

Partnership Regulation 2015

Explanatory notes for SL 2015 No. 85

made under the

Partnership Act 1891

General Outline

Short title

Partnership Regulation 2015

Authorising law

Section 120 of the *Partnership Act 1891*.

Policy objectives and the reasons for them

The policy objective of the regulation is to ensure the continued capacity to charge fees on a cost recovery basis for registration services provided in relation to limited partnerships and incorporated limited partnerships under the *Partnership Act 1891* (the Act).

The Act sets out the nature, operation, and registration requirements of partnerships in Queensland. A partnership is a relationship between persons carrying on a business in common with a view of profit. The Act deals with partnerships generally, as well as two forms of partnership defined as limited partnerships, and incorporated limited partnerships. Both limited partnerships and incorporated limited partnerships are formed on registration of the partnership by the chief executive.

For a limited partnership, a sub-set of partners are specified as limited partners. Limited partners do not take part in the management of the business, and their liability for the debts and obligations of the business are limited as set out in the registration statement.

Incorporated limited partnerships similarly require designation of particular partners as limited partners as part of the application for registration. In addition, the partnership itself is a body corporate with legal personality separate from that of the partners. To be eligible for registration as an incorporated limited partnership, the partnership must be (or be proposed to become) an appropriate venture capital entity under the *Venture Capital Management Act 2002* (Cwlth) or *Income Tax Assessment Act 1936* (Cwlth).

The Act includes a regulation making power (section 120), that provides for a regulation to prescribe fees payable under the Act. The *Partnership Regulation 2004* (expiring

regulation) sets out a schedule of fees payable for registration services. For limited partnerships, these services include registration, change of details, and cessation or dissolution of the partnership. For incorporated limited partnerships these services include registration, inspection of the register, obtaining copies (or certified copies) of pages from the register, change of particulars, statement of change of particulars, certificate of registration, lodgement of certain documents relevant to eligibility, and cessation of the partnership.

Both limited partnerships and incorporated limited partnerships are business structures still employed by substantial numbers of businesses. By April 2015, there were 282 limited partnerships and 11 incorporated limited partnerships registered with the Office of Fair Trading. These business structures are chosen by their members for their beneficial characteristics relative to partnerships which do not require registration, or other business structures such as a company.

The fees set for partnership registration services in 2004 were intended to cover the cost of providing those services to their beneficiaries. The fees have been subject to annual adjustment by a Government endorsed indexation factor since that time. An estimated total of \$7000 per annum in fees is received by Government for the provision of registration services.

The expiring regulation expires on 1 September 2015 by operation of section 54(1) of the *Statutory Instruments Act 1992*.

Achievement of policy objectives

The policy objective will be achieved by making the *Partnership Regulation 2015* (2015 Regulation) which will repeal and replace the expiring regulation. This will enable the continued charging of fees for the provision of partnership registration services beyond 1 September 2015.

The Act includes a regulation making power (section 120), that provides for a regulation to prescribe fees payable under the Act. The 2015 Regulation will replace the expiring regulation as the regulation prescribing fees payable under the Act. The 2015 Regulation adopts the existing set of registration services for which fees are charged, as well as their corresponding fees.

Consistency with policy objectives of authorising law

The 2015 Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objectives with respect to ensuring the ongoing capacity to charge fees for registration services.

Benefits and costs of implementation

The 2015 Regulation will maintain the status quo, whereby fees are charged for registration services for limited partnerships and incorporated limited partnerships. The 2015 Regulation ensures that the cost of providing partnership registration services will continue to be covered by the estimated \$7000 collected annually in fees from the beneficiaries of those services.

The 2015 Regulation does not impose additional costs on existing or future partnerships. Prospective partnerships requiring registration will continue to be provided registration services on a fee for service basis. In the absence of the 2015 Regulation, the costs of providing registration services would be borne by Government.

Consistency with fundamental legislative principles

The 2015 Regulation is consistent with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted on the application of the Regulatory Impact Statement (RIS) System to the proposal to make the 2015 Regulation. OBPR advised that the proposal is unlikely to result in significant adverse impacts and is therefore excluded from further analysis under the RIS guidelines.

The Department of the Premier and Cabinet and Queensland Treasury have been consulted. No outstanding issues have been identified.