

District Court of Queensland Regulation 2015

Explanatory notes for SL 2015 No. 78

made under the

District Court of Queensland Act 1967
Magistrates Courts Act 1921

General Outline

Short Title

District Court of Queensland Regulation 2015

Authorising law

Sections 6(3)(a), 7(1), and 131(1) of the *District Court of Queensland Act 1967*
Section 57C of the *Magistrates Courts Act 1921*

Policy objectives and the reasons for them

The *District Court of Queensland Act 1967* (DCQA) establishes the District Court of Queensland and provides for various matters regarding the District Court including: the District Court's civil jurisdiction as well as the District Court's criminal jurisdiction and procedure; the appointment and retirement of the District Court's judges; appeals to the District Court where particular criteria are met; and the use of video link facilities for certain proceedings before the District Court.

Section 6(3)(a) of the DCQA provides that a regulation may declare the places at which the District Court may be held, and section 7 of the DCQA provides that a regulation may declare a district for the District Court at a place. Section 131(1) of the DCQA provides that the Governor in Council may make regulations.

Section 57C of the *Magistrates Courts Act 1921* (MCA) provides that the Governor in Council may make rules of court providing for the practice and procedure of a proceeding in a court under the *Domestic and Family Violence Protection Act 2012* (DVPA) or a registry of a court in relation to a proceeding under that Act. Section 57C(2) of the MCA provides that a rule under the section can only be made with the consent of the Chief Magistrate.

The *District Court Regulation 2005* (DCR 2005) prescribes the 32 locations at which the District Court is to be held as well as the districts of the District Court.

The DCR 2005 will automatically expire on 1 September 2015 pursuant to section 54 of the Statutory Instruments Act 1992. In order to support the ongoing operation of the District Court it is necessary that the regulation be remade in substantially the same form before this date.

The principle objective of the *District Court of Queensland Regulation 2015* (DCQR 2015) is to remake the DCR 2005 in substantially the same form prior to its expiry on 1 September 2015. Only limited changes have been made to reflect current drafting practice. The DCQR 2015 also amends the *Domestic and Family Violence Protection Rules 2014* (DFVP Rules) by removing the reference to the DCR 2005 and inserting a reference to section 7 of the DCQA. This amendment to the DFVP Rules removes the requirement to amend the DFVP Rules when the DCQR 2015 expires and/ or is remade. Pursuant to section 57C(2) of the MCA the Chief Magistrate has consented to the amendment to the DFVP Rules.

Achievement of policy objectives

The policy objectives of the DCQR 2015 are achieved by remaking the DCR 2005 in substantially the same form. The objectives can only be achieved by remaking the regulation.

Consistency with policy objectives of authorising law

The DCQR 2015 is consistent with the main objectives of the DCQA in that it prescribes the 32 locations at which the District Court is to be held as well as the particular districts of the District Court.

The amendments to the DFVP Rules in the DCQR 2015 are consistent with the objective of section 57C of the MCA.

Inconsistency with policy objectives of other legislation

The DCQR 2015 is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The DCQR 2015 will ensure that regulations remain in place which are essential to support the ongoing operation of the District Court.

There are no anticipated costs associated with the implementation of the regulation.

Consistency with fundamental legislative principles

The DCQR 2015 does not breach fundamental legislative principles.

Consultation

The Office of Best Practice Regulation was consulted and advised that the DCQR 2015 is excluded from the Regulatory Impact Statement system as it is machinery in nature and relates to the administration of courts.

The then Chief Justice, the President of the Court of Appeal, and the Chief Magistrate supported remaking the DCR 2005 in substantially the same form. The Queensland Law Society advised they would not formally respond given the remake of the DCR 2005 would be would be substantially in the same form. The Bar Association of Queensland and the Chief Judge of the District Court have not provided any comment.