

Uniform Civil Procedure (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 214

Made under the

Queensland Civil and Administrative Tribunal Act 2009
Supreme Court of Queensland Act 1991

General Outline

Short title

Uniform Civil Procedure (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018

Authorising law

Section 242 of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act).
Section 92 of the *Supreme Court of Queensland Act 1991* (the SCQ Act).

Policy objectives and the reasons for them

The *Uniform Civil Procedure (Fees) and Other Legislation (Vexatious Litigants) Amendment Regulation 2018* (Amendment Regulation) is intended to ensure that court and tribunal fee waiver provisions do not facilitate vexatious litigants instituting vexatious proceedings.

Under the *Vexatious Proceedings Act 2005* (Vexatious Proceedings Act) a vexatious proceeding includes a proceeding that is an abuse of the process of a court or tribunal; a proceeding instituted to harass or annoy, to cause delay or detriment, or for another wrongful purpose; a proceeding instituted or pursued without reasonable ground; and a proceeding conducted in a way so as to harass or annoy, cause delay or detriment, or achieve another wrongful purpose.

Achievement of policy objectives

The Amendment Regulation precludes vexatious litigants applying for fee waivers for a proceeding, or an application for leave to institute a proceeding, that is subject to a vexatious proceedings order under the Vexatious Proceedings Act.

However, the Amendment Regulation will enable vexatious litigants, who would otherwise be eligible for a fee waiver, to apply for a refund of the fees they have paid if an application for leave under section 11 of the Vexatious Proceedings Act is successful.

The Amendment Regulation also contains some minor consequential amendments.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the SCQ Act and the QCAT Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

As a result of the amendments, the small number of vexatious litigants, will need to pay full fees for a proceeding, noting the ability to make an application and obtain a refund of fees paid if an application for leave is successful.

If the amendments prove a disincentive to vexatious litigants instituting vexatious court proceedings, it will be of benefit to courts administration.

Consistency with fundamental legislative principles

The amendments will affect the rights of a small group in the community, that is, vexatious litigants, by preventing them from applying for fee waivers. The amendments may be considered a breach of fundamental legislative principles, affecting the rights and liberties of individuals, but are justified on the basis that only a very limited number of litigants are affected by the amendments; the litigant has been declared as being vexatious through a designated court process; and will deter a vexatious litigant pursuing vexatious proceedings; freeing up court and registry time and resources and saving respondents from incurring unnecessary costs.

Consultation

The Rules Committee and President of the Queensland Civil and Administrative Tribunal are supportive of the Amendment Regulation.

The Department of Justice and Attorney-General has self-assessed the Amendment Regulation to be excluded from further regulatory impact analysis under exclusion category (j) of the *Queensland Government Guide to Better Regulation* as it is a regulatory proposal relating to the administration of courts and tribunals.