

Police Service Administration Regulation 2016

Explanatory notes for SL 2016 No. 44

made under the

Police Service Administration Act 1990

General Outline

Short title

Police Service Administration Regulation 2016

Authorising law

Section 10.28 of the *Police Service Administration Act 1990* (the Act).

Policy objectives and the reasons for them

The Act provides for the maintenance, membership, development and administration of the Queensland Police Service (QPS). The policy objective of the *Police Service Administration Regulation 2016* (the regulation) is to support the Act to meet its purposes. The regulation includes provisions about:

- the oath and affirmation of office;
- the commissioner's responsibilities;
- officer performance appraisals;
- vacancies, promotions, transfers, resignations and retirement of officers;
- officer ranks;
- calculation of continuous service;
- awards;
- the review of decisions;
- alcohol and drug testing;
- exchange of policing information; and
- exchange of criminal histories for child-related employment.

The regulation will also achieve administrative efficiencies through:

1. Consolidating sections from, and repealing, the following regulations:
 - *Police Service Administration Regulation 1990* (PSAR);
 - *Police Service Administration (Review of Decisions) Regulation 1990* (PSARDR); and
 - *Police Service (Ranks) Regulation 1991* (PSRR).

2. Modernising the numbering and wording of provisions to improve efficiencies, reduce duplication and comply with modern drafting practices.
3. Omitting provisions that may be considered to be beyond the regulation-making power, inconsistent with the Act or more suitable to be included in an internal departmental policy document.

The regulation does not change the existing policy position of the QPS except to prescribe the Queensland Office of the Director of Public Prosecutions (ODPP) as an approved agency in section 67 of the regulation, for the purposes of section 10.2G 'Definitions for div 1A' of the Act. Under section 10.2L 'Giving information to approved agencies to enable use of information for particular purposes' of the Act, the 'commissioner may give the head of an approved agency all or any information in a QPS database to enable the approved agency to use the information for a law enforcement purpose'. The ODPP has been prescribed as an approved agency to facilitate access by the ODPP to the Queensland Police Records and Information Management Exchange database (QPRIME).

The QPS and the ODPP have complementary roles and QPRIME access will facilitate electronic access by the ODPP to court briefs, criminal histories, police officer station details and material for disclosure. It will also enable the ODPP to electronically request additional material directly from investigating officers. This will create efficiencies for both agencies by reducing manual requests, double handling of information and time delays. It will also assist the commissioner and investigating officers to comply with their respective obligations under sections 24B 'Criminal history checks' and 24C 'Disclosures by police officers' of the *Director of Public Prosecutions Act 1984*.

The commissioner is able to limit the extent of the QPRIME access available to the ODPP and only selected ODPP staff will be granted access. This is expected to initially include approximately 20-25 staff across the nine ODPP offices. Before access is granted by the commissioner, a memorandum of understanding will be completed between the QPS and the ODPP to outline access arrangements, conditions and restrictions for the use of QPRIME information and documents.

Achievement of policy objectives

The regulation achieves the policy objectives by providing requirements and processes to support provisions in the Act in accordance with the regulation-making power in section 10.28 of the Act. The regulation includes the following parts:

Part 1 Preliminary

This part provides for the short title and commencement of the regulation and references the dictionary in schedule 3.

Part 2 Oath and affirmation

This part provides the wording of the oath or affirmation that a person is required to take, or make, before beginning to perform duty as an officer. The part also outlines who the oath or affirmation is to be taken, or made, before and states the procedure to be followed if an oath or affirmation for the appointment of a special constable is administered outside Queensland.

Part 3 Commissioner's responsibilities

Section 4.8 'Commissioner's responsibility' of the Act states that the commissioner is responsible for the efficient and proper administration, management and functioning of the QPS in accordance with law. For section 4.8(2)(a) of the Act, this part outlines particular matters within the scope of the commissioner's responsibility.

Part 4 Officers to be familiar with Act etc.

This part places an onus on officers to familiarise themselves with the Act; regulations; applicable commissioner's directions, determinations, rulings and standards; the code of conduct for public service agencies; and any approved standard of practice for the service. The part also states that the commissioner must ensure a copy of these documents is reasonably accessible to each officer and direct the attention of new officers to the requirement to familiarise themselves with these documents.

Part 5 Performance appraisal

This part provides that the commissioner must ensure that there is a regular system of appraisal of the performance of officers.

Part 6 Vacancies, promotions and transfers

This part relates to officer position vacancies, promotions and transfers and includes provisions about the advertisement, application, selection and notification processes.

Part 7 Resignation, retirement and withdrawal of services

This part outlines the way in which an officer may resign from the service and also provides for the minimum retirement age for an officer. The part prohibits officers from withdrawing from duties without authorisation and from engaging in strike action.

Part 8 Continuous service

This part outlines requirements for the calculation of continuous service of an officer for the purposes of sections 5.10(6) and 5.14 of the Act.

Part 9 Ranks

This part incorporates the provisions of the PSRR. The part references schedule 1 of the regulation which declares the ranks of officers and the categories of officer to which those ranks belong.

Part 10 Awards

This part creates a number of awards for QPS members and outlines the criteria for those awards. These include the Queensland Police Service Valour Award and awards for bravery or performance of work that is conspicuous or exemplary.

Part 11 Review of decisions

This part supports part 9 'Review of decisions' of the Act and incorporates the provisions of the PSARDR. The object of part 11, as outlined in section 31, is to provide for access by officers to an independent review of decisions for the redress of particular grievances and to ensure decisions made in relation to officers are fair, just and compassionate, and made in accordance with sound personnel management practices.

Part 12 Alcohol tests

This part relates to alcohol testing of relevant persons namely police officers, relevant QPS staff members and relevant Public Safety Business Agency (PSBA) employees.

Part 13 Targeted substance tests

This part relates to targeted substance testing that may be conducted on relevant persons in circumstances outlined in section 5A.13 ‘Circumstances for targeted substance testing’ of the Act.

Part 14 Self-reporting for counselling or rehabilitation in relation to alcohol or drug use

This part provides procedures for a member of the service or relevant PSBA employee to request the provision of counselling or rehabilitation for the member’s or employee’s personal use of alcohol or a drug.

Part 15 Exchange of policing information

This part prescribes law enforcement agencies, approved information and approved agencies for the purposes of section 10.2G ‘Definitions for div 1A’ of the Act. Section 67 also inserts a reference to the ODPP to facilitate QPRIME access by that office.

Part 16 Exchange of criminal history for child-related employment screening

This part prescribes the entities which are interstate screening units for the purposes of the definition in section 10.2S ‘Definitions for div 1B’ of the Act. These entities conduct child-related employment screening under legislation for their relevant State or Territory.

Part 17 Miscellaneous

This part includes miscellaneous provisions relating to the Queensland Police Gazette and external service providers.

Part 18 Repeals and transitional provision

This part includes transitional provisions and repeals three of the existing regulations to the Act, namely the PSAR, PSARDR and PSRR.

Comparison with regulations being repealed

The following table provides a comparison between the sections of the regulation and sections from the three regulations being repealed.

New section	Section of current regulations being repealed
Part 1 Preliminary	
1	N/A
2	N/A
3	N/A
Part 2 Oath and affirmation	
4	2.1 ‘Oath of officer’ of PSAR
5	2.2 ‘Affirmation of officer’ of PSAR
6	2.3 ‘Oath or affirmation’ of PSAR
Part 3 Commissioner’s responsibilities	
7	2A.1 ‘Particular matters within scope of prescribed responsibility etc. – Act, s 4.8(2)’ of PSAR
Part 4 Officers to be familiar with Act etc.	
8	1.6 ‘Officers to be familiar with Act etc.’ of PSAR

Part 5 Performance appraisal	
9	3.1 'Performance appraisal' of PSAR
Part 6 Vacancies, promotions and transfers	
10	4.2 'Transfers, vacancies and promotions' of PSAR
11	4.9 'Re-advertising vacancies' of PSAR
12	4.11 'Part-time employment' of PSAR
13	4.2A 'Transfer' of PSAR
14	4.3 'Method of application' of PSAR
15	4.4 'Applicants may be required to undergo assessment' of PSAR
16	4.5 'Integrity and allegations against officers' of PSAR
17	4.5 'Integrity and allegations against officers' of PSAR
18	4.6 'Constitution of selection panel' of PSAR
19	4.8 'Selection to be advertised' and 4.10 'Notifying appointments etc.' of PSAR
Part 7 Resignation, retirement and withdrawal of services	
20	5.1 'Resignation' of PSAR
21	5.2 'Retirement' of PSAR
22	5.3 'Withdrawal of services' of PSAR
Part 8 Continuous service	
23	7.1 'Calculation of continuous service for the purposes of section 5.10' and 7.2 'Calculation of continuous service' of PSAR
Part 9 Ranks	
24	4 'Ranks of police officers' and Schedule of PSRR
Part 10 Awards	
25	6.1 'Queensland Police Service Valour Award' of PSAR
26	6.2 'Bar for the Queensland Police Service Valour Award' of PSAR
27	6.4 'Other awards etc.' of PSAR
28	6.3 'Wearing of Valour Award' of PSAR
29	6.5 'Design of awards etc.' of PSAR
30	6.6 'Awards may be made for conduct which occurred prior to Act' of PSAR
Part 11 Review of decisions	
31	3 'Object' of PSARDR
32	4 'Definitions' of PSARDR
33	6 'Further decisions open to review' of PSARDR
34	6A 'Application for review' of PSARDR
35	5 'Appointment etc. of secretary' of PSARDR
36	8 'Functions of Review Commissioner' of PSARDR
37	14 'Review Commissioner not to act in certain cases' of PSARDR
38	10 'Practice and procedure' of PSARDR
39	6C 'Representation of officer who made decision' of PSARDR
40	17 'Prohibition of publication of material before Review Commissioner' of PSARDR
41	11 'Withdrawal of application for review' of PSARDR
42	12 'Frivolous or vexatious reviews' of PSARDR
43	6B 'Commissioner to stay certain decisions' of PSARDR
44	13 'Completion of review' of PSARDR
45	7 'Review Commissioner ceasing to be member of Crime and Corruption Commission' of PSARDR
46	15 'Remuneration and allowances of Review Commissioner' of PSARDR
Part 12 Alcohol tests	
47	7A.1 'When random alcohol test may be conducted without approval of commissioner or deputy commissioner' of PSAR
48	7A.2 'Time period for conducting random alcohol test' of PSAR
49	7A.3 'ADA State coordinator to notify group coordinator of group's selection' of PSAR
50	7A.3 'ADA State coordinator to notify group coordinator of group's selection' of PSAR
51	7A.4 'Authorised person must consult with ADA State coordinator before requiring certain alcohol tests under Act, s 5A.8(c)' of PSAR
52	7A.5 'When and where relevant person may be recalled to duty for alcohol test' of PSAR
53	7A.7 'Sufficient specimen of breath for testing' of PSAR

54	7A.8 'Claim that alcohol is present in mouth' of PSAR
55	7A.9 'Breath testing instruments' of PSAR
56	7A.10 'Authorised person must report test result' of PSAR
57	7A.11 'Form of written approval of commissioner or deputy commissioner requiring submission to random alcohol test' of PSAR
Part 13 Targeted substance tests	
58	7B.1 'Authorised person must consult with ADA State coordinator before requiring certain targeted substance tests' of PSAR
59	7B.2 'Deciding time and place for targeted substance testing on covert operative' of PSAR
60	7B.4 'When and where relevant person may be recalled to duty for targeted substance test' of PSAR
61	7B.6 'Relevant person to advise details of medication etc.' of PSAR
62	7B.7 'If relevant person claims to be unable to provide specimen because of a medical condition' of PSAR
63	7B.8 'Water may be drunk if relevant person claims to be unable to immediately provide specimen' of PSAR
64	7B.9 'Requirements about the collection of and dealing with urine specimens – Act, s 5A.14' of PSAR
65	7B.10 'Commissioner or PSBA chief executive officer to advise relevant person of test result' of PSAR
Part 14 Self-reporting for counselling or rehabilitation in relation to alcohol or drug use	
66	7C.1AA 'Definition for pt 7C', 7C.1 'Self-reporting by member of the service' and 7C.1A 'Self-reporting by relevant PSBA employee' of PSAR
Part 15 Exchange of policing information	
67	7C.4 'Approved agencies – Act, s 10.2G' of PSAR
68	7C.3 'Approved information – Act, s 10.2G' of PSAR
69	7C.2 'Law enforcement agencies – Act, s 10.2G' of PSAR
Part 16 Exchange of criminal history for child-related employment screening	
70	7E.1 'Interstate screening units – Act, s 10.2S, definition <i>interstate screening unit</i> , paragraph (a)' of PSAR
Part 17 Miscellaneous	
71	1.7 'Queensland Police Gazette' of PSAR
72	8.2 'External service providers' of PSAR
Part 18 Repeals and transitional provisions	
73-80	N/A
Schedules	
Schedule 1	Schedule of PSRR
Schedule 2	Schedule 'Approved information' of PSAR
Schedule 3	1.2 'Definitions' of PSAR

Consistency with policy objectives of authorising law

The objects of the *Police Service Administration Act 1990* are outlined in section 1.3 'Objects' of that Act. The regulation is consistent with the objects of the Act, which are to provide for the maintenance, membership, development and administration of the QPS. The regulation supports the Act by providing detail, processes and requirements to support provisions in the Act.

Provisions of the regulation are also consistent with the regulation-making power provided in section 10.28 of the Act.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways to effectively achieve the policy objectives.

Benefits and costs of implementation

The regulation consolidates, and repeals, three of the existing regulations to the Act into one regulation. The regulation does not change the policy intent or effect of the existing regulations. Apart from introducing the ODPP as an approved agency in section 67, no new policy objectives have been introduced in the regulation.

There are no additional costs associated with the implementation of the regulation as it does not change current practice or procedure. Updating of section and regulation references in QPS policy, training and other documents will be met through existing resources and budgets.

The facilitation of QPRIME access by the ODPP will also be met through existing information and computer technology resources. It is expected that minimal, if any, new resources will be required to support this initiative. There are also technological solutions that will allow QPRIME access from ODPP computers which will reduce the need to install QPS computer terminals in other ODPP offices.

Consolidation of the three existing regulations into one regulation supports the Government's commitment to reducing regulation and streamlines the regulatory provisions.

Consistency with fundamental legislative principles

The regulation has been drafted with regard to the fundamental legislative principles and does not raise any new inconsistencies with the fundamental legislative principles that did not exist under the regulations that are being repealed. Provisions of the repealed regulations that were inconsistent with fundamental legislative principles, and have been replicated in this regulation, are addressed below.

Legislation should have sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)(a)*

Section 14 'How to apply for appointment' provides that an application for appointment to a position to fill an advertised vacancy must be made in the way required by the commissioner.

This section does not expressly require the commissioner to make publicly available his or her requirements for an application to a position in the QPS. For convenience to members of the public and to promote transparency, it is common practice for documents or criteria relied on in recent Queensland legislation to state a place or website where the document or criteria may be inspected or viewed.

This section intentionally avoids requiring the commissioner to make publicly available his or her requirements for an application. Currently, requirements for applications for only some QPS police officer positions are made publicly available. This includes recruit, commissioned officer and executive officer positions that are also advertised externally, for example, in the

national press. For all other police officer positions, the requirements for applications are available internally within the QPS. These positions are only filled by current QPS officers and therefore, all potential applicants are able to view the requirements for applications.

This aligns with the current practice of not publicly releasing information about officer vacancies within the QPS as it may risk public safety or impede law enforcement strategies. It is important that current vacancies in the QPS are not publicly known so that the locations and numbers of vacancies cannot be determined and lead to a focus for criminal activity. This concern is relevant to both general and specialist police positions.

Section 22 ‘Withdrawal of services’ restricts an officer’s right to strike.

This section restricts the right of officers to strike. Although inconsistent with the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals, the restriction is justified by the important duty officers have in performing the functions of the service (as outlined in section 2.3 of the Act), which include upholding the law and protecting the community. It is critical to maintaining peace and good order in the community that officers be prevented from striking. This is because a coordinated strike by officers could leave the community and members of the public without protection and vulnerable to lawlessness and crime.

The importance of this restriction is reflected in the maximum penalty for the offence of 100 penalty units. This replicates the maximum penalty in section 5.3 ‘Withdrawal of services’ of the PSAR. Although the former Scrutiny of Legislation Committee repeatedly stated that penalties in subordinate legislation should generally be no more than 20 penalty units, the importance of preventing officers from striking, or withdrawing from duty without authorisation, justifies the maximum penalty of 100 penalty units. It is imperative for the QPS to perform its functions that officers perform duty as and when required. Further, the regulation-making power in section 10.28(3) of the Act allows the regulation to provide ‘for offences against the regulation and in respect thereof impose a fine not exceeding 100 penalty units’.

Section 39 ‘Representation of officer who made decision’ provides that on a review of a reviewable decision, an officer may appear as the representative of the officer who made the decision under review.

Under section 9.4(2)(c) of the Act, ‘legal representation is not permitted to any person concerned in a review’. However, under section 39 of the regulation, an officer appearing as the representative of the officer who made the decision under review (the decision-maker) could be a lawyer. This has the potential to circumvent section 9.4(2)(c) of the Act by conferring an advantage on the decision-maker, compared to other parties to the review, if the decision-maker is represented by an officer who is also a lawyer. This could breach the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals.

This concern is mitigated because the officer who is appearing as the representative of the decision-maker is appearing in his or her capacity as an officer and not as a legal representative. Often these officers appear as part of the duties associated with their position or due to their role in the reviewable decision. For example, a selection panel convenor may appear on behalf of the officer who made the decision based on the selection panel’s recommendation. It is an

officer's knowledge and experience as an officer and of QPS policies and processes that is important and it is not relevant if the officer is a lawyer. Therefore, section 39 is not in conflict with the objective of section 9.4(2)(c) of the Act.

It will also remain open to a commissioner for police service reviews to determine, in individual cases, whether an officer who is a lawyer should appear as a representative of the decision-maker having regard to the principles in section 9.4(2) of the Act.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review – *Legislative Standards Act 1992*, section 4(3)(a)

Legislation should be consistent with principles of natural justice – *Legislative Standards Act 1992*, section 4(3)(b)

Section 17 'Promotion – complaint against officer' provides that, in certain circumstances, the commissioner must presume an officer does not have the required integrity for promotion to a position. Section 17(4) creates a presumption against an officer in a manner that may deny the officer natural justice. There is no review on the merits in relation to this presumption.

Section 17 allows the commissioner to ask the chairman of the Crime and Corruption Commission to comment on the integrity of an officer before the commissioner considers the officer for promotion to a position. If the circumstances in section 17(2) are met, section 17(4) provides that the commissioner must presume the officer does not have the required integrity for promotion to the position. There is no review on the merits in relation to this presumption and this is inconsistent with the fundamental legislative principle that requires the exercise of administrative power to be subject to appropriate review.

The application of section 17(4) also means that the officer who applied for promotion is not given an opportunity to make submissions on the matters which may give rise to the presumption. Also, the officer is not given a right to receive notice of, or the reasons for, the decision. This could potentially deny the officer natural justice.

The effect of the operation of the presumption is that an officer will be denied promotion. However, that officer is able to apply to have the decision to appoint another officer to the position independently reviewed by a commissioner for police service reviews (review commissioner) under section 9.3 'Application for review' of the Act. During the review process, the reviewing officer is entitled to make submissions and present material to the review commissioner and will receive a copy of the selection panel's report about the application, selection and decision process. Under section 9.5 'Result of review' of the Act, at the completion of the review, the review commissioner is to make such recommendations to the police commissioner as the review commissioner considers appropriate to the matter under review. The police commissioner is then to take such action as appears to the commissioner to be just and fair (s 9.5(2) of the Act).

This independent review process is considered to be a suitable compromise between the needs of the QPS to efficiently fill vacant officer positions, uphold appropriate ethical standards and promote and maintain public confidence in the QPS, and the need to protect the rights of individual officers. Although the presumption in section 17(4) operates in a way that could deny an officer natural justice during the appointment process, the independent review subsequently provides a mechanism for the officer to seek natural justice. This ensures affected

police officer positions are not vacant for extended periods of time awaiting the investigation and finalisation of complaints.

It should also be noted that the presumption only relates to complaints made or referred to the Crime and Corruption Commission that have credibility, a proper basis for belief and a degree of seriousness that would debar the officer from promotion to the position if it were true (as per s 17(2)). Therefore, it is appropriate in these circumstances for the presumption to operate so that officers are not promoted whilst serious complaints remain unresolved and so the high standards of the QPS are maintained.

Section 42 ‘Frivolous or vexatious application for review’ allows a review commissioner to refuse to further consider an application for review if the review commissioner is satisfied on reasonable grounds that the application is frivolous or vexatious.

Under this section, the applicant is not given the right to make submissions on whether the application is frivolous or vexatious. This breaches the fundamental legislative principle that legislation be consistent with principles of natural justice. This section also does not provide a review on the merits of a decision by a review commissioner to refuse to further consider an application for review on the basis the application is frivolous or vexatious. This may be inconsistent with the fundamental legislative principle that requires the exercise of administrative power to be subject to appropriate review.

A review commissioner can only refuse to further consider an application under this section if satisfied on reasonable grounds that the application is frivolous or vexatious. The test of reasonableness achieves an appropriate balance between the rights of the applicant to be given a reasonable opportunity to be heard and ensuring the review process is not misused by the making of frivolous or vexatious applications. It is therefore not considered necessary in these circumstances, and based on the test of reasonableness applied by review commissioners, for an applicant to be given the right to make submissions before a review commissioner acts under section 42 or to provide an applicant with the right to a review on the merits of the decision of the review commissioner.

An applicant also has the right to apply for a statutory order of review in relation to the decision of the review commissioner in accordance with the *Judicial Review Act 1991*.

Legislation should allow the delegation of administrative power only in appropriate cases and to appropriate persons – *Legislative Standards Act 1992*, s 4(3)(c).

Section 64 ‘Requirements about collecting and dealing with urine specimens’ requires a person involved in dealing with a urine specimen to comply with relevant requirements in joint Standards Australia and Standards New Zealand standard AS/NZS 4308:2008, section 2.

This section effectively delegates the administrative power to set requirements, about the collection of urine specimens and how specimens must be dealt with, to Standards Australia and Standards New Zealand which is an entity outside the framework of government. However, this delegation of an administrative power is considered to be an appropriate case and given to an appropriate body.

The Australian Standards are published documents setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistent. Standards

Australia and Standards New Zealand work together to develop internationally aligned joint standards. The nominated standard is a 41 page document entitled ‘Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine’ and deals with technical matters for the collection and handling of urine specimens.

There is also a safeguard in section 64(5) which provides that the requirements that apply under subsections (2) and (4) are subject to any direction by the commissioner. This effectively allows the commissioner to modify a practice or process outlined in the standard, for example, a process may be unworkable for QPS purposes. Although the ability of the commissioner to override the standard pursuant to section 64(5) may in itself be considered to be a delegation of an administrative power, it is considered to be appropriate in the circumstances. The commissioner’s power in section 64(5) ensures that ultimate control for the procedures relating to urine specimens rests with the commissioner and not with Standards Australia and Standards New Zealand. The responsibility for the administration of the QPS rests with the commissioner and the procedures only apply to relevant persons within the QPS and PSBA and are only for QPS purposes, or in the case of a relevant person who is a PSBA employee, for a purpose directly related to the QPS.

Legislation should have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, s 4(5)*.

Section 64 ‘Requirements about collecting and dealing with urine specimens’ requires a person involved in dealing with a urine specimen to comply with relevant requirements in joint Standards Australia and Standards New Zealand standard AS/NZS 4308:2008, section 2.

This section incorporates into legislation a document made by an entity outside the framework of government. However, this is considered to be appropriate for the reasons outlined above for this section in relation to the delegation of an administrative power.

This section also does not require the standard to be tabled in the Legislative Assembly and therefore, the standard is not readily accessible for scrutiny by the Parliament. However, Queensland legislation does not generally require standards to be tabled and standards are available for purchase online. The QPS and PSBA have also purchased a subscription to the standard and it is available to be viewed electronically by all QPS and PSBA employees on internal department websites.

Consultation

Consultation was conducted with the following Government departments:

- Department of the Premier and Cabinet;
- Queensland Treasury;
- Department of Justice and Attorney-General;
- Crime and Corruption Commission (CCC); and
- Office of Best Practice Regulation, Queensland Productivity Commission.

There was general support for the regulation. However, the CCC noted that section 17 ‘Promotion – complaint against officer’ of the regulation does not incorporate existing section 4.5(4) of the PSAR. Section 4.5(4) of the PSAR has not been included in section 17 for a

number of reasons. Section 17 is considered to be sufficient for QPS purposes and reflects how the section is currently, although rarely, used.

Section 17(1) is very broad and allows the chairman to comment on any aspect of an officer's integrity. Therefore, under section 17(1), the chairman can still comment on an officer's failure to provide information or an explanation in relation to a complaint. The only difference is that the presumption against the officer's integrity in section 17(4) will no longer apply in such circumstances. Instead, it will be left to the commissioner to make a determination about the officer's integrity based on the information provided by the chairman. The QPS believes this is a fair approach which will allow consideration of the rights of the officer to be weighed against the need to maintain the highest levels of professionalism and integrity within the QPS.

This approach also overcomes current ambiguities with section 4.5(4) and the fact the subsection infringes several fundamental legislative principles including the requirements that legislation should have sufficient regard to the 'rights and liberties of individuals' and 'is unambiguous and drafted in a sufficiently clear and precise way' (ss 4(2)(a) and 4(3)(k) of the *Legislative Standards Act 1992*). The effect of the presumption is to deny an officer the right to promotion which significantly impacts the rights of the individual officer. Given the imprecision and ambiguity with current section 4.5(4), it is considered appropriate that the presumption against an officer's integrity should not apply in the circumstances referred to in that subsection.

The Office of Best Practice Regulation was consulted with regard to Regulatory Impact Statement requirements and advised that the regulation was excluded from the Regulatory Impact Statement system.

External consultation was conducted with the following employee unions who supported the regulation:

- Queensland Police Commissioned Officers' Union of Employees;
- Queensland Police Union of Employees (QPUE); and
- Together Union.

No community consultation has been undertaken as the regulation relates to the internal administration of the QPS.