

# Public Records (Commission of Inquiry into Forensic DNA Testing in Queensland) Amendment Regulation 2023

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Leeanne Enoch MP, Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts provide this human rights certificate with respect to the Public Records (Commission of Inquiry into Forensic DNA Testing in Queensland) Amendment Regulation 2023 (Amendment Regulation) made under the *Public Records Act 2002* (the PR Act).

The right to freedom of expression also incorporates a right to freedom of information. In particular, it includes a right to access government-held information. The prescribing of a relevant and responsible public authority protects the rights of all persons by protecting the public records of Queensland. This helps to make public records available and supports the positive right to access government-held information.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The Amendment Regulation amends the *Public Records Regulation 2014* to prescribe the Department of Justice and Attorney-General (DJAG) as the relevant public authority under section 8(3)(b) and the responsible public authority under section 15(d) of the PR Act.

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 Archives' custody.

The prescription of DJAG as such is necessary to ensure the public records of the Commission of Inquiry into Forensic DNA Testing in Queensland (the Commission) are appropriately maintained.

The Commission was established by *Commissions of Inquiry Order (No.3) 2022*, issued by the Governor in Council under the provisions of the *Commissions of Inquiry Act 1950*. It was led by Mr Walter Sofronoff KC as Commissioner. The Commission commenced on 13 June 2022 and delivered its final report on 13 December 2022.

The Commission was a public authority under Schedule 2 of the PR Act which ceased to exist when its work was finalised through delivery of its final report on 13 December 2022. When a

public authority ceases to exist and its functions will not be undertaken by any other public authority, the PR Act requires a relevant and responsible public authority be assigned under a regulation.

The assignment of a relevant and responsible public authority ensures public records are always under the care of a public authority, which is responsible for the management and preservation in accordance with the PR Act. This ensures the public records of Queensland are made, managed, kept and, if appropriate, preserved in a useable form for the benefit of present and future generations ensures public access to records under the PR Act is consistent with the principles of the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

## Human Rights Issues

### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, no human rights have been limited by the Amendment Regulation. The following human rights are relevant to the Regulation:

- Freedom of expression (section 21).
- Privacy and reputation (section 25).

Section 21 of the *Human Rights Act 2019* provides that every person has the right to freedom of expression, which includes the right to hold an opinion without interference and the right to seek, receive and impart information and ideas of all kinds, whether verbally, in writing, in print, by way of art or in another medium. The right to freedom of expression is central to the fulfilment of other rights such as cultural rights and freedom of thought, conscience and religion.

Section 25 of the *Human Rights Act 2019* provides that every person has the right not to have the person's privacy, family home or correspondence unlawfully or arbitrarily interfered with and also not to have the person's reputation unlawfully attacked.

There are no impacts on either of these rights by the transfer of the records or through the change of access to records from the Commission to DJAG. The assignment of a relevant and responsible public authority protects the rights of all persons by protecting the public records of Queensland. This helps to make public records available and supports the positive right to access public information.

## Conclusion

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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MINISTER FOR COMMUNITIES AND HOUSING  
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