

# Public Records Amendment Regulation (No 1) 2015

## Explanatory Notes for SL 2015 No. 71

made under the

*Public Records Act 2002*

## General Outline

### Short title

The *Public Records Amendment Regulation (No 1) 2015*.

### Authorising law

Sections 8, 15 and 57 of the *Public Records Act 2002*.

### Policy objectives and the reasons for them

By *Commissions of Inquiry Order (No.2) 2015* issued by the Governor in Council under the *Commissions of Inquiry Act 1950*, the Queensland Greyhound Racing Industry Commission of Inquiry (the Commission) was established to inquire into the Queensland greyhound racing industry.

The *Commissions of Inquiry Order (No.2) 2015* identified that the Commission would report to the Premier by 1 June 2015.

The Commission was a public authority as defined in Schedule 2 of the *Public Records Act 2002* ("Act") because it was a commission of inquiry under the *Commissions of Inquiry Act 1950*. Consequently, records made for use by, or a purpose of, the Commission and records received or kept by the Commission in the exercise of its statutory, administrative or other public responsibilities or for a related purpose are public records under section 6 of the Act.

Pursuant to section 8(3) of the Act, if a public authority ceases to exist, the records of the public authority must be –

- (a) if the functions of the public authority are to be carried out by another public authority – given to the other public authority; or
- (b) if the functions of the public authority are not to be carried out by another public authority – given to the public authority that is the relevant public authority under a regulation; or
- (c) in any other case – given to the archives or disposed of in accordance with a decision of the archivist.

The Commission ceased to exist on 1 June 2015 when it handed its report to the Premier. The functions of the Commission will not be carried out by another public authority.

Pursuant to section 15 of the Act the “responsible public authority”, for a public record, is –

- (a) the public authority that gave the public record to the archives; or
- (b) if the public authority that gave the record to the archives no longer exists, but there is another public authority carrying out the functions of the former authority – the other authority; or
- (c) if the record relates to a function or power of a public authority that has been transferred to another public authority – the other authority; or
- (d) in any other case – the public authority prescribed under a regulation for this definition.

The responsible public authority for a public record, as defined in section 15 of the Act, has certain obligations regarding public access to public records and the restricted access period for public records under the Act.

On the basis that it is responsible for the *Racing Act 2002*, the Department of National Parks, Sport and Racing has agreed to accept responsibility for the ownership and control of all of the Commission’s records upon its conclusion.

While the hard copy records of the Commission will be transferred to the custody of Queensland State Archives, the Department of National Parks, Sport and Racing will retain custody of the digital records until Queensland State Archives has implemented a digital archive.

The regulation will therefore prescribe the Department of National Parks, Sport and Racing as the “relevant public authority” for the purposes of section 8(3)(b) and as the “responsible public authority” for the purpose of section 15(d) of the Act in relation to the public records of the Commission.

### **Achievement of policy objectives**

The regulation will achieve the objectives by amending the *Public Records Regulation 2014* to prescribe the department in which the *Racing Act 2002* is administered (Department of National Parks, Sport and Racing) as the relevant public authority under section 8(3)(b) and the responsible public authority under section 15(d) of the Act in relation to public records of the Commission.

### **Consistency with policy objectives of authorising law**

The regulation is consistent with its authorising Act.

**Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the main objectives of other legislation.

**Alternative ways of achieving policy objectives**

The regulation is the only effective means of achieving the policy objectives.

**Benefits and costs of implementation**

The regulation does not impose an appreciable cost on government or the community.

**Consistency with fundamental legislative principles**

The regulation is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

**Consultation**

Consultation has taken place with the Commission, Queensland State Archives, the Department of National Parks, Sport and Racing and the Office of Best Practice Regulation within the Queensland Competition Authority. All parties consulted support the regulation.

The Office of Best Practice Regulation advised that the proposed regulation is excluded from the Regulatory Impact Statement system on the basis that it relates to the internal management of the public sector.