

Public Records (Commission of Inquiry to Examine DNA Project 13 Concerns) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 33

made under the

Public Records Act 2002

General Outline

Short title

*Public Records (Commission of Inquiry to Examine DNA Project 13 Concerns)
Amendment Regulation 2024*

Authorising law

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

Policy objectives and the reasons for them

The objective of the *Public Records (Commission of Inquiry to Examine DNA Project 13 Concerns) Amendment Regulation 2024* (the Regulation) is to prescribe the Department of Justice and Attorney-General (DJAG) as the relevant and responsible public authority for public records of the Commission of Inquiry to Examine DNA Project 13 Concerns (the Commission).

The Commission was appointed under the provisions of the *Commission on Inquiry Act 1950* by Commissions of Inquiry Order (No. 1) 2023 and is a public authority under the *Public Records Act 2002* (PR Act). The Commission ceased to exist as a public authority once it provided a report and recommendations to the Honourable the Premier and Minister for the Olympic and Paralympic Games, the Honourable Minister for Health, Mental Health and Ambulance Services and Minister for Women and the Honourable Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence on 17 November 2023.

A key purpose of the PR Act is to ensure public records are made, managed, kept and preserved in a useable form for the benefit of present and future generations.

When a public authority ceases to exist and some or all of its functions will not be continued by another public authority and a regulation prescribing a relevant and responsible public authority for the public records of ceased functions is required.

A relevant public authority is established under section 8(3)(b) of the PR Act and is an authority with responsibility for, and control of, records created by an authority that has ceased to exist. A responsible public authority is prescribed under section 15 of the PR Act and is an authority with responsibility for making decisions about access to records in Queensland State Archive's custody.

Achievement of policy objectives

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

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

Consistency with policy objectives of authorising law

The regulation is consistent with the objectives of the PR Act.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation, including the *Human Rights Act 2019*.

Benefits and costs of implementation

The Regulation will result in a small overall increase in the number of records that DJAG has responsibility for managing. DJAG has experience with managing records of this type and any additional cost attributed to the management of these records should be minor and easily absorbed within existing budgets.

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

Consistency with fundamental legislative principles

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

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

Consultation

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

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