

Police Service Administration (Queensland Corrective Services) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 35

made under the *Police Service Administration Act 1990*

General Outline

Short title

Police Service Administration (Queensland Corrective Services) Amendment Regulation 2020.

Authorising law

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

Policy objectives and the reasons for them

The objective of the *Police Service Administration (Queensland Corrective Services) Amendment Regulation 2020* (the Amendment Regulation) is to amend the *Police Service Administration Regulation 2016* (PSAR) to include Queensland Corrective Services (QCS) as an approved agency for the purposes of information sharing.

The amendment supports implementation of the following review and recommendation:

- Taskforce Flaxton: *An examination of corruption risks and corruption in Queensland prisons* - recommendation 32 of the Crime and Corruption Commission (CCC) review, in part, proposes QCS and the Queensland Police Service (QPS) collaboratively review the service delivery models used to investigate criminal offences in prisons and maximise information sharing between the QPS and QCS.

QPS information sharing is set out in Part 10 of the *Police Service Administration Act 1990* (PSAA) and provides how and to whom approved information can be shared.

Section 10.2L of the PSAA allows the Commissioner to give an 'approved agency' information in a QPS database, to enable the 'approved agency' to use the information for a purpose the agency is authorised to use the information for, under a law of the Commonwealth or a State. An 'approved agency' means an entity established under the law of the Commonwealth or a State prescribed under a regulation as an approved agency.

The Commissioner may allow an authorised member of an ‘approved agency’ to have direct access to a QPS database in order to access information. The Commissioner may give information to the head of an entity on conditions the Commissioner considers appropriate.

The provision of QPS information to QCS facilitates effective management of offenders while they are in custody or under supervision in the community, and supports victim and community safety.

Amending section 67 (Approved agencies – Act, s 10.2G) of the PSAR to include QCS as an approved agency for the purposes of information sharing under the PSAA will allow the QPS to give QCS access to the information which is pertinent to the management of offenders in QCS custody or under supervision in the community. The amendment aims to create safer communities by disrupting recidivist criminal activities and supporting victims.

Achievement of policy objectives

The Regulation achieves its objectives by including QCS within section 67 of the *Police Service Administration Regulation 2016*.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the authorising Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Regulation will not impose any additional cost on Government.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*:

The amendment will provide for greater information sharing and collaboration between QPS and QCS in relation to the appropriate supervision and management of offenders, including those with a heightened risk of serious sexual offending, domestic and family violence, terrorism, violent extremism or participation in organised crime.

The amendment also supports greater information sharing to ensure victim and community safety. For example, the QPS Commissioner will be able to give the QCS Commissioner information about the existence of a domestic violence order, including the conditions of that order, which may be used to prevent a respondent person in custody contacting an aggrieved or named persons. It also allows the QPS Commissioner to provide all or any information in a QPS database.

While it may be inferred that the amendment has the capacity to infringe on an offender's right to privacy, the information disclosure provisions are appropriately safeguarded to minimise any potential impacts. Specifically, the authorised information can only be used for a purpose the agency is authorised to use the information for and the QPS Commissioner can impose conditions on the information that can be accessed by QCS under section 10.2M. Furthermore, section 10.2P (Misuse of information given under this division) imposes a maximum penalty of 100 penalty units if a person uses information given by the QPS for a purpose other than for which it was given or authorised under an Act or contrary to a condition that is imposed under another Act.

Sections 339 and 341 of the *Corrective Services Act 2006* also impose maximum penalties of 100 penalty units or 2 years imprisonment where a person unlawfully discloses information that has been acquired during their employment within QCS or as a selection panel member.

Consultation

The QPS has concluded that the Regulation is exempt from regulatory impact analysis as it falls within the following exclusion category outlined in the Queensland Government Guide to Better Regulation:

- Category (j): Regulatory proposals relating to police powers and administration, general criminal laws, administration of courts and tribunals and corrective services.

Consequently, the Office of Best Practice Regulation was not consulted about the Regulation.

QCS was consulted and support the Regulation.