

Public Records (Queensland Rail Train Crewing Practices Commission of Inquiry) Amendment Regulation 2017

Explanatory Notes for SL 2017 No. 216

made under the

Public Records Act 2002

General Outline

Short title

Public Records (Queensland Rail Train Crewing Practices Commission of Inquiry) 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 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 the Queensland Rail Train Crewing Practices Commission of Inquiry (the Commission), a public authority which ceased to exist on 31 January 2017. The functions of the Commission will not be carried out by, or transferred to, another public authority. An amendment is required to the *Public Records Regulation 2014* to set the relevant and responsible public authority for the public records of the Commission.

The Commission was established by the Governor in Council on 24 November 2016 under the *Commissions of Inquiry Order (No. 2) 2016*. The Commission is a public authority for the purpose of the *Public Records Act 2002* (being a commission of inquiry under the *Commissions of Inquiry Act 1950*; refer to (f) of the definition of ‘public authority’ in Schedule 2 of the *Public Records Act 2002*).

Relevant and responsible public authority

There is a need to make the *Public Records (Queensland Rail Train Crewing Practices Commission of Inquiry) Amendment Regulation 2017* which prescribes the Department of the Premier and Cabinet (DPC) as the relevant and responsible public authority under section 8(3)(b) and section 15(d) of the *Public Records Act 2002* for the public records of the Commission.

While the hard copy records of the Commission may be transferred to the custody of Queensland State Archives (QSA), DPC 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 and responsible public authority under section 8(3)(b) and 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

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The Department of Science, Information Technology and Innovation applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category (c) – Regulatory proposals for the internal management of the public sector or statutory authority).