

Recording of Evidence Amendment Regulation (No. 2) 2023

Explanatory notes for SL 2023 No. 155

Made under the

Recording of Evidence Act 1962

General Outline

Short title

Recording of Evidence Amendment Regulation (No. 2) 2023

Authorising law

Sections 6 and 13 of the *Recording of Evidence Act 1962*

Policy objectives and the reasons for them

The *Recording of Evidence Act 1962* (the Recording of Evidence Act) requires the recording of all relevant matters in legal proceedings heard in a Queensland court or tribunal. The *Recording of Evidence Regulation 2018* sets out the fee structure for copies of audio recordings and transcriptions of legal proceedings.

The *Health and Other Legislation Amendment Act 2023* amended the Recording of Evidence Act to establish a statutory framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions of the proceedings that is more appropriately suited to the operational requirements of smaller tribunals.

Section 6 of the Recording of Evidence Act provides that the new statutory framework established by the section applies to a legal proceeding before a tribunal prescribed by regulation. Section 6 also provides that the judicial person prescribed by regulation must ensure arrangements are in place for providing copies of records or transcriptions to judicial persons at no cost and to other persons at the cost, if any, prescribed by regulation.

The policy objective of the *Recording of Evidence Amendment Regulation (No. 2) 2023* (the Amendment Regulation) is to prescribe the Mental Health Review Tribunal as a tribunal for the new statutory framework and the President of the Mental Health Review Tribunal as a judicial person for the new framework. The Amendment Regulation also provides that no fees apply to the provision of copies of records and transcriptions of proceedings before the Mental Health Review Tribunal.

Achievement of policy objectives

The Amendment Regulation achieves the policy objective by:

- prescribing the Mental Health Review Tribunal as a prescribed tribunal for section 6(1) of the Recording of Evidence Act;
- prescribing the President of the Mental Health Review Tribunal as a prescribed judicial officer for the Mental Health Review Tribunal for section 6(2) of the Recording of Evidence Act; and
- providing that that part 2 division 1 of the Recording of Evidence Regulation, which sets out the fee structure for copies of audio recordings and transcriptions of legal proceedings, does not apply to the Mental Health Review Tribunal.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Recording of Evidence 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

The Amendment Regulation supports the introduction of the new statutory framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions of the proceedings of these tribunals. The Amendment Regulation provides that the Mental Health Review Tribunal is a prescribed tribunal for the new statutory framework and that the President of the Mental Health Review Tribunal is a prescribed judicial person.

The Amendment Regulation also provides that no fees apply to the provision of copies of records and transcriptions of proceedings before the Mental Health Review Tribunal.

Administrative and operational costs associated with prescribing the Mental Health Review Tribunal as a prescribed tribunal and providing copies of records and transcriptions of proceedings before the Mental Health Review Tribunal will be funded from within existing resources.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Consultation on a draft of the Amendment Regulation was undertaken with the Mental Health Review Tribunal.

An Impact Analysis Statement has been completed that identifies that the Amendment Regulation is not subject to regulatory impact assessment requirements under the Queensland Government Better Regulation Policy as it is a regulatory proposal that relates to the administration of courts and tribunals.