

HIGH COURT OF AUSTRALIA REGULATIONS 2019

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

in compliance with section 40 of the *High Court of Australia Act 1979*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *High Court of Australia Act 1979* (the Act) makes provisions regarding the constitution, and registry and administrative arrangements of the High Court of Australia.

Section 49 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 40 of the *High Court of Australia Act 1979* (the Act) provides that the High Court must not enter into a contract exceeding \$250,000, or such higher amount as is prescribed, without the approval of the Attorney-General.

The *High Court of Australia Regulations 2019* revokes and replaces the *High Court of Australia Regulations 2000*. The *High Court of Australia Regulations 2000* (2000 Regulations) sunsets on 1 October 2019 by operation of subsection 50(2) of the *Legislation Act 2003*. The Regulations will repeal the 2000 Regulations and remake them with an increase in the prescribed amount from \$1,000,000 to \$2,000,000. The effect of this change will be that Ministerial approval is required before the High Court may enter into a contract for any amount above \$2,000,000.

This allows the administrative affairs of the High Court to be managed efficiently, ensuring that the Attorney-General's approval is only required for high value contracts. The contract limit under the 2000 Regulations has applied for the past 10 years. During this period, there has been significant change in money values for example due to increases to Consumer Price Index and the Court has had considerable experience in managing its affairs.

The proposed Regulations commenced on the day after it was registered on the Federal Register of Legislation.

CONSULTATION

The High Court of Australia was consulted in the making of the proposed Regulations. Consultation involved exchange of correspondence and discussions.

REGULATION IMPACT STATEMENT

The Office of Best Practice Regulation was consulted on the measures. It advised that the measures were likely not likely to have a regulatory impact on business, community organisations or individuals. A Regulatory Impact Statement does not need to be prepared (reference number 25333).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

A Statement of Compatibility with Human Rights is at **Attachment A.**

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

High Court of Australia Regulations 2019

This Bill/Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The Regulations relate to section 40 of the *High Court of Australia Act 1979* (the Act), which provides that the High Court of Australia shall not enter into a contract exceeding \$250,000, or such higher amount as is prescribed, without the approval of the Attorney-General. Section 49 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *High Court of Australia Regulations 2019* replaces the *High Court of Australia Regulations 2000*, and increases the prescribed amount from \$1,000,000 to \$2,000,000, any amount above which ministerial approval must be sought before contracts may be entered into by the High Court.

This allows the administrative affairs of the High Court to be managed efficiently, ensuring that the Attorney-General's approval is only required for high value contracts.

Human rights implications

This Regulation does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.

NOTES ON SECTIONS

Details of the proposed *High Court of Australia Regulations 2019*

Section 1 - Name of Regulations

This section will provide that the name of the Regulations is the *High Court of Australia Regulations 2019*.

Section 2 - Commencement

This section will provide for the Regulations to commence on 1 October 2019. This section would apply to contracts the High Court of Australia enters into as of 1 October 2019.

Section 3 - Authority

This section will provide that the *High Court of Australia Regulations 2019* is made under the *High Court of Australia Act 1979*.

Section 4 - Schedule(s)

This section will provide that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Item [6]

This item will prescribe a higher amount of \$2,000,000 for the purposes of section 40 of the *High Court of Australia Act 1979*.