

Justice and Other Legislation Amendment Act 2021

Explanatory notes for SL 2022 No. 21

Made under the

Justice and Other Legislation Amendment Act 2021

General Outline

Short Title

Proclamation commencing remaining provisions of the *Justice and Other Legislation Amendment Act 2021*.

Authorising law

Section 2 of the *Justice and Other Legislation Amendment Act 2021*.

Policy objectives and the reasons for them

The *Justice and Other Legislation Amendment Act 2021* (Amendment Act) was passed by the Legislative Assembly on 18 November 2021 and received Royal Assent on 24 November 2021. Section 2 provides that parts 3, 4, 5, 6, 7, 8, 9, 10 and schedule 1 commence on a day to be fixed by proclamation. All other provisions commenced on assent.

On 27 January 2022, by Proclamation No. 1 – Justice and Other Legislation Amendment Act 2021 (commence certain provisions), Her Excellency the Governor proclaimed part 5 (Amendment of Liquor Act 1992) of the Amendment Act to commence on 31 January 2022.

The objective of the Proclamation is to fix 30 April 2022 as the commencement date for all remaining provisions of the Amendment Act that have not yet commenced, being Parts 3-4, Parts 6-8 and Part 10 and Schedule 1.

Parts 3 and 4 of the Amendment Act permanently implement particular parts of the *Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020* (DFV Regulation) (DFV Reforms) that are due to expire on 30 April 2022.

Parts 6-8 of the Amendment Act permanent implement particular parts of the *Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020* (DO Regulation) (Documents Reforms) that are due to expire on 30 April 2022.

Part 9 of the Amendment Act repeals the DFV Regulation and the DO Regulation.

Part 10 and Schedule 1 of the Amendment Act contain minor and consequential amendments.

Achievement of policy objectives

The policy objective is achieved by fixing 30 April 2021 for the commencement of the provisions of the Act that are not in force.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Proclamation will have the effect of repealing the DFV Regulation and the DO Regulation at the start of the day on 30 April 2022, to be replaced by the Documents Reforms and the DFV Reforms.

The Documents Reforms will:

- modernise the way in which important legal documents are created, in line with contemporary business practice, and improve accessibility;
- embrace digital technology to provide new and alternative pathways for document execution, in addition to the ordinary physical approach, which will allow individuals to choose their preferred method of document execution;
- make it easier for individuals to make and sign important legal documents without the need to be physically present; and
- improve access to justice, reduce transaction costs, and increase the efficiency of conducting private and commercial transactions.

The DFV Reforms will:

- increase the accessibility of the court for applicants in urgent situations by providing the option for private applications for protection orders and variations of Domestic Violence Orders (DVOs) to be verified between an applicant and a Magistrate, as an alternative to verifying the application by statutory declaration, for the purpose of the court making a temporary protection order before the respondent is served the application;
- clarify the accessibility to Domestic and Family Violence (DFV) proceedings, by giving Magistrates discretion to conduct all or part of proceedings by audio visual link or audio link; and

- provide the ability for greater flexibility and accessibility to parties by extending the option of electronic filing of documents to private parties in DFV proceedings, with the approval of the Principal Registrar of the court.

The costs of implementation of the reforms will be met from within existing resources.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

Extensive consultation was undertaken with key stakeholders during the development of the Amendment Act, including the length of time between passage of the Bill and commencement. Stakeholders broadly indicated a preference for at least 30—60 days between passage and commencement. No consultation on the Proclamation was undertaken given its machinery nature.

A self-assessment by the Department of Justice and Attorney-General has determined that a Regulatory Impact Statement is not required as the regulatory proposal is excluded under category (g) of the *Queensland Government Guide to Better Regulation* – regulatory proposals that are of a machinery nature.