

Justices (Sharing of Records) and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 175

Made under the

Justices Act 1886

Magistrates Court Act 1921

Supreme Court of Queensland Act 1991

General Outline

Short title

Justices (Sharing of Records) and Other Legislation Amendment Regulation 2024

Authorising law

Section 266 of the *Justices Act 1886*

Section 57C of the *Magistrates Courts Act 1921*

Section 85 of the *Supreme Court of Queensland Act 1991*

Policy objectives and the reasons for them

The primary objective of the *Justices (Sharing of Records) and Other Legislation Amendment Regulation 2024* (Amendment Regulation) is to facilitate information sharing between Queensland courts and the family law courts at no cost to the requesting party, in accordance with the National Strategic Framework for Information Sharing between the Family Law Courts and Family Violence and Child Protection Systems (National Framework), which was endorsed on 12 November 2021 by the then Meeting of Attorneys-General. The Regulation will also facilitate information sharing between Queensland courts and other Australian courts and tribunals without a fee, where that information is relevant to a proceeding before that court or tribunal.

The National Framework commenced on 6 May 2024 and outlines a nationally consistent process for information exchange between the Federal Circuit and Family Court of Australia and the Family Court of Western Australia (the family law courts), state and territory courts; and agencies responsible for child protection, policing, and firearms. The main purpose of the National Framework is to promote the safety and wellbeing of adults and children affected by family violence, child abuse and neglect, and support informed and appropriate decision-making in circumstances where there is, or may be, a risk of family violence, child abuse or neglect.

The National Framework is supported by legislative reform to the *Family Law Act 1975* (Cth), the *Family Courts Act 1997* (WA), respective court rules and regulations and a National Information Sharing Protocol (the Protocol).

Amendments are also proposed to remove potential administrative restrictions on sharing relevant information with other courts.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending the:

- *Criminal Practice Rules 1999* and *Justices Regulation 2014* to establish a fee exemption for Australian courts and tribunals when requesting information relevant to proceedings before that court or tribunal; and
- *Domestic and Family Violence Protection Rules 2014* to provide that an Australian court or tribunal does not need to make an application in writing to access documents relating to a proceeding under the *Domestic and Family Violence Protection Act 2012* and other technical amendments to improve consistency of terminology.

These amendments to Queensland legislation will promote the timely and efficient exchange of information between courts (or tribunals), including under the National Framework.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising laws, that is to support the operations of the court registries and regulate how court information can be accessed.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

There are no alternative means to achieve the policy objectives.

Benefits and costs of implementation

Implementation of the Amendment Regulation will support implementation of the National Framework and facilitate timely and efficient information sharing between Queensland courts and other Australian courts and tribunals more broadly.

Any costs of implementation will be met within existing resources. It is anticipated that the fee waiver provisions will have a negligible impact on revenue generated from information requests received from other Australian courts and tribunals.

Consistency with fundamental legislative principles

The Amendment Regulation has been developed with regard to the fundamental legislative principles in the *Legislative Standards Act 1992*. Potential breaches of fundamental legislative principles are outlined below.

Legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) Legislative Standards Act 1992

The Amendment Regulation will impact on an individual's right to privacy as it will facilitate the sharing by a Queensland court with another Australian court (or tribunal) a part of the record of a proceeding, or a document used or tendered in a proceeding, without the need to pay a fee. These amendments are intended to allow a Queensland court to provide records to an Australian court or tribunal (meaning a court or tribunal of the Commonwealth or of a state or territory) without a cost.

Any potential impact on the privacy of individuals is mitigated by the requirement that information shared by Queensland courts with other Australian courts or tribunals must be relevant to a proceeding before that court or tribunal. For information shared under the National Framework, safeguards are included in the Protocol developed to support the operation of the National Framework.

Consultation

The Chief Magistrate and the Rules Committee were consulted on the Amendment Regulation.

The Rules Committee consented to the amendments to the *Criminal Practice Rules 1999* pursuant to section 85 of the *Supreme Court of Queensland Act 1991*.

The Chief Magistrate has consented to the amendments to the *Domestic and Family Violence Protection Rules 2014* pursuant to section 57C of the *Magistrates Court Act 1921*.