

Queensland Civil and Administrative Tribunal (Fees Reforms) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 233

Made under the

Queensland Civil and Administrative Tribunal Act 2009

General Outline

Short title

Queensland Civil and Administrative Tribunal (Fees Reforms)
Amendment Regulation 2016

Authorising law

Section 242 of the *Queensland Civil and Administrative Tribunal Act 2009*.

Policy objectives and the reasons for them

Sections 6 and 7 of the *Queensland Civil and Administrative Tribunal Regulation 2009* (QCAT Regulation) impose a fee for applications, referrals and applications for proceedings to be reopened at the Queensland Civil and Administrative Tribunal (QCAT). Currently these fees are only charged if an Act conferring jurisdiction on QCAT (an 'enabling Act') is listed in the Schedule to the QCAT Regulation. This means that every time new jurisdiction is conferred on QCAT, the QCAT Regulation has to also be amended before fees can be charged for this new jurisdiction.

The QCAT Regulation is being amended to provide a 'default' fee provision for the existing applications, referrals or re-opening applications fee to apply unless the enabling Act conferring jurisdiction on QCAT is specifically excluded under the QCAT Regulation. The effect of this is that existing fees will apply to a range of matters for which a fee is currently not payable due to inadvertent omissions from the Schedule to the QCAT Regulation and in addition, to any conferral of new jurisdiction on QCAT by a future enabling Act. Existing specific exceptions to the current fee structure are maintained.

In order to discourage unmeritorious appeals and the associated impact on QCAT's appeal jurisdiction, the QCAT Regulation is also being amended to remove the current requirement for QCAT to refund half the fee for unsuccessful applications for leave to appeal and unsuccessful applications to reopen proceedings.

However, to address situations where payment of the full fee would cause a person undue financial hardship, the QCAT Regulation is also being amended to give the principal registrar a discretionary power to allow payment of a reduced appeal fee of \$100 if satisfied these circumstances exist.

Other amendments introduce a fee for counter-applications for an amount equal to that payable for the initial application or referral and photocopy fees for parties requesting copies of proceedings. These fees will assist in covering some of QCAT's costs in relation to providing its services.

Achievement of policy objectives

The policy objectives are achieved by amending the QCAT Regulation. All amendments take effect on 12 December 2016 except for a consequential name change to the Professional Practice and Conduct Committee to reflect the name change to be made by the *Education and Other Legislation Amendment Act 2016* when it commences.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act).

Section 242 of the QCAT Act provides that the Governor in Council may make regulations under the Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with policy objectives of any other legislation.

Benefits and costs of implementation

The benefit of these amendments is that the QCAT Regulation will not have to be amended every time an enabling Act confers new jurisdiction on QCAT.

The amendments removing the requirement to refund half the fee for unsuccessful applications for leave to appeal and unsuccessful applications to reopen proceedings, and instead providing the principal registrar with a discretionary power to require payment of a reduced appeal fee of \$100 if full payment would cause undue financial hardship will discourage unmeritorious appeals and their associated impact on QCAT's appeal jurisdiction. The introduction of certain new fees will assist in covering some of QCAT's costs in relation to providing its services.

Consistency with fundamental legislative principles

The amendment regulation does not conflict with fundamental legislative principles.

Consultation

QCAT has been consulted and supports the proposed amendments.

The Queensland Productivity Commission has been consulted on the requirements under the Regulatory Impact Assessment (RIA) process and has advised that the amendments to the QCAT Regulation are unlikely to result in significant adverse impacts and further consultation is not required under the RIA process.