Public Records (Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 5
made under the

Public Records Act 2002

General Outline

Short title

Public Records (Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence) Amendment Regulation 2023

Authorising law

Sections 8, 15 and 57 of the *Public Records Act* 2002.

Policy objectives and the reasons for them

The objective of the *Public Records (Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence) Amendment Regulation 2023* (the Regulation) is to prescribe the Department of Justice and Attorney-General (DJAG) as the relevant and responsible public authority for public records of the Commission of Inquiry into Queensland Police Service responses to domestic and family violence (the Commission).

The Commission was established by Commissions of Inquiry Order (No. 2) 2022, issued by the Governor in Council under the provisions of the *Commission on Inquiry Act 1950.* Her Honour Judge Deborah Jane Richards was appointed Commissioner and the Commission commenced on 30 May 2022.

The Commission was a public authority, as defined in Schedule 2 of the *Public Records Act 2002* (PR Act) and any records made for use by, or a purpose of, the Commission, as well as records received or kept by the Commission in the exercise of its statutory, administrative or other public responsibilities, or for a related purpose, are public records under section 6 of the PR Act.

The Commission ceased to exist as a public authority on 14 November 2022 once it provided a report and recommendations to the Honourable the Premier and Minister

for the Olympics, the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, and the Minister for Police and Corrective Services and Minister for Fire and Emergency Services.

A key purpose of the PR Act is to ensure public records are made, managed, kept and preserved in a useable form for the benefit of present and future generations. When a public authority ceases to exist and some or all of its functions will not be continued by another public authority, a regulation prescribing the 'relevant public authority' for the purposes of section 8(3)(b) of the PR Act and a 'responsible public authority' for the purposes of section 15 of the PR Act is required.

A 'relevant public authority' is an authority with responsibility for, and control of, records created by an authority that has ceased to exist. A 'responsible public authority' is an authority with responsibility for making decisions about access to records in Queensland State Archive's custody.

DJAG agreed to accept responsibility for the records as the relevant and responsible public authority and it is proposed to amend the *Public Records Regulation 2014* (PR Regulation) accordingly.

Achievement of policy objectives

The Regulation achieves the policy objectives by amending the PR Regulation to prescribe DJAG as the relevant public authority under section 8(3)(b) and the responsible public authority under section 15(d) of the PR Act, with respect to the public records of the Commission.

As the PR Act requires a relevant and responsible public authority be assigned by regulation, no alternative method to achieve the policy objective exists.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the PR Act. The regulation supports the objectives of the PR Act by ensuring that the public records of the Commission remain in the control of a public authority which has obligations regarding custody, preservation, and access for the records. The appropriate care and access of the Commission's public records ensures the records will remain useable and appropriately accessible now and in the future.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with the policy objectives of other legislation, including the *Human Rights Act 2019*.

Benefits and costs of implementation

The Regulation has the benefit of ensuring that the public records of the Commission remain useable and appropriately accessible for now and the future.

The Regulation will result a small overall increase in the number of records that DJAG has responsibility for managing. DJAG has experience with managing records of this

type and any additional cost attributed to the management of these records should be minor and easily absorbed within existing budgets.

Consistency with fundamental legislative principles

The Regulation is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992* (LS Act). The proposed Regulation observes the following principles as required by section 4(5) of the LS Act:

• Section 57 of the PR Act authorises the making of subordinate legislation.
• The proposed Regulation is consistent with the policy objectives of the PR Act as it will enable the management and preservation of the records of the Commission as required by section 8(3)(b) of the PR Act.
• The proposed Regulation deals with matters which are to be prescribed by regulation pursuant to sections 8(3)(b) and 15(d) of the PR Act.
• The proposed Regulation will amend the *Public Records Regulation 2014*.
• The proposed Regulation does not involve the sub-delegation of a power delegated by an Act.

Consultation

Both the Commission and DJAG agreed that DJAG is an appropriate authority to be the relevant and responsible public authority for the purposes of the PR Act.

In accordance with the *Queensland Government Guide to Better Regulation*, Queensland State Archives applied a self-assessable exclusion from undertaking further regulatory impact analysis on this Regulation. This was based on category (c) – regulatory proposals for the internal management of the public sector or statutory authority.