

Queensland Civil and Administrative Tribunal Amendment Regulation (No. 1) 2017

Explanatory notes for SL 2017 No. 108

Made under the

Queensland Civil and Administrative Tribunal Act 2009

General Outline

Short Title

Queensland Civil and Administrative Tribunal Amendment Regulation (No. 1) 2017

Authorising law

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

Policy objectives and the reasons for them

On 7 December 2016 the *Queensland Civil and Administrative Tribunal (Fees Reforms) Amendment Regulation 2016* amended section 6 of the *Queensland Civil and Administrative Tribunal Regulation 2009* (QCAT Regulation), which imposes a fee for certain applications, referrals or counter-applications to the Queensland Civil and Administrative Tribunal (QCAT).

The QCAT Regulation was amended to provide a 'default fee provision' for the existing applications, referrals or counter-applications. The effect of this amendment was that fees apply to all such applications unless specifically excluded, and also apply when new jurisdiction is conferred on QCAT (removing the need for consequential amendments to the QCAT Regulation when this occurs). Under the section, fees are excluded where applications are made to QCAT by a State related entity or regulatory body or when applications are made under an enabling Act listed in the amended Schedule 1 of the QCAT Regulation.

Prior to these amendments, Schedule 1 was the list of Acts which incurred an application fee in QCAT; and included in the list was the *Tattoo Parlours Act 2013*.

The *Serious and Organised Crime Legislation Amendment Act 2016* (SOCLA) included minor consequential amendments to a number of Acts and Regulations to update references to *Tattoo Parlours Act 2013* to reflect its new name, *Tattoo Industry Act 2013* (Tattoo Industry Act). In March 2017, SOCLA amended schedule 1 of the QCAT

Regulation in this way, and inadvertently inserted the Tattoo Industry Act back into schedule 1.

The consequence of erroneously inserting the Tattoo Industry Act into schedule 1, part 1 is that the fees for the administrative reviews commenced under the Tattoo Industry Act cannot be charged.

Achievement of policy objectives

The policy objectives are achieved by amending the QCAT Regulation to remove the reference to the Tattoo Industry Act from schedule 1, part 1. This will enable fees to be charged under section 6 of the QCAT Regulation in association with matters under the Tattoo Industry Act as intended.

Consistency with policy objectives of authorising law

The *Queensland Civil and Administrative Tribunal Amendment Regulation (No. 1) 2017* (Amendment Regulation) is consistent with the policy objectives of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act). Section 242 (2) of the QCAT Act provides that a regulation may prescribe fees payable under the QCAT 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 the Amendment Regulation is that it corrects the current drafting anomaly and thereby enables QCAT under section 6 of the QCAT Regulation to charge fees for certain applications associated with the Tattoo Industry Act as intended.

There are no anticipated costs associated with implementation of the Amendment Regulation. The Amendment Regulation enabling the charging of fees under the Tattoo Industry Act may assist in covering some of QCAT's costs in relation to providing its services.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles.

Consultation

QCAT has been consulted and supports the proposed amendments.

The Office of Best Practice Regulation was not consulted as the Amendment Regulation is excluded from the Regulatory Impact Analysis on the basis it is a regulatory proposal relating to police powers, general criminal laws, the administration of courts and tribunals and corrective services.