

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2019

Explanatory notes for SL 2019 No. 22

made under the

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018

General Outline

Short title

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2019 (the Regulation).

Authorising law

Sections 13 and 14 of the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (the Act).

Policy objectives and the reasons for them

The objective of the Regulation is to exempt certain information from being shared under the Act. It is intended that these exemptions will enable extremely sensitive information (such as witness protection information) to be protected when it is not required to be shared to support the participation of Queensland Government agencies in the National Redress Scheme for Institutional Child Sexual Abuse (Scheme).

The Queensland Government started participating in the Scheme on 19 November 2018.

The Scheme is established under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) (the National Act) and implements a number of recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). Under the National Act, applications for redress are received and assessed by the National Scheme Operator and the National Scheme Operator may request relevant information from participating institutions to assist in determining applications.

The Act, which received Royal Assent on 28 September 2018, enabled Queensland's participation in the Scheme by adopting the National Act and referring powers to the Federal Government. It also introduced a framework to enable appropriate information sharing by Queensland Government agencies to support the participation of those agencies in the operation of the Scheme and enable relevant information to be provided to the National Scheme Operator.

In particular, section 11 of the Act empowers the chief executive to ask a State agency for particular information in the agency's possession or control, for the purpose of the Scheme. This power is designed to enable the Department of Child Safety, Youth and Women (DCSYW) to perform the role of Queensland Government central contact point for the Scheme. This role includes coordinating responses to requests for relevant information from the National Scheme Operator on behalf of Queensland Government institutions.

Section 13 of the Act provides that no other State law will prevent information sharing in accordance with the Act unless that law is prescribed by regulation.

Achievement of policy objectives

The Regulation will achieve its objective of exempting certain information from being shared under the Act by prescribing specific provisions that prohibit such information from being disclosed. In effect, this will mean the information protected by the prescribed provisions will not be able to be shared under the Act.

This approach is required as the drafting of section 13 of the Act provides that no other State law will prevent the sharing of information under the Act unless that law is prescribed by regulation.

While enabling protection of certain extremely sensitive information, these exemptions will not inhibit the operation of the Scheme. This is because the priority in identifying provisions to be prescribed was to ensure that, as far as possible, relevant information is able to be shared to support the operation of the Scheme and help eligible applicants to access redress. Only provisions that relate to information that is not relevant or likely to be required to determine a redress application, or information that can be obtained from other sources, have been prescribed.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the Act as section 13 of the Act provides for exemptions to information sharing to be prescribed by regulation.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation as it ensures that particular restrictions on sharing certain types of extremely sensitive information continue to apply in the context of the Scheme.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making subordinate legislation.

Benefits and costs of implementation

Implementing the Regulation will enable the protection of certain extremely sensitive information that is not required to be shared to support the participation of Queensland Government agencies in the Scheme.

There are no costs directly associated with implementing the Regulation.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

All Queensland Government departments were consulted during the development of the Regulation to identify provisions required to be included.

Community consultation was not undertaken on the Regulation as the sole purpose of the Regulation is to ensure select existing legislative provisions, which prohibit information sharing, continue to apply in the context of the Scheme.

In accordance with the *Queensland Government Guide to Better Regulation*, DCSYW applied a self-assessed exclusion from further regulatory impact analysis on the basis that the Regulation is of a machinery nature – category (g). The Office of Best Practice Regulation was therefore not consulted on the Regulation.