

Oaths Amendment Regulation 2024

Explanatory notes for SL 2024 No. 214

made under the

Oaths Act 1867

General Outline

Short title

Oaths Amendment Regulation 2024

Authorising law

Section 44 of the *Oaths Act 1867*.

Policy objectives and the reasons for them

The *Oaths Amendment Regulation 2024* (Amendment Regulation) amends the *Oaths Regulation 2022* (Oaths Regulation), to allow senior police officers, who are not directly involved in the matter to which the contents of the affidavit or declaration relates, to witness any affidavit or statutory declaration made by another police officer in the course of duty.

The *Oaths Act 1867* (Oaths Act) provides for the making of affidavits and statutory declarations and for the making of oaths and affirmations.

The policy objective of the Amendment Regulation is to increase efficiencies for the Queensland Police Service (QPS), by streamlining the process for witnessing affidavits and declarations made by police officers in the course of duty.

The QPS faces increasing demands to respond to and investigate crime, placing significant pressure on frontline police officers. The QPS has identified that substantial officer time is spent engaging a Justice of the Peace (JP) or Commissioner of Declarations (CDec) to witness affidavit and statutory declarations. This time is increased when having to locate a JP or CDec outside of regular business hours.

As part of police efficiencies reform in 2022, a framework was created in the Oaths Regulation to enable particular affidavits to be taken before a police officer of the rank of sergeant or above, a watchhouse manager or an officer-in-charge of a police station, police establishment or watchhouse. This covers bail affidavits, affidavits of service and urgent applications for prescribed authorities. The efficiency replaced the requirement for a police officer to locate and attend before a JP or CDec to have these documents witnessed.

Achievement of policy objectives

To further increase efficiencies, the Amendment Regulation expands the scheme to allow a senior police officer to:

- witness any affidavit made by a police officer in the course of duty (including through the use of electronic signatures and AV links); and
- witness any declaration made by a police officer in the course of duty (including through the use of electronic signatures and AV links).

The Amendment Regulation requires the senior police officer witnessing the affidavit or declaration to not be involved in the matters to which the content of affidavit or declaration relates (the deposed or declared facts). Senior police officers be required to state their rank or position on the document. The Amendment Regulation also provides that witnessing of these documents must occur in person unless not reasonably practicable to do so.

The Amendment Regulation will increase efficiencies by streamlining processes for police officers who are preparing documents in the course of duty, by reducing the need to locate JPs and CDecs, particularly outside regular business hours.

Offences in the Criminal Code will continue to apply, including:

- Section 193 (False verified statements) which provides a maximum penalty of 7 years imprisonment;
- section 194 (False declarations) which provides a maximum penalty of 3 years imprisonment; and
- section 123 (Perjury) which provides a maximum penalty of 14 years.

Consistency with policy objectives of authorising law

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

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objective.

Benefits and costs of implementation

The Amendment Regulation will provide efficiencies for the QPS. For example, the QPS will benefit from reduced travel time and costs, particularly in remote areas, to locate a JP or CDec to witness affidavits and statutory declarations made by police officers in the course of duty. This will increase the availability of police officers to respond to and investigate crime.

The cost of implementing the Amendment Regulation will be met within existing budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. The proposal allows the delegation of administrative power only in appropriate cases and to appropriate persons providing for safeguards to ensure there is no bias. The amendment is consistent with the objectives of, and is within scope of, the regulation-making power in section 44(2) of the Oaths Act.

Consultation

The QPS has been consulted on the Amendment Regulation given that the proposal relates to police powers and operations. Between February and April 2024, the QPS conducted two rounds of consultation with Heads of Jurisdiction and key legal stakeholders (including the Queensland Law Society, Queensland Bar Association, Legal Aid Queensland and community legal centres) on a range of efficiency-related reforms, including the reforms proposed by the Amendment Regulation.

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 police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services.