

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, November 2023*



Queensland

**No.
A BILL for**

An Act about making, managing and accessing public records and continuing the role of the State Archivist and the Office of State Archives, to repeal the Public Records Act 2002, and to amend this Act and the legislation mentioned in schedules 4 and 5 for particular purposes



Queensland

Public Records Bill 2023

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The Parliament of Queensland enacts—

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Public Records Act 2023*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Main purpose of Act

The main purpose of this Act is to provide a framework for making, managing and accessing public records in a way that benefits present and future generations.

4 Principles for administering Act

It is Parliament's intention that public records are made, managed and accessed under this Act in a way guided by the principles stated in schedule 1.

5 Act binds all persons

This Act binds all persons, including the State.

6 Relationship with other Acts

- (1) This Act is subject to another Act providing any of the following—

- (a) that an entity is, or is not, a public authority under this Act;
 - (b) that a record is, or is not, a public record under this Act;
 - (c) that access to, or disposal of, a record is authorised, even if access or disposal is not authorised under this Act;
 - (d) that access to a record is prohibited or restricted, even if access is authorised under this Act.
- (2) Subsection (1) does not affect a provision of this Act or another Act that expressly deals with the interaction between this Act and the other Act.

Division 2 Interpretation

7 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

8 What is a *public authority*

- (1) Each of the following entities is a *public authority*—
- (a) the Governor in the Governor’s official capacity;
 - (b) the Executive Council;
 - (c) a Minister;
 - (d) an Assistant Minister;
 - (e) the registrar or other officer of a court with responsibility for official records of the court;
 - (f) a commission of inquiry under the *Commissions of Inquiry Act 1950*;
 - (g) an entity, other than the parliamentary service, that—
 - (i) is established by an Act; or

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- (ii) is created by the Governor in Council or a Minister;
 - (h) a department;
 - (i) a government owned corporation;
 - (j) a rail government entity under the *Transport Infrastructure Act 1994*;
 - (k) an entity established by the State and a local government;
 - (l) a local government.
- (2) However, a regulation may prescribe that an entity that is otherwise a public authority under subsection (1)(f), (g), (i) or (k)—
- (a) is not a public authority; or
 - (b) is not a public authority for a particular function.
- (3) Also, a regulation may prescribe that an entity that is otherwise not a public authority under subsection (1)—
- (a) is a public authority; or
 - (b) is a public authority for a particular function.
- (4) In this section—
- parliamentary service* means the parliamentary service established under the *Parliamentary Service Act 1988*, section 23.

9 What is a *public record*

- (1) A *public record*—
- (a) is a Ministerial record of a Minister or an Assistant Minister; or
 - (b) is information recorded on, in or by using any medium—
 - (i) that is made, received or kept in the course of another public authority carrying out activities for

a purpose of the authority, including the exercise of its statutory, administrative or other public responsibilities; and

(ii) that evidences the activities, affairs or business of the authority.

(2) Also, a **public record** is any of the following—

(a) any information connected to a public record to identify or contextualise the record;

Examples for paragraph (a)—

logs, metadata

(b) a copy of a public record;

(c) a part of a public record or a copy of a part of a public record.

(3) However, each of the following is a **public record** only if the Governor agrees to it being a public record—

(a) correspondence between the Governor and the Sovereign;

(b) correspondence between the Governor and the Governor-General;

(c) correspondence between the Governor and the Governor of another State.

10 What is a **Ministerial record**

A **Ministerial record**, of a Minister or an Assistant Minister—

(a) is information recorded on, in or by using any medium that is made or received—

(i) by the Minister in the course of carrying out the Minister's portfolio responsibilities; or

(ii) by the Assistant Minister in the course of carrying out the Assistant Minister's official duties; but

(b) does not include information that relates to—

(i) personal activities; or

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- (ii) party political activities; or
- (iii) activities in the capacity of being a member of the Legislative Assembly and the representative of an electorate.

Part 2 Public record requirements

Division 1 Preliminary

11 Requirements for particular public authorities

- (1) This section applies in relation to a requirement of this Act applying to a public authority that is not an individual.
- (2) The chief executive of the public authority must ensure the public authority complies with the requirement.
- (3) This section does not limit a requirement or responsibility imposed on the chief executive under another Act.

Note—

See, for example—

- (a) the *Public Sector Act 2022*, section 41; and
 - (b) the *Local Government Act 2009*, section 13.
- (4) In this section—
- chief executive***, of a public authority, means—
- (a) if the authority is a department—the chief executive of the department; or
 - (b) if the authority is a local government—the chief executive officer of the local government; or
 - (c) if the authority has a governing body—the chairperson, however called, of the governing body of the authority; or

- (d) otherwise—the person who is responsible for the day-to-day management of the authority or the authority’s activities.

12 Compliance with standards and regard for policies and guidelines

In making or managing a public record, a public authority—

- (a) must comply with any relevant standards made by the archivist; and
- (b) must have regard to any relevant policy made by the archivist; and
- (c) may have regard to any relevant guidelines made by the archivist.

Note—

See section 46 for how the archivist makes standards, policies and guidelines.

13 Ownership of public records

- (1) Ownership of a public record of a local government vests in the local government.
- (2) Ownership of another public record vests in—
 - (a) if the responsible public authority for the record has custody of the record—the public authority; or
 - (b) otherwise—the State.

Division 2 Making and managing public records

14 Making and keeping public records

- (1) A public authority must ensure its public records are made in a way that accurately shows—

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- (a) the actions or decisions of the authority; and
 - (b) the matters that inform or contextualise the actions or decisions of the authority.
- (2) The public authority must keep the public records made by the authority.
 - (3) Subsection (2) does not prevent disposal of the public record under a disposal authorisation.

15 Safe keeping and preservation of public records

- (1) A public authority must ensure the safe keeping and preservation of a public record it controls.
- (2) A public authority may arrange for another entity, other than the archives, to store a public record for the entity only if the arrangement provides—
 - (a) for the safe keeping and preservation of the record; and
 - (b) for access by the authority to the record.

Note—

See section 25 in relation to giving custody of a public record to the archives.

- (3) Subsections (1) and (2) do not prevent disposal of the public record under a disposal authorisation.

16 Control of public records when public authority changes

- (1) This section applies if a function of a public authority (an *original authority*) is transferred to another public authority.
- (2) The original authority must give control of any public record of the authority relating to the function to the other public authority.
- (3) This section does not apply if section 17 or 18 applies.

17 Control of public records when public authority ends

- (1) This section applies if a public authority (an *original authority*) will cease to exist or has ceased to exist.
- (2) The original authority must give control of any public record of the authority to an entity (the *receiving entity*) as follows—
 - (a) if the original authority is a commission of inquiry under the *Commissions of Inquiry Act 1950*—the department with responsibility for administering that Act;
 - (b) if the function of the original authority to which the public record relates is to be carried out by another public authority—the other public authority;
 - (c) otherwise—the archivist or another public authority decided by the archivist.
- (3) However, if the original authority has ceased to exist before control of the public record has been given, the receiving entity must take action to obtain control of the record.
- (4) For subsection (2)(c), the archivist must—
 - (a) keep a list, updated from time to time, stating the original authority that has ceased to exist and the public authority decided under the subsection; and
 - (b) publish the list on the archives website.
- (5) A regulation may prescribe a public authority to be given control of a public record that is different from the receiving entity for the record under subsection (2).
- (6) This section does not apply if section 18 applies.

18 Control of public records when Minister or Assistant Minister ends office or responsibilities

- (1) This section applies if—
 - (a) a person's appointment as a Minister or an Assistant Minister ends; or

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- (b) a person ceases to be a Minister or an Assistant Minister with particular responsibilities.
- (2) Control of a relevant public record of the Minister or Assistant Minister must be given to—
 - (a) if the appointment ended or responsibilities ceased because of a change in the political party governing the office of the Minister or Assistant Minister—the archives; or
 - (b) if paragraph (a) does not apply and the responsibilities are to be carried out by another public authority, including under another Ministerial portfolio—the other public authority; or
 - (c) otherwise—the archives.
- (3) The entity being given control of the relevant public record must take action to obtain control of the record.
- (4) In this section—

relevant public record means a Ministerial record of a Minister or an Assistant Minister—

- (a) made or received during the period the Minister or Assistant Minister held office; or
- (b) made or received in relation to the responsibilities held by the Minister or Assistant Minister.

responsibilities means—

- (a) for a Minister—portfolio responsibilities; or
- (b) for an Assistant Minister—official duties.

19 Accessibility of public records

- (1) This section applies in relation to a public record—
 - (a) that is in the custody of a public authority; and
 - (b) that requires the use of particular equipment, systems or technology to produce the record or make the record available.

- (2) The public authority must take all reasonable steps to ensure the public record maintains its integrity and remains able to be produced or made available.

20 Archivist may authorise disposal of public records

- (1) The archivist may authorise disposal of a public record, or class of public record, if a responsible public authority for the record or class—
 - (a) has applied to the archivist to dispose of the record or class; or
 - (b) has consented to the disposal of the record or class.
- (2) An authorisation given under subsection (1) is a *disposal authorisation*.
- (3) In authorising the disposal of a public record or class of public record, the archivist must have regard to—
 - (a) the main purpose of, and principles for administering, this Act; and
 - (b) any archives appraisal statement; and
 - (c) any industry or professional standards relevant to the record or class.
- (4) Subsection (5) applies if the archives is the responsible public authority for a public record because of section 17 or 18.
- (5) Before disposing of the public record under a disposal authorisation, the archivist must ask the committee to advise whether the record should be disposed of.
- (6) To remove any doubt, it is declared that the registrar or other officer of a court with responsibility for public records may apply for, or consent to, the disposal of a public record or class of public record.

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Division 3 Protecting public records

21 Notifying archives about particular public records

A public authority must give notice to the archivist if the authority has custody of a public record—

- (a) that is more than 25 years old; or
- (b) that the authority knows, or ought reasonably to know—
 - (i) is of permanent value, regardless of its age; and
 - (ii) is at risk of loss or damage.

Examples for paragraph (b)(ii)—

- a hard copy public record held in a storage facility that periodically floods
- a digital public record held in an electronic system to be decommissioned

22 Offence to damage particular public records

(1) A person must not, without legal authority or a reasonable excuse, damage a public record that the person knows, or ought reasonably to know—

- (a) is more than 25 years old; or
- (b) is of permanent value, regardless of its age.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to the archivist or staff of the archives necessarily damaging a public record in carrying out an accepted archival or conservation practice in relation to the record.

23 Unlawful disposal of public records

A person must not dispose of a public record or attempt to dispose of a public record unless—

- (a) the public record is disposed of under a disposal authorisation or other legal authority; or
- (b) the person has a reasonable excuse.

Maximum penalty—165 penalty units.

Note—

See also section 24(6) about the effect of a protection notice.

24 Protection notice for public records

- (1) This section applies if the archivist considers—
 - (a) that a class of public record relating to a matter is, or is likely to be, reasonably necessary for consideration or examination by an investigative entity; and
 - (b) that it is not reasonably practicable for the archivist to identify each public record relating to the matter that is authorised for disposal under any disposal authorisation.
- (2) The archivist may declare by notice (a ***protection notice***) published on the archives website that a disposal authorisation for the class of public record is suspended for a particular period.
- (3) The protection notice must state—
 - (a) the class of public record to which the notice applies; and
 - (b) the day, not earlier than the day the notice is published on the archives website, that the notice takes effect; and
 - (c) the period for which the notice has effect.
- (4) The period mentioned in subsection (3)(c) must be no longer than is reasonably necessary for the investigative entity to investigate or inquire into the matter.
- (5) The archivist must take all reasonable steps to ensure a public authority that is likely to be affected by the protection notice is aware of the notice, including, for example, by—

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- (a) giving the notice to an employee of a public authority responsible for managing the authority's public records; and
 - (b) publishing the notice on the archives website.
- (6) For applying a provision of this Act, a disposal authorisation is taken not to authorise disposal of a public record in the class of public record to which a protection notice applies for the period the notice has effect.
- (7) In this section—

investigative entity means an entity established, or to be established, under a law to investigate or conduct an inquiry into a matter.

Examples—

- a commission of inquiry under the *Commissions of Inquiry Act 1950*
- the Truth-telling and Healing Inquiry under the *Path to Treaty Act 2023*
- a Royal Commission under the *Royal Commissions Act 1902* (Cwlth)

Division 4 Giving custody of public records to archives

Subdivision 1 Giving custody

25 Public records that may be given to archives

- (1) A public authority may, if authorised by the archivist, give custody of a public record of permanent value to the archives if—
- (a) the authority no longer needs custody of the record; or
 - (b) the authority or the archives considers the record is at risk of loss or damage.

- (2) The archivist must ensure a public record given to the archives under this section is made available to the public authority, as reasonably needed by the authority.
- (3) The archivist may impose a reasonable charge for making a public record available to a public authority.

Note—

See also sections 17 and 18 about other public records under the control of the archives.

26 Archives may take custody of particular public records

- (1) This section applies if the archivist considers—
 - (a) a public authority has custody of a public record that is more than 25 years old; or
 - (b) a public authority has custody of a public record that—
 - (i) is of permanent value, regardless of its age; and
 - (ii) is at risk of loss or damage; and
 - (iii) does not need to be in the custody of the authority.
- (2) The archivist may do any of the following—
 - (a) take custody of the public record;
 - (b) take a copy of the public record;
 - (c) give directions about the custody or preservation of the public record;
 - (d) give directions about keeping or maintaining systems for accessing the public record.
- (3) However, the archivist may act under subsection (2) only after giving a notice to the public authority—
 - (a) stating the reason the archivist considers this section applies to the public record; and
 - (b) stating the archivist’s proposed action; and
 - (c) if the archivist proposes to take custody of the record—asking the authority to consider giving the

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archives custody of the record within a reasonable period, stated in the notice; and

- (d) inviting the authority to make a submission about the archivist's proposed action within a reasonable period, stated in the notice.
- (4) The archivist must also give the notice to the responsible public authority for the public record, if it is not the authority that has custody of the record.
- (5) The archivist must consider any submissions made to the archivist before taking the proposed action.

27 Retention of public records of permanent value

- (1) This section applies to a public record—
 - (a) that has been identified by the archivist to be of permanent value; and
 - (b) that is in the custody of the archives.
- (2) The public record may be removed from the archives only if the archivist is satisfied—
 - (a) that the record is reasonably needed by a public authority; or
 - (b) that there is another adequate reason for allowing the record to be removed.
- (3) This section does not prevent the disposal of a public record under a disposal authorisation.

Subdivision 2 Working out access for public records

28 Restricted access notice and restricted access period

- (1) A public record in the custody of the archives is an open record unless the responsible public authority for the record, in a notice given to the archivist—

- (a) states the record is a regulated record or contains restricted information; and
 - (b) states the period of time, worked out under this division, for which the public's access to the record is restricted.
- (2) A notice given by a public authority stating the matters mentioned in subsection (1) is a ***restricted access notice*** for the public record.

Note—

See section 32 about reviewing and replacing a restricted access notice.

- (3) A period mentioned in subsection (1)(b) is the ***restricted access period*** for the public record.
- (4) Also, if the archivist changes a period of time under section 40, the new period is taken to be the restricted access period for the record.

29 Working out period for regulated record

- (1) This section applies for working out the restricted access period for a regulated record.
- (2) If the regulated record contains restricted information, the restricted access period must be—
- (a) at least the number of years in column 2 of schedule 2, part 2, opposite the class of the record; and
 - (b) no more than the number of years in column 2 of schedule 2, part 3, opposite the class of restricted information contained in the record.
- (3) If subsection (2) does not apply, the restricted access period for the regulated record is the number of years in column 2 of schedule 2, part 2, opposite the class of the record.

30 Working out period for restricted information

- (1) This section applies for working out the restricted access period for a public record, other than a regulated record, that contains restricted information.

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- (2) The restricted access period must be no more than the number of years in column 2 of schedule 2, part 3, opposite the class of restricted information contained in the record.

31 When restricted access period has effect

- (1) The restricted access period for a public record starts at the beginning of the day the last action happened for the record.
- (2) However, subsection (3) applies if—
 - (a) the day the last action happened is unable to be worked out for the public record; or
 - (b) the recording of information for the public record is ongoing.
- (3) The archivist and the responsible public authority for the public record may agree on the day, as stated in the restricted access notice, that the restricted access period starts.
- (4) The day mentioned in subsection (3) must not reduce a period of time mentioned in schedule 2, part 2 for information contained in the public record.
- (5) The restricted access period ends at the end of the day on which the period stated in the restricted access notice has elapsed.

Example—

If the stated period is 30 years starting at the beginning of the day on 1 January 2024, the period ends at the end of the day on 31 December 2053 and the public record is no longer restricted from the beginning of the day on 1 January 2054.

- (6) In this section—

last action, for a public record—

 - (a) means the last action of recording information for the record; but
 - (b) does not include an action that involves accessing or moving the record, or editing information for the record, in a way that does not affect the integrity of the record.

Examples of actions for paragraph (b)—

- placing a public record on a file
- migrating a public record to a new computer system

32 Reviewing and replacing restricted access notice

- (1) This section applies in relation to a restricted access notice (the *original notice*) for a public record given to the archivist.
- (2) The responsible public authority for the public record may, at any time, give a notice (a *new notice*) to the archivist changing the matters stated under section 28(1).
- (3) Also, the archivist may, at any time, ask the responsible public authority to review or change the original notice.
- (4) If the archivist and the responsible public authority do not agree about changing the original notice, the archivist or the responsible public authority may refer the matter to the committee for resolution.
- (5) The archivist and the responsible public authority must comply with the committee's decision on the matter.
- (6) A new notice given under this section replaces the original notice.

Part 3 Accessing public records in custody of archives

Division 1 Preliminary

33 Application of part

- (1) This part applies in relation to a public record in the custody of the archives.
- (2) This part does not prevent a person applying for access, or the archivist giving access, under another law to a public record in the custody of the archives.

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*Example of another law—
the Right to Information Act 2009*

Division 2 Access to open records

34 Open records available to public

Subject to division 4, the archivist must allow a member of the public access to a public record that is an open record.

Division 3 Access to restricted records

35 Application of division

- (1) This division applies in relation to a public record, other than a Ministerial record of a Minister or an Assistant Minister, for which the restricted access period has not ended.
- (2) A public record to which this division applies is a *restricted record*.

Note—

See also the *Right to Information Act 2009* in relation to accessing a document of a Minister, including an Assistant Minister.

36 Application for access to restricted record

A person may apply to the archivist for access to a restricted record.

37 Giving access to restricted record

- (1) The archivist may give an applicant access to a restricted record only if—
 - (a) the access is approved under section 38; or

- (b) the responsible public authority for the record authorises the access, or the access is otherwise authorised, under another law.

Example for paragraph (b)—

The responsible public authority authorises access under the *Right to Information Act 2009*.

- (2) If an approval under section 38 or another authorisation states a condition for access, the archivist may give an applicant access to the restricted record only in accordance with the condition.

38 Responsible public authority approving access

- (1) This section applies if the archivist gives notice to a responsible public authority for a restricted record asking whether an applicant may access the record.
- (2) The responsible public authority may, by notice given to the archivist—
 - (a) approve the applicant accessing the restricted record; or
 - (b) approve the applicant accessing the restricted record on any reasonable conditions; or
 - (c) refuse the applicant access to the restricted record.
- (3) The responsible public authority must respond to the archivist within 35 days after receiving the notice or within a longer period agreed by the archivist.
- (4) If the responsible public authority refuses access, or imposes conditions on access, the authority must advise the archivist about why it has done so.
- (5) If the archivist and the responsible public authority do not agree about access to the restricted record, or whether the conditions for access are reasonable, the archivist or authority may refer the matter to the committee for resolution.
- (6) The archivist and the responsible public authority must comply with the committee's decision about the matter.

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Division 4 Other restrictions on access

39 Refusal if access not practicable

The archivist may refuse a person access to a public record if—

- (a) the record's preservation would be detrimentally affected by giving access to the record; or
- (b) the record is reasonably available for purchase by members of the public under arrangements made by a public authority; or
- (c) the record is only able to be produced or made available with the use of particular equipment, systems or technology that the archives does not have or is unable to reasonably obtain for use.

40 Refusal in prescribed circumstances

- (1) A regulation may prescribe the circumstances in which the archivist may—
 - (a) refuse a person access to a public record; or
 - (b) restrict access by the public to a public record for a period of more than 100 years.
- (2) Without limiting subsection (1), the prescribed circumstances may include—
 - (a) the archivist being satisfied that access to a public record would not, on balance, be in the public interest; and
 - (b) the archivist being satisfied that access to a public record would inappropriately reveal culturally sensitive information or personal information.
- (3) For applying subsection (1), the regulation may also prescribe any of the following matters—
 - (a) procedures applying to the archivist refusing or restricting access;

- (b) matters to be considered by the archivist for refusing or restricting access;
- (c) maximum periods of time for restricting access.

41 Forms of access

- (1) Access to a public record may be given to a person—
 - (a) by allowing the person a reasonable opportunity to inspect the record; or
 - (b) by giving the person a copy of the record; or
 - (c) if subsection (2), (3) or (4) applies to the record—by the form of access stated in the subsection.
- (2) Access may be given by making arrangements for the person to hear the sounds or view the images or writings if the public record is something from which sounds or visual images or writings are capable of being reproduced.
- (3) Access may be given by giving the person a written transcript of the words recorded or contained in the public record if the record is something—
 - (a) by which words are recorded in a way in which the words are capable of being reproduced in the form of sound; or
 - (b) in which words are contained in the form of shorthand writing or in a codified form.
- (4) Access may be given by giving the person a written document containing information if—
 - (a) the public record is not a written record; and
 - (b) the archivist or the responsible public authority is able to create a written document containing the information using equipment usually available to the archivist or authority for retrieving or collating electronically stored information.

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- (5) If the person asks for access to the public record in a particular and reasonably practical way, access must be given in that way.
- (6) However, access to the public record may be given in another way decided by the archivist if the archivist considers giving access to the record in the way requested by the person—
 - (a) would interfere unreasonably with the operations of the archives or the responsible public authority; or
 - (b) would be detrimental to the preservation of the record; or
 - (c) would be inappropriate, having regard to the nature of the record; or
 - (d) would involve an infringement of copyright of a person other than the State.
- (7) The archivist may—
 - (a) impose reasonable conditions on accessing a public record; and
 - (b) if access is given by way of a copy or transcript of a public record—impose a reasonable charge for the copy or transcript.
- (8) This section does not prevent the archivist giving a person access to a public record in another form agreed to by the person.

Part 4 State Archives

Division 1 Archives

42 State Archivist and Queensland State Archives

- (1) There is to continue to be a State Archivist (the *archivist*).
- (2) There is to continue to be an office called the Queensland State Archives (the *archives*).

- (3) The office includes the archivist and the staff of the archives.
- (4) The archivist and staff of the archives are to be appointed and employed under the *Public Sector Act 2022*.

43 Control of archives and repository

- (1) Subject to the Minister, the archivist is to control the archives and the archives repository.
- (2) However, the archivist and the staff of the archives are not subject to the control of the Minister in relation to—
 - (a) making a decision about the disposal of a public record; or
 - (b) preparing the annual report to the extent particular matters must be included in the report under section 89.
- (3) Also, the Minister may give a direction to the archivist or staff only if the direction is given to the archivist in writing.
- (4) A direction given under subsection (3) must not be inconsistent with this Act.
- (5) The archivist and the staff of the archives are subject to the chief executive only in relation to the provision of administrative support to the archives.

Division 2 Archivist's functions and powers

44 Functions of archivist

The archivist has the following functions—

- (a) to develop and promote efficient and effective methods, procedures and systems for making, managing and accessing public records;
- (b) to identify public records of permanent value and make decisions about their retention, whether or not the records are in the custody of the archives;
- (c) to make decisions about the disposal of public records;

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- (d) to manage public records in the custody of the archives;
- (e) to provide public access to public records in the custody of the archives;
- (f) to conduct research and give advice, assistance and training about making and managing public records;
- (g) to audit, monitor, investigate and report on compliance with this Act;
- (h) to perform another function given to the archivist under this Act or another Act;
- (i) to do anything else that—
 - (i) is incidental or complementary to another function;
or
 - (ii) is likely to enhance the effective and efficient performance of another function.

45 Specific powers of archivist

- (1) The archivist, in performing a function, may do any of the following—
 - (a) establish and manage the archives repository;
 - (b) copy public records;
 - (c) publish public records;
 - (d) acquire public records by purchase, gift, bequest or loan;
 - (e) authorise the disposal of particular public records or classes of public records.
- (2) This section does not limit another power of the archivist under this Act or another law.

46 Making standards, policies and guidelines

- (1) The archivist may make any of the following documents in relation to matters regulated under this Act—

- (a) a standard with which a public authority, or class of public authority, must comply;
 - (b) a policy to which a public authority, or class of public authority, must have regard;
 - (c) a guideline to which a public authority, or class of public authority, may have regard.
- (2) A standard must be approved by regulation and takes effect—
- (a) on the day it is approved; or
 - (b) if a later day is stated in the standard—on the later day.
- (3) A policy or guideline takes effect—
- (a) on the day it is published on the archives website; or
 - (b) if a later day is stated in the policy or guideline—on the later day.

47 Making archives appraisal statement

- (1) The archivist may make a document (an *archives appraisal statement*) stating criteria for identifying public records appropriate for retention in the custody of the archives.
- (2) An archives appraisal statement takes effect—
- (a) on the day it is published on the archives website; or
 - (b) if a later day is stated in the statement—on the later day.

48 Arrangements for storage outside archives repository

The archivist may make an arrangement with a public authority for public records of permanent value to be stored in, or accessed from, a place other than the archives repository.

49 Delegation

The archivist may delegate the archivist's functions under this Act to—

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- (a) an appropriately qualified member of the staff of the archives; or
- (b) an appropriately qualified officer or employee of a public authority.

Division 3 Public Records Review Committee

Subdivision 1 Establishment

50 Public Records Review Committee

- (1) The Minister must establish a Public Records Review Committee (the *committee*).
- (2) The committee is to consist of the following members—
 - (a) 1 person nominated by the Minister administering the *Local Government Act 2009*;
 - (b) 1 person nominated by the Chief Justice;
 - (c) 1 person nominated by the Minister administering the *Public Sector Act 2022*;
 - (d) 1 person, nominated by the Minister, who is appropriately qualified in relation to the management of records;
 - (e) 1 Aboriginal person, nominated by the Minister administering the *Aboriginal Cultural Heritage Act 2003*, who is appropriately qualified;
 - (f) 1 Torres Strait Islander person, nominated by the Minister administering the *Torres Strait Islander Cultural Heritage Act 2003*, who is appropriately qualified;
 - (g) 3 other persons, nominated by the Minister, who are appropriately qualified.
- (3) A committee member may be paid the remuneration and allowances decided by the Governor in Council.

51 Functions of committee

The committee has the following functions—

- (a) to advise the archivist and the Minister about issues affecting the administration or enforcement of this Act;
- (b) to decide matters referred to the committee under this Act;
- (c) to review decisions of the archivist not to authorise the disposal of particular public records or classes of public records;
- (d) to advise whether particular public records, for which the archives is the responsible public authority because of section 17 or 18, should be disposed of.

52 Chairperson

The Minister must appoint a committee member as chairperson.

53 Term of office

A committee member is appointed for the term, of not more than 3 years, decided by the Minister and stated in the member's instrument of appointment.

54 Resignation

A committee member, or the chairperson, may resign from office as member or chairperson by signed notice of resignation given to the Minister.

Subdivision 2 Committee proceedings

55 Time and place of meetings

- (1) Meetings of the committee are to be held at the times and places decided by the committee.

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- (2) The chairperson may call a committee meeting at any time.
- (3) The chairperson must call a committee meeting if asked by at least 5 members of the committee.

56 Conduct of proceedings

- (1) The chairperson must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the committee member chosen by the members present must preside.
- (3) At a committee meeting—
 - (a) a quorum is 5 committee members; and
 - (b) a question is decided by a majority of the votes of the members present and voting; and
 - (c) each member present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.
- (4) Unless otherwise prescribed by regulation, the committee may conduct proceedings, including meetings, as the committee considers appropriate.

57 Participation in meetings using technology

The committee may hold meetings, or allow members to take part in meetings, by using technology allowing continuous communication between members taking part in the meeting.

58 Minutes

The committee must keep minutes of the committee's proceedings.

59 Committee member's duty about deliberations

- (1) A committee member has a duty not to publicly disclose any part of the committee's deliberations.

- (2) Subsection (1) does not prevent the committee publishing committee decisions.

60 Restrictions on archivist's attendance at committee meetings

The archivist may attend and take part in a committee meeting but must not—

- (a) take part in a decision of the committee; or
- (b) be present during the part of a committee meeting at which the committee is deciding a matter relating to a disagreement with, or decision of, the archivist.

Subdivision 3 Committee's review of archivist's decisions

61 Application for review of disposal decision

- (1) A public authority may apply in writing to the committee for a review of a decision made by the archivist refusing to authorise the disposal of a particular public record or class of public record.
- (2) The application must be made to the committee—
 - (a) within 14 days after the public authority is notified of the archivist's decision; or
 - (b) if the committee allows a further period in which to make the application—within the further period.
- (3) On receiving the application, the committee must give notice of the application to the archivist, stating a reasonable period in which the archivist must provide reasons for the decision.

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62 Archivist to provide reasons

Within the period stated in the committee's notice of an application, the archivist must give the committee written reasons for the archivist's decision.

63 Decision by committee

- (1) The committee may decide the application by—
 - (a) confirming or amending the archivist's decision; or
 - (b) revoking the decision and substituting a new decision.
- (2) The committee's decision is taken to be a decision of the archivist.
- (3) However, the decision can not be further reviewed by the committee.

Division 4 First Nations Advisory Group

64 Establishment and functions

The archivist must establish an advisory group called the First Nations Advisory Group (the *advisory group*)—

- (a) to advise the archivist about public records relating to Aboriginal peoples and Torres Strait Islander peoples, including the application of the principles mentioned in schedule 1, part 1; and
- (b) to advise the archivist on any other matter, requested by the archivist, relating to the archivist's functions.

65 Membership

- (1) The advisory group has the membership decided by the archivist.
- (2) However, the archivist must ensure the advisory group consists of—

- (a) only persons who are Aboriginal persons or Torres Strait Islander persons; and
 - (b) at least 1 Aboriginal person or Torres Strait Islander person appointed to the committee under section 50(2)(e) or (f).
- (3) A person holds office as a member of the advisory group for the term and on the conditions—
- (a) decided by the archivist; and
 - (b) stated in the person’s instrument of appointment.
- (4) A member of the advisory group may be paid the remuneration and allowances decided by the archivist.

66 Business

The advisory group is to conduct its business and hold meetings in the way the archivist and the group considers appropriate.

Part 5 Monitoring and enforcement

Division 1 General provisions about authorised officers

67 Authorised officers under part

- (1) This part includes provision for the appointment of authorised officers and gives authorised officers particular powers.
- (2) The purpose of these provisions is to ensure the archivist has available suitably qualified persons who can help the archivist deal with issues about compliance under this Act.

68 Functions of authorised officer

An authorised officer has the following functions—

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- (a) to investigate, monitor and enforce compliance with this Act;
- (b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
- (c) to facilitate the exercise of powers under this Act.

Division 2 Appointment of authorised officers

69 Archivist is an authorised officer

The archivist is an authorised officer.

70 Appointment

The archivist may, by instrument in writing, appoint any of the following persons who are appropriately qualified as an authorised officer—

- (a) a member of the staff of the archives;
- (b) another public sector employee under the *Public Sector Act 2022*, section 12.

71 Appointment conditions and limit on powers

- (1) An authorised officer, other than the archivist, holds office on any conditions stated in—
 - (a) the officer’s instrument of appointment; or
 - (b) a signed notice given to the officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer’s powers.
- (3) In this section—

signed notice means a notice signed by the archivist.

72 When office ends

- (1) The office of a person as an authorised officer, other than the archivist, ends if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the office ends;
 - (c) the officer’s resignation under section 73 takes effect.
- (2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.
- (3) In this section—

condition of office means a condition under which the authorised officer holds office.

73 Resignation

- (1) An authorised officer, other than the archivist, may resign by signed notice given to the archivist.
- (2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.

Division 3 Identity cards

74 Issue of identity card

- (1) The archivist must issue an identity card to each authorised officer.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised officer; and
 - (b) contain a copy of the officer’s signature; and
 - (c) identify the person as an authorised officer under this Act; and

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- (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.
- (4) Without limiting subsection (3), if the person holds an office under another Act, the identity card may identify the other office.

75 Production or display of identity card

- (1) In exercising a power in relation to a person in the person's presence, the authorised officer must—
 - (a) produce the officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

76 Return of identity card

If the office of a person as an authorised officer ends, the person must return the person's identity card to the archivist within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 4 General powers

77 Power of entry and inspection

- (1) To perform a function under this Act, an authorised officer may do any of the following—
 - (a) enter premises, at a reasonable time, used by a public authority to store a public record;

- (b) inspect any public record in the custody of a public authority;
 - (c) examine a public authority's procedures for making and managing public records, including under any arrangements made with another entity.
- (2) The authorised officer must give the public authority reasonable notice of the officer's intention to access the premises or public records.
- (3) Without limiting subsection (1), an authorised officer may inspect a public record by—
- (a) accessing a public record stored physically at premises used for that purpose by a public authority, including under any arrangements made with another entity; or
 - (b) using electronic means provided by a public authority to access a public record stored remotely.

78 Public authority to comply with request

- (1) An employee of a public authority who is responsible for managing the authority's public records must, if asked by an authorised officer—
- (a) answer a question relating to making or managing a public record; or
 - (b) produce a public record of the authority for the officer's inspection; or
 - (c) give the officer access to, or a copy of, a public record of the authority in the reasonable way requested by the officer; or
 - (d) allow the officer to examine any system used by the authority for making or managing public records; or
 - (e) allow the officer to take a copy, including a photo or video, of a public record of the authority or system used by the authority for making or managing public records.

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- (2) The employee may refuse to answer a question or produce a public record if answering the question or producing the record might tend to incriminate the employee, or expose the employee to a penalty, for an offence against section 22 or 23.

79 Restriction on exercise of powers for particular premises

- (1) An authorised officer may exercise a power under this part—
 - (a) in relation to the Governor’s official residence—only by agreement with the Governor’s secretary; or
 - (b) in relation to a court—only by agreement with the registrar or proper officer of the court; or
 - (c) in relation to a Ministerial office of a Minister or an Assistant Minister—only after giving the Minister or Assistant Minister reasonable notice of the intended exercise of the power.
- (2) A person mentioned in subsection (1)(a) or (b) must not unreasonably withhold agreement.
- (3) In this section—

Ministerial office, of a Minister or an Assistant Minister—

 - (a) means an office normally used by the Minister in administering the Minister’s portfolio, or the Assistant Minister in carrying out the Assistant Minister’s official duties; but
 - (b) does not include an office that is part of the residence of the Minister or Assistant Minister.

Division 5 Specific powers

80 Notice to report

- (1) This section applies if the archivist considers it is reasonably necessary to request a report from a public authority for auditing or monitoring the authority’s compliance with this Act.

- (2) The archivist may give notice to the public authority requesting a report about—
 - (a) any particular aspect of the authority’s practices, procedures or systems for making or managing public records; or
 - (b) any public records in the custody of the public authority.
- (3) The notice must state a reasonable period for compliance with the notice.
- (4) The public authority must comply with the notice within the period stated in the notice or a longer period agreed by the archivist.

81 Recovery of public records

- (1) This section applies if the archivist believes, on reasonable grounds, that a person has unlawful custody of—
 - (a) a public record; or
 - (b) another record to which an agreement under section 82 applies.
- (2) The archivist may, by notice given to the person, require the person to give the record to the archivist, or someone else stated in the notice, within a reasonable period stated in the notice.
- (3) The person must comply with the notice, unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (4) If the person does not comply with the notice, the archivist may apply to a Magistrates Court for an order directing the person to comply with the notice.
- (5) If the Magistrates Court is satisfied the person has unlawful custody of the record, the court may order the person to give the record to the archivist.
- (6) The order is declared to be an order of the court for the *Magistrates Courts Act 1921*, section 50.

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82 Reciprocal agreements

- (1) The archivist may enter into an agreement with an entity (the *reciprocating entity*) with similar functions under a law of another State or the Commonwealth (the *reciprocating jurisdiction*).
- (2) The agreement may provide for—
 - (a) the archivist to take action in Queensland to recover a record that is a public record of the reciprocating jurisdiction and give the record to the reciprocating entity; and
 - (b) the reciprocating entity to take action in the reciprocating jurisdiction to recover a public record of Queensland and give the record into the custody of the archives.

Division 6 Proceedings

83 Proceedings for damage and disposal offences

- (1) A proceeding for an offence against section 22 or 23 is to be heard and decided summarily.
- (2) A proceeding for the offence must start within the later of the following periods to end—
 - (a) 1 year after the offence was allegedly committed;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 3 years after the offence was allegedly committed.

Part 6 Miscellaneous

84 Assault of person performing function or exercising power

- (1) A person must not assault another person performing a function or exercising a power under this Act.

Maximum penalty—100 penalty units.

- (2) In this section—

assault see the Criminal Code, section 245.

85 Obstruction of person performing function or exercising power

- (1) A person must not obstruct another person (an *officer*) performing a function or exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an officer, and the officer decides to proceed with the performance of the function or the exercise of the power, the officer must warn the person—

(a) that it is an offence to obstruct the officer unless the person has a reasonable excuse; and

(b) that the officer considers the person's conduct to be an obstruction.

- (3) In this section—

obstruct includes abuse, hinder, resist, threaten, and attempt or threaten to obstruct.

86 Confidentiality

- (1) This section applies if—

(a) a person performing a function under this Act has access to a public record; and

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- (b) the disclosure of the public record, or access to information contained in the record, is prohibited or restricted under another Act.
- (2) The person must not disclose information contained in the public record, or otherwise give access to the record, other than to the extent authorised under this Act or necessary to perform the function.

87 Protection against actions for defamation or breach of confidence

- (1) This section applies if access is given to a public record by a person (an *official*) performing a function under this Act.
- (2) No action for defamation or breach of confidence lies against—
 - (a) the State or an official because of the giving of the access; or
 - (b) the author of the public record or another person because the author or other person lawfully gave the record to a public authority or the archives.

88 Evidence in legal proceedings

- (1) This section applies if—
 - (a) a public record, or information contained in a public record, is admissible in evidence in a legal proceeding on its production from proper custody; and
 - (b) the public record is in the custody of the archives.
- (2) If the archives produces the public record, or a copy of or extract from the record, it is taken to have been produced from proper custody.
- (3) The archivist, or a member of the staff of the archives authorised by the archivist, may give a certificate about the origin, history, nature or contents of a public record in the custody of the archives.

- (4) The certificate is admissible in evidence in a legal proceeding as evidence of the matters stated in the certificate.

89 Annual report

- (1) Within 4 months after the end of each financial year, the archivist must give the Minister a report on the administration of this Act in the year.
- (2) The report must include the details of the following—
- (a) any direction that was given by the Minister under section 43(3);
 - (b) any notice to report that was given by the archivist under section 80;
 - (c) any failure by a public authority to comply with this Act and any measures that were taken or recommended to prevent or reduce further noncompliance with this Act;
 - (d) the number of times, if any, that access to a restricted record under part 3, division 3 was refused by a public authority.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives the report.

90 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 7 Repeal

91 Repeal

The Public Records Act 2002, No. 11 is repealed.

Part 8 Transitional provisions

Division 1 Preliminary

92 Definitions for part

In this part—

existing public record means a public record under the repealed Act that was in existence immediately before the commencement.

repealed Act means the repealed *Public Records Act 2002*.

Division 2 Responsible public authorities and existing public records

93 Public authorities prescribed before commencement

- (1) This section applies if, immediately before the commencement, an entity was prescribed by a repealed regulation to be a relevant public authority or responsible public authority under the repealed Act for an existing public record.
- (2) The entity is the responsible public authority under this Act for the existing public record until the earliest of the following—
 - (a) a function of the entity to which the record relates is transferred to another public authority;
 - (b) the entity ceases to exist;
 - (c) a regulation made under section 17(5) prescribes a different entity to be given control of the record.
- (3) In this section—

repealed regulation means a repealed regulation under the repealed Act that was in force immediately before its repeal.

94 Responsible public authority for particular health records

- (1) This section applies in relation to an existing public record to which the repealed Act, section 62C applied immediately before the commencement.
- (2) Despite section 16, the health department remains the responsible public authority under this Act for the existing public record, even if a function of the department to which the record relates is transferred to another entity.
- (3) In this section—

health department means the department in which the *Hospital and Health Boards Act 2011* is administered.

95 Existing public records and restricted access periods

- (1) From the commencement, an existing public record is a public record under this Act.
- (2) If an existing restricted access period applied to the record, it is the restricted access period for the record under this Act.
- (3) In this section—

existing restricted access period, for an existing public record, means the restricted access period applying to the record under the repealed Act, section 16.

Division 3 Officials

96 Archivist to continue in position

- (1) This section applies to a person who, immediately before the commencement, held appointment as the State Archivist under the repealed Act.
- (2) From the commencement, the person holds appointment as the archivist under this Act.

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97 Existing committee members continue for term of appointment

- (1) This section applies in relation to a person who, immediately before the commencement, held appointment as a committee member under the repealed Act.
- (2) The person's appointment as committee member continues for the term, and on the conditions, stated in the member's instrument of appointment.

98 Existing authorised officers

- (1) This section applies in relation to a person who, immediately before the commencement, held appointment as an authorised officer under the repealed Act.
- (2) From the commencement, the person holds appointment as an authorised officer under this Act.

Division 4 Continued applications and proceedings

99 Existing access and review applications

- (1) This section applies if an application under the repealed Act, section 17 or 39 was made, but not decided, before the commencement.
- (2) The repealed Act continues to apply in relation to the application as if this Act had not been enacted.

100 Existing recovery notice and proceedings

- (1) This section applies if—
 - (a) before the commencement, a notice was given by the archivist under the repealed Act, section 49(2); and
 - (b) immediately before the commencement, the notice was in effect and had not been complied with.

- (2) The repealed Act continues to apply in relation to the notice, and any proceeding started, or entitled to be started, by the archivist to enforce compliance with the notice, as if this Act had not been enacted.

Division 5 Miscellaneous

101 Particular list details not required

The archivist is not required to include on a list under section 17(4) details of a public authority under the repealed Act that ceased to exist before the commencement.

102 Disposal authority continues

An authority to dispose of a public record given under the repealed Act, and in effect immediately before the commencement, continues in effect as a disposal authorisation under this Act.

103 Existing reciprocal agreements

An agreement made under the repealed Act, section 50 and in effect immediately before the commencement, continues in effect as an agreement under section 82 of this Act.

104 References to repealed Act

A reference in a document to the repealed Act may, if the context permits, be taken to be a reference to this Act.

Part 9 Amendment of this Act

105 Act amended

This part amends this Act.

[s 106]

106 Amendment of long title

Long title, from ‘Office of’—

omit, insert—

office of the Queensland State Archives

Part 10 Amendment of legislation

107 Legislation amended

Schedules 4 and 5 amend the legislation mentioned in the schedules.

Schedule 1 Public record principles

section 4

Part 1 Public records relating to Aboriginal peoples and Torres Strait Islander peoples

- 1 The knowledge of Aboriginal peoples and Torres Strait Islander peoples gained from governing their lands, seas, waters, air and resources for at least 65,000 years prior to British colonisation of Queensland is unique and a priceless asset for Queensland.
- 2 The nature, volume and content of public records relating to Aboriginal peoples and Torres Strait Islander peoples and their knowledge is different to that of other Queenslanders.
- 3 These public records may contain content that is sensitive, inaccurate or offensive and may have been used in the past in a way that disrupted Aboriginal and Torres Strait Islander cultural practices and communities.
- 4 These public records should be managed and accessed with care to—
 - (i) support Aboriginal peoples and Torres Strait Islander peoples to participate in truth-telling and treaty negotiations; and
 - (ii) contribute to reframing the State government's relationship with Aboriginal peoples and Torres Strait Islander peoples; and
 - (iii) otherwise support revitalisation of culture and reconnecting communities and families.

Part 2 **Public records generally**

- 5 Public records are important for preserving the history of Queensland.
- 6 Making and keeping accurate public records is important for ensuring the integrity, accountability and good governance of public authorities.
- 7 Public records should be managed and accessed in a way that protects and promotes human rights, recognising that—
 - (i) the public has a right to access information kept by public authorities in public records; and
 - (ii) the disclosure of public records should be facilitated in an equitable and consistent way; and
 - (iii) the sensitivity of public records declines with the passage of time but it may be contrary to the public interest or otherwise inappropriate to disclose a particular public record due to the sensitivity of information contained in the record.
- 8 Public records should be managed and accessed in a way that promotes economic development, innovation and research.

Schedule 2 Restricted access periods

sections 29 and 30

Part 1 Interpretation

1 Definitions for schedule

In this schedule—

Executive Council record means a public record containing information that is exempt information within the meaning of the *Right to Information Act 2009*, schedule 3, section 3.

high sensitivity, of personal information for an individual, means—

- (a) personal information relating to the individual's—
 - (i) adoption, separation from parents or other circumstances of birth; or
 - (ii) racial or ethnic origin; or
 - (iii) political opinions; or
 - (iv) membership of a political association; or
 - (v) religious beliefs or affiliations; or
 - (vi) philosophical beliefs; or
 - (vii) membership of a professional or trade association; or
 - (viii) membership of a trade union; or
 - (ix) sexual orientation or practices; or
 - (x) health, medical treatment or genetic characteristics; or
- (b) personal information relating to biometric identification or verification of the individual; or

- (c) personal information relating to the individual committing an offence, whether or not a conviction is recorded; or
- (d) personal information relating to the individual being subject to particular practices or policies because of a matter mentioned in paragraph (a), (b) or (c).

legally protected information means information that is exempt information within the meaning of the *Right to Information Act 2009*, schedule 3, sections 7 and 8.

medium sensitivity, of personal information for an individual—

- (a) means personal information about the individual's relationships, employment or financial affairs; but
- (b) does not include personal information of high sensitivity.

Examples—

employment records, wage registers or apprenticeship or trainee records that do not include personal information of high sensitivity

post-RTI Cabinet record means a public record containing information that is exempt information under the *Right to Information Act 2009*, schedule 3, section 2.

pre-RTI Cabinet record means a public record containing information that is exempt information under the *Right to Information Act 2009*, schedule 3, section 1.

public safety information means information that is exempt information under the *Right to Information Act 2009*, schedule 3, section 10.

security information means information that is exempt information under the *Right to Information Act 2009*, schedule 3, section 9.

Part 2 Regulated records—minimum periods

Column 1 Class of public record	Column 2 Minimum period
Executive Council record	30 years
pre-RTI Cabinet record	30 years
Ministerial record of a Minister or an Assistant Minister	30 years
post-RTI Cabinet record	20 years

Part 3 Restricted information—maximum periods

Column 1 Class of restricted information	Column 2 Maximum period
personal information of high sensitivity	100 years
culturally sensitive information	100 years
legally protected information	65 years
public safety information	65 years
security information	65 years
personal information of medium sensitivity	65 years
other personal information not mentioned in this column	30 years

Schedule 3 Dictionary

section 7

advisory group see section 64.

archives see section 42(2).

archives appraisal statement see section 47(1).

archives repository means a repository or facility for storing, preserving, exhibiting and making available for use public records in the custody of the archives.

archives website means the website for the archives.

archivist see section 42(1).

Assistant Minister means a member of the Legislative Assembly appointed as an Assistant Minister under the *Constitution of Queensland 2001*, section 24.

authorised officer means a person who is appointed under section 70 as an authorised officer.

chairperson means the committee member appointed as chairperson of the committee.

committee see section 50(1).

committee member means a person appointed as a member of the committee.

court includes a court of record.

culturally sensitive information means information relating to Aboriginal law, Aboriginal tradition, Ailan Kastom or Torres Strait Islander law, as defined in the *Path to Treaty Act 2023*.

Examples—

information showing sacred or significant sites, traditional customs or ceremonies

custody, of a public record by an entity, means the entity—

(a) has possession of the record physically; or

-
- (b) has possession of the means to access the record electronically; or
 - (c) has possession of the means to access the record under an arrangement with another entity that is storing the record.

damage, a public record, includes change or neglect the record in a way that causes, or is likely to cause, damage to the record.

disposal authorisation, for a public record, see section 20(2).

dispose, of a public record, means—

- (a) destroy or delete the record; or
- (b) alter or damage the record in a way that—
 - (i) changes how accurately an action or decision is shown in the record; or
 - (ii) otherwise affects the integrity of the record; or
- (c) abandon the record; or
- (d) give away the record, whether by sale, donation or other transfer.

employee, of a public authority, includes a person engaged by the authority under any arrangement.

function includes power.

give, a public record, includes give the means to access or store the record electronically.

information includes data of any kind.

manage, a public record, includes use, keep, preserve, store and dispose of the record.

Ministerial record, of a Minister or an Assistant Minister, see section 10.

notice means written notice.

open record means a public record to which the public is allowed unrestricted access.

permanent value, in relation to a public record, means that, having regard to any archives appraisal statement—

- (a) the record has been identified for retention under a disposal authorisation; or
- (b) the record otherwise has enduring value and is appropriate for retention in the custody of the archives.

personal information see the *Information Privacy Act 2009*, section 12.

protection notice see section 24(2).

public authority see section 8.

public record see section 9.

regulated record means a public record of a class stated in column 1 of schedule 2, part 2.

responsible public authority, for a public record, means—

- (a) the public authority that made or first received or kept the record; or
- (b) if the public authority mentioned in paragraph (a) no longer exists or no longer carries out the function to which the record relates—the entity receiving control of the record under section 16, 17 or 18.

restricted access notice, for a public record, see section 28(2).

restricted access period, for a public record, see section 28(3).

restricted information means information of a class stated in column 1 of schedule 2, part 3.

restricted record, for part 3, division 3, see section 35(2).

Schedule 4 **Amendment of legislation referring to Public Records Act 2002**

section 107

1 **References to Public Records Act 2002**

Each of the following provisions is amended by omitting ‘*Public Records Act 2002*’ and inserting ‘*Public Records Act 2023*’—

- *Agricultural and Veterinary Chemicals (Queensland) Act 1994*, section 31
- *Births, Deaths and Marriages Registration Act 2003*, section 47
- *Births, Deaths and Marriages Registration Act 2023*, section 117
- *Co-operatives National Law Act 2020*, section 22
- *Criminal Law (Historical Homosexual Convictions Expungement) Act 2017*, section 25, definition *public authority* and section 26(3)(b)
- *Education and Care Services National Law (Queensland) Act 2011*, section 6(3)(d)
- *Gene Technology (Queensland) Act 2016*, section 16(1)(e)
- *Gladstone Power Station Agreement Act 1993*, section 28
- *Health and Wellbeing Queensland Act 2019*, section 46(5)
- *Heavy Vehicle National Law Act 2012*, section 5(1)(e)
- *Hospital and Health Boards Act 2011*, section 53Y(2)(d)
- *Land Act 1994*, section 315(6)

Schedule 4

- *Land Title Act 1994*, section 166(5)
- *Motor Dealers and Chattel Auctioneers Act 2014*, section 230B(6)
- *Occupational Licensing National Law (Queensland) Act 2010*, section 5(f)
- *Queensland Veterans' Council Act 2021*, section 25(5)
- *Rail Safety National Law (Queensland) Act 2017*, section 6(1)(f)
- *Second-hand Dealers and Pawnbrokers Act 2003*, section 112(6)
- *Security Providers Act 1993*, section 12B(8)
- *Sugar Industry Act 1999*, section 250(b)
- *Tattoo Industry Act 2013*, section 62(6)
- *Weapons Act 1990*, section 142A(2C)

Schedule 5 Other amendments

section 107

Airport Assets (Restructuring and Disposal) Act 2008

1 Section 19(1)(b), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 19(2), from ‘section 13’—

omit, insert—

section 23 of that Act, the public record is disposed of under legal authority.

Crime and Corruption Act 2001

1 Chapter 3, part 6, division 1, heading, ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 120, heading, ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

- 3 Section 120, ‘The *Public Records Act 2002*’—**
omit, insert—
The Public Records Act 2023
- 4 Section 146R, heading, ‘Public Records Act 2002’—**
omit, insert—
Public Records Act 2023
- 5 Section 146R, ‘The *Public Records Act 2002*’—**
omit, insert—
The Public Records Act 2023
- 6 Section 269(7), note—**
omit.
- 7 Section 269(7), definition *commission’s public record powers*, ‘*Public Records Act 2002*’—**
omit, insert—
Public Records Act 2023
- 8 Section 346A(3)(c)—**
omit, insert—
(c) to perform a function under the *Public Records Act 2023*; or
- 9 Section 346A(4), definitions *archivist* and *restricted access period*, ‘*Public Records Act 2002*’—**
omit, insert—
Public Records Act 2023

-
- 10 **Section 346A, note, ‘Public Records Act 2002, section 19’—**
omit, insert—
Public Records Act 2023, section 32
- 11 **Section 346B(1)(a) and (3), before ‘Public Records Act 2002’—**
insert—
repealed
- 12 **Section 346B(1)(c), ‘Public Records Act 2002’—**
omit, insert—
Public Records Act 2023
- 13 **Section 346B(2)(b), ‘Public Records Act 2002’—**
omit, insert—
repealed *Public Records Act 2002* or the *Public Records Act 2023*
- 14 **Section 346B(6), ‘Public Records Act 2002, part 2, division 3’—**
omit, insert—
Public Records Act 2023, part 3
- 15 **Section 346B(6)(b), ‘section 19’—**
omit, insert—
section 32
- 16 **Section 346B(7), ‘Public Records Act 2002’—**
omit, insert—
-

Public Records Act 2023

- 17 Section 346B(7), ‘part 2, division 3’—**
omit, insert—
part 3
- 18 Section 346B(7), note, ‘section 19’—**
omit, insert—
section 32
- 19 Section 346B(8)(a), ‘or the *Public Records Act 2002*’—**
omit, insert—
 , the repealed *Public Records Act 2002* or the
Public Records Act 2023
- 20 Section 346B(8)(b), before ‘*Public Records Act 2002*’—**
insert—
repealed
- 21 Section 346B(9), definition *archives*—**
omit, insert—
archives means the archives under the repealed
Public Records Act 2002, schedule 2, continued
under the *Public Records Act 2023*, section 42(2).
- 22 Section 346B(9), definitions *public record* and
responsible public authority, ‘*Public Records Act 2002*’—**
omit, insert—
repealed *Public Records Act 2002* or the *Public
Records Act 2023*

23 Section 346B(9), definition *restricted access period*, paragraphs (a) and (b)(ii), before ‘*Public Records Act 2002*’—

insert—

repealed

24 Section 346B(9), definition *restricted access period*, paragraph (b)—

insert—

(iii) the *Public Records Act 2023*, section 32.

Criminal Law (Rehabilitation of Offenders) Act 1986

1 Section 7(1)(d), from ‘discharge’—

omit, insert—

the performance of a function under the *Public Records Act 2023*;

Education (General Provisions) Act 2006

1 Section 105, heading, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

2 Section 105, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

Evidence Act 1977

- 1 **Section 58(5), definition *State archives*, from ‘established’—**
omit, insert—
under the *Public Records Act 2023*, section 42(2).
- 2 **Section 58(5), definition *State archivist*, from ‘*Public*’—**
omit, insert—
Public Records Act 2023, section 42(1).
- 3 **Section 129, heading, ‘Public Records Act 2002’—**
omit, insert—
Public Records Act 2023
- 4 **Section 129, ‘*Public Records Act 2002*’—**
omit, insert—
Public Records Act 2023

Further Education and Training Act 2014

- 1 **Section 191(3)(c)—**
omit, insert—
(c) is necessary to perform a function under the *Public Records Act 2023*; or

Information Privacy Act 2009

1 Section 8, note—

omit.

2 Section 189, heading, ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

3 Section 189, ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

4 Section 191(1)(b), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

5 Section 191(2), from ‘under’ to ‘Public Records Act 2002’—

omit, insert—

, as permitted under the *Libraries Act 1988*, the repealed *Public Records Act 2002* or the *Public Records Act 2023* (whether before or after the commencement of this part),

6 Schedule 1, section 7(c)—

omit, insert—

(c) a public record under the *Public Records Act 2023* in the custody of Queensland State Archives that is an open record under that Act; or

7 Schedule 4, section 4, note, from ‘Public’—

omit, insert—

Public Records Act 2023.

Infrastructure Investment (Asset Restructuring and Disposal) Act 2009

1 Section 16(1)(b), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 16(2), from ‘section 13’—

omit, insert—

section 23 of that Act, the public record is disposed of under legal authority.

Justice and Other Information Disclosure Act 2008

1 Section 6E(1), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 14(2) and (3), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

3 Section 14(4), from ‘under the’—*omit, insert—*for the *Public Records Act 2023*, section 23.**Lotteries Act 1997****1 Section 228I(1)(b), ‘Public Records Act 2002’—***omit, insert—**Public Records Act 2023***2 Section 228I(2), from ‘section 13’—***omit, insert—*

section 23 of that Act, the public record is disposed of under legal authority.

Maritime Safety Queensland Act 2002**1 Section 12L(1)(b), ‘Public Records Act 2002’—***omit, insert—**Public Records Act 2023***2 Section 12L(2), from ‘section 13’—***omit, insert—*

section 23 of that Act, the public record is disposed of under legal authority.

Police Powers and Responsibilities Act 2000

1 Section 281(2), ‘Public Records Act’—

omit, insert—

Public Records Act 2023

2 Section 325(8), ‘Public Records Act’—

omit, insert—

Public Records Act 2023

3 Section 539, heading, ‘Public Records Act’—

omit, insert—

Public Records Act 2023

4 Section 539, ‘The Public Records Act’—

omit, insert—

The Public Records Act 2023

5 Section 663, heading, ‘Public Records Act’—

omit, insert—

Public Records Act 2023

6 Section 663, ‘The Public Records Act’—

omit, insert—

The Public Records Act 2023

7 Schedule 6, definition *Public Records Act*—

omit.

Public Health Act 2005

- 1 Section 454I(3), '*Public Records Act 2002*, section 13'—
omit, insert—

Public Records Act 2023

- 2 Section 454I(4), definition *public record*, from '*Public*'—
omit, insert—

Public Records Act 2023, section 9.

Queensland Future Fund (Titles Registry) Act 2021

- 1 Section 41(1)(c), '*Public Records Act 2002*, schedule 2'—
omit, insert—

Public Records Act 2023, section 8

Queensland Rail Transit Authority Act 2013

- 1 Section 83(1)(b), '*Public Records Act 2002*'—
omit, insert—

Public Records Act 2023

- 2 Section 83(2), from '*section 13*'—
omit, insert—

section 23 of that Act, the public record is disposed of under legal authority.

Recording of Evidence Act 1962

1 Section 11A(6)(b)(ii), from ‘an authority’—

omit, insert—

a disposal authorisation given by the archivist under the *Public Records Act 2023*, section 20.

2 Section 11A(8), definition *archivist*—

omit, insert—

archivist see the *Public Records Act 2023*, section 42(1).

Right to Information Act 2009

1 Section 7, note—

omit.

2 Section 19, examples, item 2, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

3 Section 52(1)(b), examples, ‘an authority given by the State Archivist’—

omit, insert—

a disposal authorisation given by the State Archivist under the *Public Records Act 2023*

4 Section 52(1)(b), note—

omit, insert—

Note—Under the *Public Records Act 2023*, section 23, it is an offence to dispose of a public record without authorisation.

5 Section 52(4), definition *prescribed document*, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

6 Section 53(b), ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

7 Section 180, heading, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

8 Section 180, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

9 Section 182(1)(b), ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

10 Section 182(2), from ‘under’ to ‘*Public Records Act 2002*’—

omit, insert—

, as permitted under the *Libraries Act 1988*, the repealed *Public Records Act 2002* or the *Public Records Act 2023* (whether before or after the

commencement of this part),

TAFE Queensland Act 2013

1 Section 66(3)(a)(iii), ‘official duties under the *Public Records Act 2002*’—

omit, insert—

functions under the *Public Records Act 2023*

Telecommunications Interception Act 2009

1 Section 39, heading, ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 39, ‘*Public Records Act 2002*’—

omit, insert—

Public Records Act 2023

Tobacco and Other Smoking Products Act 1998

1 Section 41(7), ‘an authority given by the archivist under the *Public Records Act 2002*’—

omit, insert—

a disposal authorisation given by the archivist under the *Public Records Act 2023*

Water Act 2000

1 Section 738U(1)(b), ‘Public Records Act 2002’—

omit, insert—

Public Records Act 2023

2 Section 738U(2), from ‘section 13’—

omit, insert—

section 23 of that Act, the public record is disposed of under legal authority.

Witness Protection Act 2000

1 Section 22(3), ‘Public Records Act’—

omit, insert—

Public Records Act 2023

2 Schedule 2, definition *Public Records Act*—

omit.

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