

# Disposal of Unexecuted Warrants Regulation 2018

Explanatory notes for SL 2018 No. 100

Made under the

*Disposal of Unexecuted Warrants Act 1985*

## General Outline

### Short title

*Disposal of Unexecuted Warrants Regulation 2018*

### Authorising law

Sections 5, 6, and 9 of the *Disposal of Unexecuted Warrants Act 1985*.

### Policy objectives and the reasons for them

Justices (including magistrates) and judges of the Supreme and District Court have the power to issue warrants set out in various statutes, including the *Police Powers and Responsibilities Act 2000*, *Bail Act 1980*, *Justices Act 1886*, *Penalties and Sentences Act 1992*, and *Criminal Practice Rules 1999*.

The *Disposal of Unexecuted Warrants Act 1985* (the Act) and the *Disposal of Unexecuted Warrants Regulation 2008* (the Regulation) provide an administrative mechanism to cancel warrants issued by a justice or justices or by a judge of the District or Supreme Court where the warrant has not been executed within 2 years. If necessary, a fresh warrant may be issued following application to the court in the approved form.

Section 9 of the Act provides that the Governor in Council may make regulations under the Act. A number of provisions in the Act also allow for regulations to be made for particular matters.

The Regulation prescribes certain matters for the Act as follows:

- section 3 prescribes what must be provided in the approved form for an application to the clerk of the court for a fresh warrant;
- section 4 prescribes what must be provided in the approved form for an application to a judge for a fresh warrant; and

- section 5 prescribes the places for forwarding a warrant for its cancellation.

Under section 54 of the *Statutory Instruments Act 1992*, the Regulation is due to expire on 1 September 2018.

It is essential for the Regulation to be remade to support the effective operation of certain key provisions in the Act.

## **Achievement of policy objectives**

The objective is achieved by making the *Disposal of Unexecuted Warrants Regulation 2018* which replaces the current Regulation. This will ensure that the prescribed matters under the Act continue to support the effective operation of the Act.

The *Disposal of Unexecuted Warrants Regulation 2018* will provide for the same matters as the current Regulation with minor changes to reflect current drafting practices and a technical amendment to section 4 to update the reference to the Office of the Sheriff as a prescribed place, with the office of the Supreme and District Court registry.

The *Disposal of Unexecuted Warrants Regulation 2018* will commence upon notification.

## **Consistency with policy objectives of authorising law**

The *Disposal of Unexecuted Warrants Regulation 2018* is consistent with the policy objectives of the authorising provisions in the Act.

## **Inconsistency with policy objectives of other legislation**

The *Disposal of Unexecuted Warrants Regulation 2018* is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The benefit of the *Disposal of Unexecuted Warrants Regulation 2018* is that it continues to complement the effective operation of the Act. The Act ensures that warrants that are unable to be executed are cancelled and there is the ability to issue a fresh warrant if necessary.

There are no anticipated implementation costs associated with the *Disposal of Unexecuted Warrants Regulation 2018*.

## **Consistency with fundamental legislative principles**

The *Disposal of Unexecuted Warrants Regulation 2018* is consistent with the fundamental legislative principles.

## Consultation

No public consultation was undertaken due to the specialised nature and limited scope of the Act and Regulation and given the minor and technical nature of the amendments in the *Disposal of Unexecuted Warrants Regulation 2018*.

The Queensland Productivity Commission advised that the objectives for sunset reviews as provided in the Queensland Government Guide to Better Regulation had been satisfactorily met.