

# Corrective Services Amendment Regulation 2024

Explanatory notes for SL 2024 No. 72

made under the

*Corrective Services Act 2006*

## General Outline

### Short title

Corrective Services Amendment Regulation 2024

### Authorising law

Sections 149, 175A, 355 and Schedule 4 Dictionary of the *Corrective Services Act 2006* (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.

In 2018, the Crime and Corruption Commission's *Taskforce Flaxton: An examination of corruption and corruption risks in Queensland's corrective services facilities* recognised that the presence of contraband in corrective services facilities poses a significant threat to institutional security, officer safety, public safety, and prisoner safety, health and welfare.

Recommendation 136 of the Women's Safety and Justice Taskforce's *Hear her Voice – Report Two – Women and girls' experiences across the criminal justice system* recommended Queensland Corrective Services immediately move to introduce the widespread use of non-invasive screening technology to end the practice of removal of clothing searches in all women's correctional facilities.

The *Corrective Services (Emerging Technologies and Security) and other Legislation Amendment Act 2023* (the Amendment Act) received assent on 2 June 2023. The Amendment Act amended the CSA to facilitate the use of x-ray body scanners and other emerging technologies. This included inserting a new type of search into the CSA, an imaging search.

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

The *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024* (Cwth), which amends the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwth) (Redress Act) received assent on 28 March 2024. The amendments to the Redress Act enabled prisoners in custody to apply for redress, excluding prisoners who have been sentenced to 5 years or longer for unlawful killing, a sexual offence, a terrorism offence, or certain related offences, from making applications under the scheme.

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 updating to add the Commonwealth department responsible for administering the Redress Act.

Section 149 of the CSA requires the regulation to declare a place to be a prison. The Lockyer Valley Correctional Centre (LVCC) will commence commissioning in 2024. It is Stage Two of the master planned Southern Queensland Correctional Complex. LVCC is located on a lot of land that also contains Southern Queensland Correctional Centre, a women's prison. The site is currently prescribed as Southern Queensland Correctional Centre. The Regulation will change the name of the site from Southern Queensland Correctional Centre to Southern Queensland Correctional Complex in acknowledgement of the two corrective services facilities established on the site. This is required prior to the commissioning of LVCC to ensure the site is correctly designated under the CSR.

## **Achievement of policy objectives**

The Regulation prescribes an apparatus or device used for an imaging search to be an x-ray body scanner in line with section 175A(4) of the CSA. An x-ray body scanner is defined to mean an apparatus which uses ionising radiation to produce an x-ray image of a person.

The Regulation includes requirements and procedures relating to imaging searches in line with section 175A(5)(b) of the CSA. This includes that an imaging search must be carried out by at least one corrective services officer, but no more officers than are reasonably necessary to carry out the search. The Amendment Regulation further provides that images produced by an imaging search must be stored securely to protect prisoners' privacy. Further obligations for how the images are stored and destroyed is provided under the *Public Records Act 2002*.

The Regulation also creates a definition for a search offence, like the search offence in section 10(3) of the CSR to cover an offence involving something found during an imaging search (e.g. concealing a prohibited item) or an offence committed while an imaging search is being conducted.

The opportunity to use x-ray body scanners in the correctional environment provides a less invasive means of detecting and preventing the introduction of contraband into facilities.

The Regulation enables prisoners to communicate confidentially with an officer of the Commonwealth department responsible for administering the Redress Scheme. This amendment to section 17 of the CSR supports prisoners' access to Redress, following recent amendments to enable prisoners' access to the Scheme.

The Regulation amends the name of Southern Queensland Correctional Centre to Southern Queensland Correctional Complex in Schedule 1 of the CSR to ensure the site is appropriately designated for the purpose of section 149 of the CSA. This provides a consistent and transparent legal basis for the management and functioning of the centres.

## **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.

## **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' ability to detect contraband and prevent its introduction into corrective services facilities, ensures prisoners can confidentially access the Redress Scheme, and appropriately designates the Southern Queensland Correctional Complex.

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

## **Consistency with fundamental legislative principles**

The Regulation may generally be considered inconsistent with the fundamental legislative principles (FLPs) in section 4 of the *Legislative Standards Act 1992* (LSA). Specifically, prescribing an x-ray body scanner as an apparatus or device for the purpose of an imaging search may be considered inconsistent with the fundamental legislative principle regarding the rights and liberties of individuals in section 4(3)(a). This fundamental legislative principle includes the right to privacy.

However, the Regulation provides sufficient safeguards and limitations for the use of this technology, including protections for the images produced by an x-ray body scanner. This includes limitations on who may be present when an imaging search is conducted, who may view the image produced and that the image must be stored securely. The *Public Records Act 2002* provides further requirements for the destruction of images.

Searches are necessary to ensure the safety and security of corrective services facilities. If this technology was not used, the alternative for prisoners would be to undergo a removal of clothing search which is much more invasive and would have a greater impact on the rights and liberties of these individuals. The potential to use x-ray body scanners on staff and visitors is also less restrictive than refusing the person entry into a corrective services facility.

Any inconsistencies with fundamental legislative principles are therefore considered justified, given the risks associated with concealed contraband entering a corrective services facility and the need to keep prisoners and corrective services officers safe.

## **Consultation**

In accordance with the Queensland Government Better Regulation Policy, the Regulation is determined to be a proposal relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services, and not requiring further impact analysis.

No public consultation was conducted as the amendments are minor and technical in nature.

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