

# Police Service Administration (Reviews) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 34

made under the

*Police Service Administration Act 1990*

## General Outline

### Short title

*Police Service Administration (Reviews) Amendment Regulation 2022*

### Authorising law

Sections 9.4 and 10.28 of the *Police Service Administration Act 1990*

### Policy objectives and the reasons for them

The *Police Service Administration Act 1990* (PSAA) provides for the maintenance, membership, development and administration of the Queensland Police Service (QPS). The proper administration of the QPS requires, in part, decisions to be made:

- to maintain the discipline of police officers; and
- that affect the promotion and transfer opportunities of police officers.

Part 9 'Review of decisions' of the PSAA provides a review mechanism for a police officer who is aggrieved by the following decisions (reviewable decisions):

- the selection of an officer for appointment to a police officer position by promotion or transfer made by fair and equitable procedures that comply with section 5.2(2)(a) of the PSAA;
- the selection of an officer for transfer to a police officer position where the selection procedures outlined in section 5.2(2)(a) are not required to be complied with;
- the suspension or standing down of the officer under section 6.1 'Power to stand down and suspend' of the PSAA; and
- a decision by the Police Commissioner to appoint a police officer as a staff member under section 8.3(5)(a) of the PSAA.

Part 9 of the PSAA allows the Chairperson of the Crime and Corruption Commission or the Governor in Council to appoint a Commissioner for Police Service Reviews who may conduct an independent review into these decisions. These reviews are an

informal, administrative proceedings of a non-adversarial nature. On concluding a review, a Commissioner for Police Service Reviews may make such recommendations, as considered appropriate, to the Police Commissioner. A recommendation made by the Commissioner for Police Service Reviews is not binding on the Police Commissioner. The Police Commissioner, upon consideration of the matter reviewed and the recommendations made, is to take such action as appears to the Police Commissioner to be just and fair.

Section 34 'How to apply for review – Act s 9.4(1)' of the *Police Service Administration Regulation 2016* (PSAR) allows an aggrieved officer, who has received written notice of a reviewable decision, to apply in writing within 14 days to the Commissioner for Police Service Reviews to start a review of the decision.

A multi-party working group, comprising of QPS members and representatives of the Queensland Police Union of Employees and the Queensland Police Commissioned Officers' Union of Employees was established to evaluate the efficiency of the review process. This working group identified that the review process would be improved if it was more timely.

The proposed amendment will enable reviews to be finalised more expediently by allowing a review to start within 7 days of a police officer being notified of a reviewable decision.

## **Achievement of policy objectives**

The *Police Service Administration (Reviews) Amendment Regulation 2022* (the Amendment Regulation) changes the period a police officer may apply to the Commissioner for Police Service Reviews to start a review into a reviewable decision from within 14 days to within 7 days.

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

The Amendment Regulation is consistent with the objectives of the authorising Act.

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

The Amendment Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

Any costs incurred through the implementation of the Amendment Regulation are expected to be negligible and will be met through existing budgets.

The Amendment Regulation will improve the timeliness of the review process conducted by the Commissioner for Police Service Reviews by reducing the period a police officer may apply to start a review of a reviewable decision from within 14 days to within 7 days.

## **Consistency with fundamental legislative principles**

The Amendment Regulation has been drafted with due regard to the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Section 4(3) of the *Legislative Standards Act 1992* contains a non-exhaustive list outlining factors that may be relevant in determining whether legislation has sufficient regard to the rights and liberties of an individual. This section provides as an example whether the legislation is consistent with principles of natural justice.

The Amendment Regulation has the potential to impact upon the principles of natural justice as police officers wishing to apply to the Commissioner for Police Service Reviews to start a review into a reviewable decision will have the period of time afforded to prepare a written application reduced from the current timeframe of within 14 days to within 7 days.

In determining whether the Amendment Regulation impacts upon the principles of natural justice, consideration must be given to how applications are made under part 9 of the PSAA and to the review process itself. A police officer intending to apply for a review of a reviewable decision need only provide the minimum information required for this process to commence. Information sought includes the applicant's personal details, the details of the decision and limited information to support the grounds to have the decision reviewed. The information required to start a review of a reviewable decision is not onerous and may be readily compiled within a 7 day timeframe.

Additionally, reviews by the Commissioner for Police Service Reviews are informal which is conducive to the sharing and supplying of information between parties. If further information is sought from an applicant officer, this information may be submitted to a Commissioner of Police Service Reviews either prior to the review or during the review itself.

Finally, these reviews do not stay a decision pending the outcome of the review nor prohibit an aggrieved applicant from seeking other forms of redress. If an applicant officer remains aggrieved at the conclusion of a review conducted by a Commissioner of Police Service Reviews, the officer may rely on existing avenues of review such as judicial review.

The Amendment Regulation strikes an appropriate balance between allowing an applicant sufficient time to prepare an application to start a review of a reviewable decision and the expediency of the review process whilst still maintaining fairness for affected parties through complying with the principles of natural justice.

## 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 applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category (j) – Regulatory proposals relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services).

The Queensland Police Union of Employees, the Queensland Police Commissioned Officers' Union of Employees and the Office of the Commissioner for Police Service Reviews were consulted and supported the amendment.