

Mutual Recognition (Queensland) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 244

made under the

Mutual Recognition (Queensland) Act 1992

General Outline

Short title

Mutual Recognition (Queensland) Amendment Regulation 2024

Authorising law

Sections 5 and 6 of the *Mutual Recognition (Queensland) Act 1992*
Section 20A of the *Statutory Instruments Act 1992*

Policy objectives and the reasons for them

The *Mutual Recognition (Queensland) Amendment Regulation 2024* (regulation) amends the *Mutual Recognition (Queensland) Regulation 2009*. The objective of the regulation is to approve the terms of amendments to the *Mutual Recognition Act 1992* (Cth) (Commonwealth Act), as required under sections 5(1)(b) and 6 of the *Mutual Recognition (Queensland) Act 1992* (Queensland Act).

The amendments to the Commonwealth Act will replace references in that Act to the Administrative Appeals Tribunal (AAT) with references to the Administrative Review Tribunal (ART). The ART will perform substantially the same function as the AAT.

Section 5(1)(b) of the Queensland Act referred legislative power to the Commonwealth Parliament to make amendments to the Commonwealth Act "but only in terms which are approved by the designated person for each of the then participating jurisdictions". Section 5(3) provides that the Governor is the designated person for Queensland.

Section 6 of the Queensland Act provides that "[f]or the purposes of section 5(1)(b), the Governor may, by proclamation, approve the terms of amendments of the Commonwealth Act". Section 20A of the *Statutory Instruments Act 1992* provides that if an Act authorises or requires the Governor to make subordinate legislation for a matter other than by regulation, the Governor in Council may make provision for the matter by regulation made under that Act.

The *Mutual Recognition (Queensland) Regulation 2009* was made to approve amendments to the Commonwealth Act to permanently exempt certain legislation of South Australia and was amended in 2013, 2017, 2018, 2020 and 2023 to approve further amendments to the Commonwealth Act. It is appropriate that the approval of the amendments to the Commonwealth Act to replace references to the AAT with references to the ART should also be included in the *Mutual Recognition (Queensland) Regulation 2009*.

Achievement of policy objectives

The regulation will approve the terms of the amendments to the Commonwealth Act, as required under section 5(1)(b) of the Queensland Act.

Consistency with policy objectives of authorising law

The regulation is consistent with the objectives of the Queensland Act. The regulation enables the enactment of amendments to the Commonwealth Act by the Governor-General, therefore maintaining the uniformity and integrity of the mutual recognition arrangements under that 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

There are no costs associated with the implementation of the regulation. The regulation is approving amendments to the Commonwealth Act to replace references to the AAT with references to the ART which will perform the same role.

Consistency with fundamental legislative principles

The regulation is consistent with fundamental legislative principles.

Consultation

The Australian Government conducted broad consultation on the proposal to abolish the AAT and replace it with a new federal administrative review body, the ART. The consultation included release of an issues paper from April to May 2023 and meetings with selected individuals and organisations.