

# Corrective Services Amendment Regulation 2021

Explanatory notes for SL 2021 No. 97

made under the

*Corrective Services Act 2006*

## General Outline

### Short title

Corrective Services Amendment Regulation 2021

### Authorising law

Sections 273, 355, Schedule 4 Dictionary of the *Corrective Services Act 2006* (the CSA).

### Policy objectives and the reasons for them

Under section 3 of the CSA, the purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

The *Corrective Services and Other Legislation Amendment Act 2020* (the Amendment Act) received assent on 21 July 2020. The Amendment Act amended the CSA to respond to the immediate risks identified in the Crime and Corruption Commission's (CCC) *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland's prisons* (Taskforce Flaxton), support implementation of recommendations made in the Queensland Parole System Review, and improve operational efficiencies for Queensland Corrective Services's (QCS) and the Parole Board Queensland (the Board).

Amendments to the *Corrective Services Regulation 2017* (the CSR) support and reflect amendments made to the CSA by the Amendment Act.

The CSA Schedule 4 Dictionary defines privileged mail as mail sent to, or by, a person who is prescribed under regulation. The CSR provides a list of persons who are prescribed as privileged for the purposes of sending mail in and out of correctional centres. The definition of privileged mail in the CSR requires updates, including to add organisations and legislative functions that have been established or commenced in Queensland since the CSR was remade in 2017.

Section 272 of the CSA provides the chief executive may authorise an entity (engaged service provider) to perform an office holder's functions (authorised functions). For the purposes of section 273 of the CSA, section 45 of the CSR prescribes engaged service providers.

Arthur Gorrie Correctional Centre and Southern Queensland Correctional Centre transferred to public operations as of 1 July 2020 and 1 July 2021, respectively.

The Amendment Act removed the requirement for an officer of the Board's secretariat to be prescribed by regulation by removing references to prescribed officers of the secretariat from sections 208B, 210, 233, 235, 247 and 351 of the CSA. This acknowledges that the role and function of the secretariat is established under section 236 of the CSA, and powers are exercised by staff under the direction of the Board and in line with their conditions of employment. It is considered operationally burdensome and unnecessary to require officers of the secretariat to be prescribed.

The CCC's Taskforce Flaxton reinforced the need for QCS to improve anti-contraband measures to improve safety for staff and prisoners. The Amendment Act amended the definition of a scanning search to authorise QCS to conduct a search of a person by electronic or other means that may require the person to be touched by an apparatus, to be prescribed in regulation, or by another person.

## **Achievement of policy objectives**

The Regulation enables prisoners to communicate confidentially via mail with both the chief executive of the National Disability Insurance Agency, the Commissioner of the National Disability Insurance Scheme Quality and Safeguards Commission as well as the Commissioner of a Commission or Royal Commission. It also includes a reference to the Queensland Human Rights Commissioner as established under the *Human Rights Act 2019*. This amendment to section 17 of the CSR supports community safety through the fair and transparent management of prisoners in the custodial environment.

The Regulation omits section 45 (Engaged service providers to whom particular Acts apply). With the transition of Queensland's two privately run prisons to public operations, there will be no engaged service providers required to be prescribed under section 273 of the CSA.

The Regulation omits references to prescribed officers of the secretariat under section 48 of the CSR. The Amendment Act removed references to prescribed officers of the secretariat in sections 208B, 210, 233, 235, 247 and 351 of the CSA. Removing the reference to prescribed officers of the secretariat in the CSR provides consistency with the CSA.

The Regulation prescribes an ion scanning device as apparatus that may be used in a scanning search. A scanning search is the search of a person by electronic or other means that does not require the person to remove their clothing but may require another person or an apparatus to touch or come into contact with the person. Ion mobility spectrometry devices, or ion scanning devices, are used by QCS to detect a range of explosives or pharmaceuticals that may be on a person or their clothing. Prescribing an ion scanning device improves QCS's ability to detect contraband and prevent its introduction into a corrective services facility.

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

The Regulation is consistent with the main objectives of the CSA in promoting community safety and crime prevention. It is also consistent with the policy objectives of the Amendment Act.

## **Inconsistency with policy objectives of other legislation**

No inconsistencies with the policy objectives of other legislation have been identified.

## **Alternative ways of achieving policy objectives**

There are no alternative means to achieve the policy objectives.

## **Benefits and costs of implementation**

The Regulation improves QCS's ability to detect contraband and prevent its introduction into corrective services facilities, ensures that prisoners can communicate confidentially via mail with relevant external entities, and removes redundant provisions from the CSR.

The costs associated with the implementation of the Regulation will be met within existing resources.

## **Consistency with fundamental legislative principles**

The Regulation is consistent with the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. The inclusion of an ion scanning device as an apparatus that may be used, and come into contact with a person, as part of a scanning search ensures the search power is sufficiently defined. By expanding the list of entities that prisoners can communicate with confidentially via mail, the rights of individuals are supported.

## **Consultation**

The Regulation was self-assessed by QCS in accordance with *The Queensland Government Guide to Better Regulation* and determined to be excluded from regulatory impact assessment under exclusion category (j) *Regulatory proposals relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services*. Consultation with the Queensland Treasury Office of Productivity and Red Tape Reduction is not required.