



Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Justice and Attorney-General
Name of the proposal	Amendments to the <i>Magistrates Court Act 1991</i> , the <i>District Court of Queensland Act 1967</i> and the <i>Queensland Civil and Administrative Tribunal Act 2009</i> to provide judicial immunity
Submission type	Summary IAS
Title of related legislative or regulatory instrument	Respect at Work and Other Matters Amendment Bill 2024
Date of issue	June 2024

What is the nature, size and scope of the problem? What are the objectives of government action?
<p>As a result of the recent decision in <i>Stradford (a pseudonym) v Judge Vasta</i> [2023] FCA 1020, there is now uncertainty of the common law position in relation to how judicial immunity applies to inferior court judges for civil liability.</p> <p>There are strong policy reasons for ensuring inferior court judges, and equivalent court and tribunal officers, whether acting judicially or administratively, are protected by immunity from civil liability, are not subject to vexatious civil litigation, and to ensure an independent judiciary and independent courts and tribunals that is consistent with the right to a fair hearing. Accordingly, there needs to be certainty for Magistrates and District Court Judges, and other similar court or tribunal officers, whether acting judicially or in an administrative capacity, as to their immunity from civil liability.</p>
What options were considered?
<p>Options which were considered included:</p> <ul style="list-style-type: none"> maintaining the status quo, which, as a result of the recent decision, creates uncertainty as to the scope of the common law judicial immunity which applies to inferior court judges; and adopting legislative judicial immunity for magistrates and District Court Judges, and other court and tribunal officers, whether acting judicially or in an administrative capacity, as well as considering whether the existing legislative immunity provisions which apply to Tribunal officers under the <i>Queensland Civil and Administrative Tribunal Act 2009</i> and other judicial officers equivalent to District Court Judges (for example, under see section 25 of the <i>Childrens Court Act 1992</i> or section 44 of the <i>Planning and Environment Court Act 2016</i>) were adequate or needed to be clarified.
What are the impacts?
<p>Implementing the regulatory proposal will prevent parties from pursuing civil liability remedies against inferior court judicial officers and other similar court and tribunal officers. However, this will also ensure that the independence of the judiciary, courts and tribunals are protected so as to protect all parties' rights to a fair hearing. This is an appropriate balancing of interests.</p>



There are existing judicial oversight processes which provide for removal of judges, certain judicial officers and certain tribunal officers in appropriate cases through the *Constitution of Queensland 2001*, the *Magistrates Act 1991*, and the *Queensland Civil and Administrative Tribunal 2009*. Accordingly, imposing potential civil liability on inferior court judges is not necessary to regulate the conduct of inferior court judicial officers.

Who was consulted?

The heads of jurisdiction were consulted.

What is the recommended option and why?

The recommended option is amendments to the *Magistrates Court Act 1991*, the *District Court of Queensland Act 1967* and the *Queensland Civil and Administrative Tribunal Act 2009* to ensure that adequate immunity from civil liability is provided to court officers and tribunal officers, whether acting judicially or administratively.

Signed

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 Director-General
 Department of Justice and Attorney-General

Date: 12/06/2024

Yvette D'Ath MP
 Attorney-General and Minister for Justice and
 Minister for the Prevention of Domestic and
 Family Violence

Date: 13/06/2024