

Public Records (Crime and Corruption Commission of Inquiry) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 164

Made under the
Public Records Act 2002

General Outline

Short title

The short title of the Regulation is the *Public Records (Crime and Corruption Commission of Inquiry) Amendment Regulation 2022* (Amendment Regulation)

Authorising law

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

Policy objectives and the reasons for them

The objective of the Amendment 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 relating to the Crime and Corruption Commission (the Commission of Inquiry).

The Commission of Inquiry was established by *Commissions of Inquiry Order (No. 1) 2022*, issued by the Governor in Council under the provisions of the *Commission of Inquiry Act 1950*. The Honourable Gerald Edward (Tony) Fitzgerald AC KC was appointed Chairperson and Commissioner and the Honourable Alan Wilson KC was appointed as Commissioner. The Commission of Inquiry commenced on 7 February 2022.

The Commission of Inquiry was a public authority, as defined in Schedule 2 of the *Public Records Act 2002* (PR Act). Any records made for use by, or a purpose of, the Commission, as well as records received or kept by the Commission of Inquiry in the exercise of its statutory, administrative or other public responsibilities, or for a related purpose, are public records under section 6 of the PR Act.

The Commission of Inquiry ceased to exist as a public authority on 9 August 2022 when it provided its report to the Premier and Minister for the Olympics and the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence. The functions of the Commission of

Inquiry will not be continued by another public authority.

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, a regulation prescribing the 'relevant public authority' for the purposes of section 8(3)(b) of the PR Act and a 'responsible public authority' for the purposes of section 15 of the PR Act is required.

A 'relevant public authority' is an authority with responsibility for, and control of, records created by an authority that has ceased to exist. A 'responsible public authority' is an authority with responsibility for making decisions about access to records in Queensland State Archive's custody.

DJAG agreed to accept responsibility for the records as the relevant and responsible public authority and it is proposed to amend the *Public Records Regulation 2014* (PR Regulation) accordingly.

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

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending the PR Regulation 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, with respect to the public records of the Commission of Inquiry.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the PR Act. The regulation supports the objectives of the PR Act by ensuring that the public records of the Commission of Inquiry remain in the control of a public authority which has obligations regarding custody and preservation of, and access to, the records. The appropriate care of, and access to, the Commission of Inquiry's public records ensures the records will remain useable and appropriately accessible now and in the future.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation, including the *Human Rights Act 2019*.

Alternative ways of achieving policy objectives

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

Benefits and costs of implementation

The Amendment Regulation has the benefit of ensuring that the public records of the Commission of Inquiry will remain useable and appropriately accessible.

The Amendment 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 will be met from within existing budget and resource allocations.

Consistency with fundamental legislative principles

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

Consultation

DJAG proposed that it be prescribed as the relevant and responsible public authority for the purposes of the PR Act. The Commission of Inquiry was consulted and agreed.

In accordance with the *Queensland Government Guide to Better Regulation*, Queensland State Archives applied a self-assessable exclusion from undertaking further regulatory impact analysis on this regulation. This was based on category (c) – regulatory proposals for the internal management of the public sector or statutory authority.