 No. 76 s 3 sch 1  
amd 1994 No. 15 s 3 sch 1  
sub 1994 No. 83 s 4

**Notification and making regulatory impact statement available**

s 45 sub 1994 No. 83 s 4

**When is preparation of a regulatory impact statement unnecessary?**

s 46 sub 1994 No. 83 s 4  
amd 1995 No. 51 s 4 sch  
(3)–(4) exp 31 December 1996 (see s 46(4))

**PART 6—PROCEDURES AFTER MAKING OF SUBORDINATE LEGISLATION****pt hdg** sub 1994 No. 83 s 4**Division 1—Notification and making copies available****div hdg** ins 1994 No. 83 s 4**Notification****s 47** prev s 47 renum as s 48 1994 No. 15 s 3 sch 1  
pres s 47 ins 1994 No. 15 s 3 sch 1  
sub 1994 No. 83 s 4**PART 7—AMENDMENT OF ACTS INTERPRETATION ACT 1954****pt hdg** prev pt 7 hdg om R1 (see RA s 40)  
pres pt 7 hdg ins 1994 No. 83 s 4**Copies to be available****s 48** prev s 48 om R1 (see RA s 40)  
pres s 48 (prev s 47) renum 1994 No. 15 s 3 sch 1  
sub 1994 No. 83 s 4**Division 2—Tabling in Legislative Assembly****div hdg** ins 1994 No. 83 s 4**PART 8—AMENDMENT OF CRIMINAL CODE****pt hdg** prev pt 8 hdg om R1 (see RA s 40)  
pres pt 8 hdg ins 1994 No. 83 s 4**Subordinate legislation must be tabled****s 49** prev s 49 om R1 (see RA s 40)  
pres s 49 ins 1994 No. 83 s 4**Division 3—Disallowance procedures****div hdg** ins 1994 No. 83 s 4**Disallowance****s 50** prev s 50 om R1 (see RA s 40)  
pres s 50 ins 1994 No. 83 s 4**Division 4—General****div hdg** ins 1994 No. 83 s 4**Limited saving of operation of subordinate legislation that ceases to have effect****s 51** ins 1994 No. 83 s 4**Other notification, gazettal, tabling or disallowance provisions of no effect****s 52** ins 1994 No. 83 s 4**PART 7—STAGED AUTOMATIC EXPIRY OF SUBORDINATE LEGISLATION****pt hdg** prev pt 7 hdg om R1 (see RA s 40)  
pres pt 7 ins 1994 No. 83 s 4**Purposes of Part****s 53** ins 1994 No. 83 s 4

**When subordinate legislation expires**

**s 54** ins 1994 No. 83 s 4  
amd 1998 No. 42 s 5

**Notice by Parliamentary Counsel of impending expiry**

**s 55** ins 1994 No. 83 s 4

**Exemptions from expiry—uniform subordinate legislation**

**s 56** ins 1994 No. 83 s 4  
sub 1998 No. 42 s 6; 1999 No. 24 s 3

**Exemptions from expiry—other subordinate legislation**

**s 56A** ins 1999 No. 24 s 3

**Part does not apply to some subordinate legislation**

**s 57** ins 1994 No. 83 s 4  
amd 1997 No. 48 s 55

**PART 8—FORMS**

**pt hdg** prev pt 8 hdg om R1 (see RA s 40)  
pres pt 8 hdg ins 1994 No. 83 s 4

**Forms—notification and availability**

**s 58** ins 1994 No. 83 s 4

**PART 9—MISCELLANEOUS**

**pt hdg** ins 1994 No. 83 s 4

**Regulation—making power**

**prov hdg** amd 1999 No. 24 s 4(1)  
**s 59** ins 1994 No. 83 s 4  
amd 1999 No. 24 s 4(2)

**PART 10—TRANSITIONAL**

**Pt hdg** ins 1994 No. 83 s 4

**div 1 hdg** ins 199 No. 24 s 5

**Application of Pt 5**

**s 60** ins 1994 No. 83 s 4  
exp 1 July 1995 (see s 60(3))

**Transitional provisions about expiry of subordinate legislation**

**s 61** ins 1994 No. 83 s 4  
amd 1997 No. 9 s 74  
exp 1 July 1998 (see s 61(2))

**Division 1—Transitional provision for Act No. 83 of 1994**

**div hdg** ins 1999 No. 24 s 5

**Transitional provisions about expiry of amending subordinate legislation**

**s 62** ins 1994 No. 83 s 4  
amd 1999 No. 24 s 6

**Division 2—Transitional provision for Statutory Instruments Amendment Act 1999**

**div hdg** ins 1999 No. 24 s 7



**Transitional provisions for exemptions**

s 62A ins 1999 No. 24 s 7

**PART 11—DECLARATORY PROVISION**

pt hdg ins 1998 No. 42 s 7  
exp 1 July 2003 (see s 63(5))

**Exemptions**

s 63 prev s 63 ins 1994 No. 83 s 4  
exp 1 December 1995 (see s 63(2)(a))  
AIA s 20A applies (see s 63(2)(b))  
pres s 63 ins 1998 No. 42 s 7  
exp 1 July 2003 (see s 63(5))

**SCHEDULE 1—PROVISIONS OF ACTS INTERPRETATION ACT 1954 THAT APPLY TO STATUTORY INSTRUMENTS**

amd 1993 No. 32 s 3 sch 1; 1993 No. 85 s 181; 1994 No. 15 s 3 sch 1;  
1995 No. 58 s 4 sch 1

**SCHEDULE 1A—STATUTORY RULES THAT ARE NOT SUBORDINATE LEGISLATION**

ins 1998 No. 42 s 8

**SCHEDULE 2A—SUBORDINATE LEGISLATION TO WHICH PART 7 DOES NOT APPLY**

ins 1997 No. 48 s 56  
amd 1999 No. 24 s 8

**SCHEDULE 3—DICTIONARY**

ins 1994 No. 83 s 5  
def “uniform subordinate legislation” ins 1999 No. 24 s 9

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**The Local Government and Other Legislation Amendment Act 1999 No. 30 reads as follows:—**

### **1. Section 7(3), ‘• a local law policy’—**

*omit, insert—*

‘• a subordinate local law’.