

# **Public Records Amendment Regulation (No. 1) 2016**

## **Explanatory Notes for SL 117**

made under the

*Public Records Act 2002*

## **General Outline**

### **Short title**

The *Public Records Amendment Regulation (No. 1) 2016*.

### **Authorising law**

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

### **Policy objectives and the reasons for them**

By *Commissions of Inquiry Order (No. 4) 2015* issued by the Governor in Council under the *Commissions of Inquiry Act 1950*, the Barrett Adolescent Centre Commission of Inquiry (the Barrett Adolescent Centre Commission) was established to inquire into the closure of the Barrett Adolescent Centre.

The *Commissions of Inquiry Order (No. 4) 2015* identified that the Barrett Adolescent Centre Commission would report to the Premier and Minister for the Arts by 14 January 2016, however, this timeframe was then extended until 24 June 2016 under the *Commissions of Inquiry Amendment Order (No. 3) 2015*.

The Barrett Adolescent Centre Commission was a public authority as defined in Schedule 2 of the *Public Records Act 2002* ("PR Act") because it was a commission of inquiry under the *Commissions of Inquiry Act 1950*. Consequently, records made for use by, or a purpose of, the Barrett Adolescent Centre Commission and records received or kept by the Barrett Adolescent Centre Commission in the exercise of its respective statutory, administrative or other public responsibilities or for a related purpose are public records under section 6 of the PR Act.

Pursuant to section 8(3) of the PR Act, if a public authority ceases to exist, the records of the public authority must be –

- (a) if the functions of the public authority are to be carried out by another public authority – given to the other public authority; or

- (b) if the functions of the public authority are not to be carried out by another public authority – given to the public authority that is the relevant public authority under a regulation; or
- (c) in any other case – given to the archives or disposed of in accordance with a decision of the archivist.

The Barrett Adolescent Centre Commission ceased to exist after 24 June 2016. The functions of the Barrett Adolescent Centre Commission will not be carried out by another public authority.

Pursuant to section 15 of the PR Act the “responsible public authority”, for a public record, is –

- (a) the public authority that gave the public record to the archives; or
- (b) if the public authority that gave the record to the archives no longer exists, but there is another public authority carrying out the functions of the former authority – the other authority; or
- (c) if the record relates to a function or power of a public authority that has been transferred to another public authority – the other authority; or
- (d) in any other case – the public authority prescribed under a regulation for this definition.

The responsible public authority for a public record, as defined in section 15 of the PR Act, has certain obligations regarding public access to public records and the restricted access period for public records under the PR Act.

The Department of Justice and Attorney-General (DJAG) has agreed to accept responsibility for the ownership and control of all of the Barrett Adolescent Centre Commission’s records. The regulation amends the *Public Records Regulation 2014* accordingly.

While the hard copy records of the Barrett Adolescent Centre Commission may be transferred to the custody of Queensland State Archives, DJAG will retain custody of the digital records relating to the Barrett Adolescent Centre Commission of Inquiry until Queensland State Archives has implemented a digital archive.

## **Achievement of policy objectives**

The regulation will achieve the objectives by amending the *Public Records Regulation 2014* to prescribe DJAG as the relevant public authority under section 8(3)(b) and the responsible public authority under section 15(d) of the PR Act in relation to public records of the Barrett Adolescent Centre Commission.

## **Consistency with policy objectives of authorising law**

The regulation is consistent with its authorising Act.

## **Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the main objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The regulation is the only effective means of achieving the policy objectives.

## **Benefits and costs of implementation**

The regulation does not impose an appreciable cost on government or the community.

## **Consistency with fundamental legislative principles**

The regulation is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

## **Consultation**

Consultation has taken place with the Barrett Adolescent Centre Commission, Queensland State Archives, DJAG and the Office of Best Practice Regulation within the Queensland Productivity Commission.