

Proclamation No. 3 – Information Privacy and Other Legislation Amendment Act 2023

Explanatory notes for SL 2025 No. 73

made under the

Information Privacy and Other Legislation Amendment Act 2023

General Outline

Short title

Proclamation – *Information Privacy and Other Legislation Amendment Act 2023*

Authorising law

Section 2 of the *Information Privacy and Other Legislation Amendment Act 2023*

Policy objectives and the reasons for them

The objective of the proclamation is to fix 1 July 2025 as the day for the commencement of all provisions not in force of the *Information Privacy and Other Legislation Amendment Act 2023* (IPOLA Act), other than sections 67, 133, 73 (inserting section 226), 135 (inserting section 206R), and fixing 1 July 2026 for commencement of all other provisions not in force.

The remaining provisions of the IPOLA Act that are not in force (the remaining provisions) amend the *Right to Information Act 2009* (RTI Act), the *Information Privacy Act 2009* (IP Act) and the *Ombudsman Act 2001*, with minor consequential amendments to a range of other Acts. These provisions implement or respond to recommendations for legislative change to Queensland's information privacy and right to information frameworks from a number of reports including:

- the report on the *Review of the Right to Information Act 2009 and Information Privacy Act 2009*, tabled in the Legislative Assembly on 12 October 2017;
- the Crime and Corruption Commission (CCC)'s report, *Operation Impala, A report on misuse of confidential information in the Queensland public sector*, tabled in the Legislative Assembly on 21 February 2020;
- the CCC's report, *Culture and Corruption Risks in Local Government: Lessons from an investigation into Ipswich City Council*, tabled in the Legislative Assembly on 4 August 2018;
- the *Strategic Review of the Office of the Information Commissioner*, tabled in the Legislative Assembly on 11 May 2017; and
- *Let the sunshine in: Review of culture and accountability in the Queensland public sector*, provided to the former Premier and Minister for the Olympic and Paralympic Games on 28 June 2022.

The remaining provisions implement five broad types of reforms, which:

- amend the RTI Act and IP Act to simplify and provide greater efficiency of processes for applying for access to Queensland Government documents. These reforms make it easier to apply for government information, ensure the right to information process accommodates the Queensland population, and reduce red tape by combining two regulatory processes into the one Act and provide a consistent approach for all agencies for their disclosure logs;
- amend the IP Act to introduce a new scheme for the mandatory reporting of data breaches of personal information held by Queensland Government agencies, the Mandatory Notification of Data Breach Scheme (MNDB Scheme). Under the MNDB Scheme, Queensland Government agencies must notify individuals and the Office of the Information Commissioner (OIC) of certain data breaches involving personal information they hold, so that individuals can take steps to reduce the risk of harm arising from the breach. OIC's functions and powers are expanded to administer and enforce the MNDB scheme;
- amend the IP Act to uplift the protection of personal information (including biometric information) held by Queensland Government agencies by adopting a new set of privacy principles, the Queensland Privacy Principles (QPPs), to more closely align with the protections afforded under the *Privacy Act 1988* (Cth);
- transfer responsibility for preparing the whole of Government annual report on the operation of the RTI Act and IP Act from the Minister to the Information Commissioner; and
- amend the *Ombudsman Act 2001* to provide that the Ombudsman must not investigate administrative action taken by the Information Commissioner in the performance of the commissioner's functions under section 135 or 136 of the IP Act. These functions in sections 135 and 136 relate to performance monitoring, investigation and support, and decision-making.

The policy objective is to commence the remaining provisions so that:

- the new processes for applying for Government information under the RTI Act will start on 1 July 2025;
- agencies will need to comply with the QPPs from 1 July 2025;
- the MNDB Scheme will commence on 1 July 2025, but with deferred commencement for local government until 1 July 2026;
- the changes to annual reporting requirements (including transferring responsibility for the preparation of the annual report to the OIC) will commence on 1 July 2026; and
- from 1 July 2025, the Ombudsman must not investigate administrative action taken by the Information Commissioner in the performance of the Commissioner's functions under section 135 or 136 of the IP Act.

Achievement of policy objectives

The proclamation commences the provisions of the IPOLA Act by:

- fixing 1 July 2025 as the day for the commencement of all provisions not in force of the IPOLA Act, other than sections 67, 133, 73 (inserting section 226), 135 (inserting section 206R); and
- fixing 1 July 2026 for commencement of all other provisions not in force and not otherwise commenced under the proclamation (section 67, 133, 73 (inserting section 226) and 135 (inserting section 206R)).

Consistency with policy objectives of authorising law

The proclamation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The proclamation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The IPOLA Act makes key changes to Queensland's information privacy and right to information frameworks including to clarify and improve their operation, to better protect personal information, and to provide appropriate responses and remedies for data breaches.

The Office of the Information Commissioner (OIC) was allocated \$11.465 million over four years from 2023-24 and \$2.563 million ongoing for operational implementation in relation to the IPOLA Act, development of an ICT solution and training and awareness activities.

Consistency with fundamental legislative principles

The proclamation is consistent with fundamental legislative principles.

Consultation

All agencies, including the OIC, were advised about the commencement dates.

A summary Impact Analysis Statement has been completed that identifies that the proclamation is not subject to regulatory impact assessment requirements under the *Queensland Government Better Regulation Policy* as it is a regulatory proposal that is minor and machinery in nature.