

Corrective Services and Other Legislation Amendment (Postponement) Regulation 2021

Explanatory notes for SL 2021 No. 98

made under the

Corrective Services and Other Legislation Amendment Act 2020

General Outline

Short title

Corrective Services and Other Legislation Amendment (Postponement) Regulation 2021

Authorising law

Section 15DA of the *Acts Interpretation Act 1954*

Section 2 of the *Corrective Services and Other Legislation Amendment Act 2020*

Policy objectives and the reasons for them

The objective of the *Corrective Services and Other Legislation Amendment (Postponement) Regulation 2021* (postponement regulation) is to postpone the automatic commencement of the uncommenced section 50 and Schedule 1, Part 2 (to the extent it amends the *Corrective Services Act 2006*) of the *Corrective Services and Other Legislation Amendment Act 2020* (Amendment Act) by one year.

Section 15DA(2) of the *Acts Interpretation Act 1954* provides that if a law has not commenced within one year of the assent day, it automatically commences on the next day. However, a regulation may extend the automatic commencement date for up to two years after the assent date.

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

Section 50 of the Amendment Act omits section 319F (Complaint to official visitor required first) from the *Corrective Services Act 2006* (CSA). Section 319F prescribes that an offender who is still detained in a corrective services facility, is required to make a complaint to an official visitor before making a complaint to the human rights commissioner under the

Anti-Discrimination Act 1991. Minor consequential amendments resulting from the omission of section 319F are in Schedule 1, Part 2. These sections are prescribed to commence upon proclamation, albeit with automatic commencement occurring on 21 July 2021.

The omission of section 319F of the CSA anticipated the establishment of an independent inspectorate for Queensland. Consistent with recommendations from various reviews, including the QPSR and Taskforce Flaxton, the Queensland Government committed to establishing an independent inspectorate for Queensland in the 2019-20 State Budget. It is anticipated that oversight of the Official Visitor Scheme, currently administered under the CSA will transfer to the independent inspectorate, once established.

It is proposed to postpone commencement of section 50 and Schedule 1, Part 2 (to the extent it amends the CSA) of the Amendment Act by one year to the end of 21 July 2022. The postponement is to allow the Official Visitor Scheme under the CSA to continue while the independent inspectorate for Queensland is established.

Achievement of policy objectives

The postponement regulation will extend the commencement of section 50 and Schedule 1, Part 2 (to the extent it amends the CSA) of the Amendment Act by one year, to the end of 21 July 2022.

Consistency with policy objectives of authorising law

The postponement regulation is consistent with the policy objectives of the Amendment Act and the *Acts Interpretation Act 1954*.

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 postponement regulation ensures that complaints can continue to be made through existing avenues as prescribed in the CSA while the independent inspectorate for Queensland is established. Consultation on any new legislation will occur during Parliamentary consideration.

There are no costs associated with the implementation of this postponement regulation.

Consistency with fundamental legislative principles

The postponement regulation is consistent with the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. By maintaining a head of power requiring detained offenders to make a complaint to an official visitor before making a complaint to the

human rights commissioner – the rights and liberties of individuals remain unchanged. Official visitors are appointed to investigate prisoner complaints under the CSA and are empowered to enter prisons, interview prisoners and access certain documents. Accordingly, it is appropriate to continue to provide an opportunity for complaints to be resolved quickly and internally through official visitors prior to the establishment of an independent inspectorate in Queensland.

Consultation

The postponement 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.