

Attorney-General and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 22

Made under the

Attorney-General Act 1999
Trust Accounts Act 1973

General Outline

Short Title

Attorney-General and Other Legislation Amendment Regulation 2024

Authorising law

Section 13 of the *Attorney-General Act 1999*
Section 41 of the *Trust Accounts Act 1973*

Policy objectives and the reasons for them

Amendments to the Attorney-General Regulation 2021

The *Justice and Other Legislation Amendment Act 2023* (Amendment Act), which received assent on 20 September 2023, amends section 7(1)(g) of the *Attorney-General Act 1999* (Act) to provide that the Attorney-General may grant fiats to enable entities to continue, as well as start, proceedings in the Attorney-General's name to enforce charitable and public trusts and enforce and protect public rights.

Under section 9A of the Act, an application for the Attorney-General's fiat under section 7(1)(g) must be made to the Attorney-General in the way prescribed under a regulation. The *Attorney-General Regulation 2021* prescribes the information and documents which must accompany an application for the Attorney-General's fiat under section 9A of the Act.

Amendments are required to the *Attorney-General Regulation 2021* to prescribe the requirements for an application for the Attorney-General's fiat to apply to proceedings that have already started.

Amendments to the Trust Accounts Regulation 1999

The *Trust Accounts Act 1973* (TA Act) regulates the operation of trust accounts by public accountants and funeral benefit businesses. Under the TA Act, trustees must: make an annual declaration of moneys held in a trust account to the supervising entity; appoint an auditor for the trust account; submit an annual audit report; and lodge financial security.

Part 32 of the Amendment Act amends the TA Act to remove public accountants from the scope of the Act, limiting its application to funeral benefit businesses.

Consequential amendments to the *Trust Accounts Regulation 1999* are required to complement the amendments made by the Amendment Act.

Achievement of policy objectives

Amendments to the *Attorney-General Regulation 2021*

The *Attorney-General and Other Legislation Amendment Regulation 2024* (Amendment Regulation) amends the *Attorney-General Regulation 2021* to prescribe the requirements for an application for the Attorney-General's fiat to apply to proceedings that have already started.

Amendments to the *Trust Accounts Regulation 1999*

The Amendment Regulation amends the *Trust Accounts Regulation 1999* to:

- omit sections no longer required following the removal of public accountants from the scope of the TA Act and the earlier removal of solicitors in 2007; and
- facilitate the continued application of sections relating to security lodged under the TA Act during the transitional period.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising law.

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 benefits applicants for the Attorney-General's fiat by allowing the prescribed requirements for an application to apply in relation to both starting and continuing proceedings and removes a regulatory burden on public accountants who are self-regulated with oversight by professional accounting bodies.

There are no additional costs associated with the implementation of the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Consultation was not undertaken on the Amendment Regulation as the amendments are minor and consequential in nature.