

Magistrates Regulation 2023

Explanatory notes for SL 2023 No. 73

Made under the

Magistrates Act 1991

General Outline

Short Title

Magistrates Regulation 2023

Authorising law

Section 52 of the *Magistrates Act 1991*

Policy objectives and the reasons for them

The *Magistrates Act 1991* (the Act) provides for the offices of magistrates and judicial registrars.

Section 9(1) of the Act provides that a person appointed as a magistrate or acting magistrate must not exercise any powers or functions of a magistrate unless they have taken and subscribed the oath prescribed by regulation (or if not prescribed by regulation, by another Act) or made and subscribed an affirmation in the form of that oath.

Section 53F(1) of the Act provides that a person appointed as a judicial registrar or acting judicial registrar must not exercise any powers or functions of a judicial registrar unless they have taken the oath, or made the affirmation, prescribed by regulation.

Under the *Statutory Instruments Act 1992*, the *Magistrates Regulation 2013* (the expiring regulation) is due to expire on 1 September 2023. The *Magistrates Regulation 2023* (the Regulation) replaces and repeals the expiring regulation.

Achievement of policy objectives

The *Magistrates Regulation 2023* sets out the oaths and affirmations for magistrates, acting magistrates, judicial registrars and acting judicial registrars and repeals the *Magistrates Regulation 2013*.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Regulation replaces the expiring regulation to ensure that there is a prescribed oath and affirmation of office for magistrates, acting magistrates, judicial registrars and acting judicial registrars. There are no costs associated with the implementation of this Regulation.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

The Queensland Government Guide to Better Regulation requires an assessment of the continuing need for subordinate legislation, as well as its effectiveness and efficiency (which is referred to as a sunset review).

The Office of Best Practice Regulation (OBPR) noted that the Regulation is necessary for the operation of the Queensland court system and has advised that no further regulatory analysis is required under the *Queensland Government Guide to Better Regulation*. No changes were made to the Regulation as a consequence of the sunset review.

The Chief Magistrate was consulted and raised no concerns with the Regulation.

Because of the nature of the Regulation (to set out oaths and affirmations of office, which were not materially altered) consultation on this Regulation was limited to the Chief Magistrate and OBPR.