

Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 125

made under the

Statutory Instruments Act 1992

General Outline

Short title

Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023

Authorising law

Sections 56, 56A and 59 of the *Statutory Instruments Act 1992*

Policy objectives and the reasons for them

Part 7 of the *Statutory Instruments Act 1992* (the Act) is designed to require regular review of Queensland's subordinate legislation by causing most subordinate legislation to automatically expire on 1 September first occurring after the tenth anniversary of the day of its making.

Section 56 of the Act allows a regulation to be made to exempt uniform subordinate legislation from expiry for a stated period of not more than five years after the uniform subordinate legislation would otherwise expire.

Section 56A(1) of the Act allows a regulation to be made to exempt subordinate legislation from expiry for one year on the following grounds:

- replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends [section 56A(1)(a)(i)];
- the subordinate legislation is not proposed to be replaced or preserved when it expires at the end of the stated period [section 56A(1)(a)(ii)]; or
- the Act or provision under which or in relation to which the subordinate legislation or part of the subordinate legislation is made or preserved is subject to review [section 56A(1)(b)].

Subordinate legislation previously extended under section 56A(1)(b) may also be further extended for periods of not more than one year under section 56A(2) of the Act.

The *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023* (the Regulation) ensures that subordinate legislation may be exempted from expiry or further exempted from expiry where appropriate grounds exist under sections 56 and 56A of the Act.

Achievement of policy objectives

The policy objective to encourage regular review of Queensland's subordinate legislation is achieved by requesting Government departments to assess the relevancy of expiring subordinate legislation and consider the necessity of reviewing the relevant parent Act. As a result of this process, the Regulation will amend the *Statutory Instruments Regulation 2022* to exempt:

- two items of uniform subordinate legislation for a period of five years;
- one item of uniform subordinate legislation for a further period of five years;
- four items of subordinate legislation for a period of one year, as replacement subordinate legislation is being drafted and is proposed to be made before the stated period ends;
- six items of subordinate legislation for a period of one year on the grounds that the Act or provision under which or in relation to which the subordinate legislation or part of the subordinate legislation is made or preserved is subject to review; and
- 45 items of subordinate legislation for a further period of one year on the grounds that the Act or provision under which or in relation to which the subordinate legislation or part of the subordinate legislation is made or preserved is subject to review.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objects of the Act as it supports regular review of Queensland subordinate legislation and encourages Government departments to proactively remake, replace or allow to lapse expiring subordinate legislation.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation, including the *Human Rights Act 2019*.

Benefits and costs of implementation

The Regulation provides a benefit as it encourages Government departments to regularly review the relevancy of subordinate legislation and take action to remake, replace or allow to lapse expiring subordinate legislation in a timely manner.

There are no costs to Government in implementing the Regulation as it is administrative in nature.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles as set out in the *Legislative Standards Act 1992*. The Regulation does not breach fundamental legislative principles as it is administrative in nature, ensuring the stock of subordinate legislation remains current and relevant.

Consultation

All Government departments have been consulted in relation to the subordinate legislation listed in Schedules 2 and 3 of the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2023*.

As this was an administrative amendment, no external consultation was required. Consultation will occur, as necessary, when individual regulations are remade.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the Regulation as it was assessed that the amendments fall within agency-assessed exclusion categories (category (g) – regulatory proposals that are of a machinery nature).

Notes on Provisions

Clause 1 – Short Title

Clause 1 sets out the short title by which the Regulation will be known.

Clause 2 – Commencement

Clause 2 states that the Regulation commences on 31 August 2023 at the end of the day.

Clause 3 – Regulation amended

Clause 3 states that the Regulation amends the *Statutory Instruments Regulation 2022*.

Clause 4 – Amendment of s 5 (Exemptions from expiry–Act, s 56A)

Clause 4 amends section 5(1) of the *Statutory Instruments Regulation 2022* to omit 31 August 2023 and reflect the new proposed expiry date of 31 August 2024.

Clause 5 – Amendment of sch 2 (Exemptions from expiry for uniform subordinate legislation)

Clause 5 amends Schedule 2, Part 1 of the *Statutory Instruments Regulation 2022* to list the statutory instrument *Prisoners (Interstate Transfer Regulation 1993* and omit 31 August 2023 and reflect the new proposed expiry date of 31 August 2028.

Clause 5 amends Schedule 2, Part 2 of the *Statutory Instruments Regulation 2022* to list the statutory instruments that will now expire on 31 August 2028.

Clause 6 – Replacement of sch 3 (Exemptions from expiry for other subordinate legislation)

Clause 6 replaces Schedule 3 of the *Statutory Instruments Regulation 2022* to omit and insert the list of statutory instruments that are subject to review, or further exemption for review, or subject to being replaced and will now expire on 31 August 2024.