

Public Trustee (Advisory and Monitoring Board) Amendment Act 2022

Explanatory notes for SL 2022 No. 186

Made under the

Public Trustee (Advisory and Monitoring Board) Amendment Act 2022

General Outline

Short Title

Proclamation to fix 9 December 2022 for the commencement of the *Public Trustee (Advisory and Monitoring Board) Amendment Act 2022*.

Authorising law

Section 1A of the *Public Trustee (Advisory and Monitoring Board) Amendment Act 2022*.

Policy objectives and the reasons for them

The objective of the Proclamation is to fix 9 December 2022 for the commencement of the *Public Trustee (Advisory and Monitoring Board) Amendment Act 2022* (Amendment Act). The Amendment Act was passed by the Legislative Assembly on 11 May 2022 and received Royal Assent on 20 May 2022.

The Amendment Act amends the *Public Trustee Act 1978* (PT Act) to establish the Public Trustee Advisory and Monitoring Board (the Board). The establishment of the Board would implement recommendation 30 of the Public Advocate's report, *Preserving the financial futures of vulnerable Queenslanders: A Review of the Public Trustee's fees, charges and practices* (the OPA Report) tabled in the Legislative Assembly on 10 March 2021.

The OPA Report makes 32 recommendations relating to the Public Trustee's fees and charges regime, transparency, sustainability and provision of legal services.

Recommendation 30 of the OPA Report is that Government consider additional oversight and/or reporting mechanisms to improve the Public Trustee's performance, transparency and public accountability. The Board will provide additional oversight over the Public Trustee to enhance transparency and public accountability.

Achievement of policy objectives

The Proclamation will fix 9 December 2022 for the commencement of the Amendment Act.

The Amendment Act establishes the Board and sets out the Board's functions and powers, membership, provisions for the operation of meetings, and reporting and confidentiality requirements.

Under the Amendment Act, the Board will have the following functions:

- to monitor and review the performance of the Public Trustee's functions;
- to monitor complaints received by the Public Trustee about the performance of the Public Trustee's functions;
- to monitor and review the Public Trustee's processes for managing these complaints;
- to give written advice or make written recommendations to the Minister about:
 - changes to legislation, or improvements to the policies, practices, resources, services or training of the Public Trustee, to ensure the Public Trustee can effectively perform its functions; and
 - improvements or enhancements to the performance of the Public Trustee's functions, to promote the interests of the Public Trustee's clients, particularly clients with impaired decision-making capacity;
- if asked by the Minister, to give written advice or make written recommendations to the Minister about matters relating to the performance of the Public Trustee's functions;
- to give advice or make recommendations to the Public Trustee about matters relating to the performance of the Public Trustee's functions; and
- another function given to the Board under the PT Act.

The Board will consist of a combination of at least five but no more than six Appointed Board Members and up to five Permanent Board Members. Appointed Board Members will be individuals appointed by the Minister with relevant fiscal, seniors and disability, and legal knowledge, qualifications and skills and lived experience of impaired capacity either for themselves or others. The Chairperson will be an Appointed Board Member. At least one Appointed Board Member must be an Aboriginal person or Torres Strait Islander. Permanent Board Members will be ex-officio senior public servants from the Department of Justice and Attorney-General (DJAG), Queensland Treasury and the Department of Seniors, Disability Service and Aboriginal and Torres Strait Islander Partnerships.

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 commencing all provisions of the Amendment Act, which establishes the Board. The Board will provide additional oversight over the Public Trustee to enhance transparency and public accountability.

The cost of the Board will be met from within existing resources.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

No consultation has been conducted in relation to the making of the proclamation given its machinery nature.

A self-assessment undertaken by the Department of Justice and Attorney-General under the *Queensland Government Guide to Better Regulation* determined that further regulatory impact analysis is not required as the Proclamation falls within the agency-assessed exclusion category (g) 'regulatory proposals that are of a machinery nature'. Accordingly, the Office of Best Practice Regulation was not consulted in relation to the Proclamation.