

Public Records (Independent Review of Youth Detention) Amendment Regulation 2017

Explanatory Notes for SL No. 23

made under the

Public Records Act 2002

General Outline

Short title

*Public Records (Independent Review of Youth Detention) Amendment
Regulation 2017*

Authorising law

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

Policy objectives and the reasons for them

Background

Under section 8(3) of the *Public Records Act 2002*, 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.

A relevant public authority has responsibilities, including under sections 6, 7, 8 13 and 14, of the *Public Records Act 2002*.

Pursuant to section 15 of the *Public Records Act 2002*, 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 has certain obligations regarding public access to public records and the restricted access period for public records under the *Public Records Act 2002*.

This explanatory note concerns a public authority which ceased to exist on 14 December 2016. An amendment is required to the *Public Records Regulation 2014* to set the relevant and responsible public authority for the public records of the Independent Review of Youth Detention ('Independent Review').

The Independent Review was established by the Governor in Council on 9 September 2016 under the *Commissions of Inquiry Act 1950*. The Independent Review is a public authority for the purpose of the *Public Records Act 2002* (being an entity, other than the parliamentary service, that was established by an Act: paragraph (g)(i) of the definition of 'public authority' in Schedule 2 of the *Public Records Act 2002*).

On 14 December 2016, the Report of the Independent Review was provided to the Attorney-General and Minister for Justice and Minister for Training and Skills. The Independent Review ceased at that date and its functions will not be carried out by, or transferred to, another public authority.

Relevant and responsible public authorities

There is a need to make the *Public Records (Independent Review of Youth Detention) Amendment Regulation 2017* which prescribes the relevant public authority under section 8(3)(b) and the responsible public authority under section 15(d) of the *Public Records Act 2002* as the Department of Justice and the Attorney-General (DJAG) for the public records of the Independent Review.

While the hard copy records of the Independent Review may be transferred to the custody of Queensland State Archives (QSA), DJAG will retain custody of the digital records until QSA has implemented a digital archive.

Achievement of policy objectives

The regulation will achieve the objectives by amending the *Public Records Regulation 2014* to prescribe a relevant public authority under section 8(3)(b) and a responsible public authority under section 15(d) of the *Public Records Act 2002* for the former public authority.

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 Independent Review, DJAG and QSA. All parties consulted support the regulation.

The proposed regulation has been self-assessed by the Department of Science, Innovation Technology and Innovation as excluded from further regulatory impact analysis under the Queensland Government Guide to Better Regulation on the basis that it is for the internal management of the public sector.