



## **Royal Commissions Amendment (Custody of Records) Regulations 2019**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 04 April 2019

Peter Cosgrove  
Governor-General

By His Excellency's Command

Stephen Irons  
Assistant Minister to the Prime Minister  
Parliamentary Secretary to the Prime Minister

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## 1 Name

This instrument is the *Royal Commissions Amendment (Custody of Records) Regulations 2019*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	5 April 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Royal Commissions Act 1902*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Royal Commissions Regulations 2001*

#### 1 Before regulation 1

Insert:

### Part 1—Preliminary

#### 2 Regulation 4

Insert:

*Banking, Superannuation and Financial Services Royal Commission* means the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, established by Letters Patent dated 14 December 2017.

*Child Sexual Abuse Royal Commission* has the same meaning as in Part 4 of the Act.

*NT Royal Commission* means the Royal Commission into the Protection and Detention of Children in the Northern Territory, established by Letters Patent dated 1 August 2016 (as amended by Letters Patent dated 9 February 2017, 27 June 2017 and 7 September 2017).

#### 3 Before regulation 5

Insert:

### Part 2—General

#### 4 Before regulation 8

Insert:

### Part 3—Custody and use of records

#### 5 After regulation 9

Insert:

#### 10 Custody and use of records—NT Royal Commission

##### *Scope*

- (1) For the purposes of subsection 9(2) of the Act, this regulation applies in relation to Royal Commission records of the NT Royal Commission.

Note 1: The Final Report of the NT Royal Commission was presented to the Governor-General on 17 November 2017 and tabled in the Parliament on the same day.

Note 2: Royal Commission records are explained in subsection 9(1) of the Act.

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- (2) To avoid doubt, a reference in this regulation to a Royal Commission record includes a reference to a part of a Royal Commission record.

*Custody of records*

- (3) For the purposes of paragraph 9(2)(a) of the Act, the Royal Commission records are to be kept in the custody of the Secretary of the Attorney-General's Department (the *custodian* of those records).

*Requesting copies of records given to Royal Commission*

- (4) For the purposes of paragraphs 9(2)(c) and (d) of the Act, if a person or body requests a copy of a Royal Commission record, or access to a Royal Commission record, circumstances in which the custodian of the record may give the person or body a copy of, or access to, the record are that:
- (a) free access to the record is not publicly available (for example, by being published on the NT Royal Commission website); and
  - (b) the requesting person or body:
    - (i) gave the NT Royal Commission the record, or information or matter that the record contains or that can be obtained from it; or
    - (ii) is an authorised representative of a person or body to whom subparagraph (i) applies; and
  - (c) the request is not made on behalf of a State or Territory, or a Department of State or agency of a State or Territory; and
  - (d) the custodian is reasonably satisfied of the identity of the requesting person or body, and (for a representative) that the representative's authorisation is genuine and currently effective.

Note: In 2019, the NT Royal Commission website could be viewed at <https://childdetentionnt.royalcommission.gov.au>.

- (5) For the purposes of paragraphs 9(2)(c) and (d) of the Act, if a person, on behalf of a State or Territory, or a Department of State or agency of a State or Territory, requests a copy of a Royal Commission record, or access to a Royal Commission record, circumstances in which the custodian of the record may give the person a copy of, or access to, the record are that:
- (a) free access to the record is not publicly available (for example, by being published on the NT Royal Commission website); and
  - (b) the record, or information or matter that the record contains or that can be obtained from it, was given to the NT Royal Commission by any person on behalf of:
    - (i) that State or Territory; or
    - (ii) any Department of State or agency of that State or Territory.

Note: In 2019, the NT Royal Commission website could be viewed at <https://childdetentionnt.royalcommission.gov.au>.

*Access to records for law enforcement purposes*

- (6) For the purposes of paragraphs 9(2)(c) and (d) of the Act, circumstances in which the custodian of the Royal Commission records may give a copy of a Royal Commission record to a person or body, or allow a person or body access to a Royal Commission record, are that:
- (a) free access to the record is not publicly available (for example, by being published on the NT Royal Commission website); and

- (b) the person or body performs a function relating to law enforcement purposes; and
- (c) a copy of, or access to, the record is requested for those purposes.

Note 1: For law enforcement purposes, see subsection 9(1) of the Act.

Note 2: In 2019, the NT Royal Commission website could be viewed at <https://childdetentionnt.royalcommission.gov.au>.

*Way in which requests are responded to*

- (7) For the purposes of this regulation, the custodian of the Royal Commission records may:
  - (a) respond to a request by a person or body for a copy of a Royal Commission record by allowing the person or body access to the record; or
  - (b) respond to a request by a person or body for access to a Royal Commission record by giving a copy of the record to the person or body; or
  - (c) give a copy of a Royal Commission record, or allow access to a Royal Commission record, to a person or body in any form reasonably considered by the custodian to allow access to information or a matter contained in the record, or that can be obtained from it.

Example: For a record that is an audio recording, a copy of, or access to, the record may be given in the form of a transcript of the recording.

*No limitation on circumstances or operation of Act*

- (8) This regulation does not limit the circumstances in which the custodian of the Royal Commission records may:
  - (a) give a copy of a Royal Commission record to a person or body; or
  - (b) allow access to a Royal Commission record to a person or body.
- (9) This regulation does not limit the operation of subsections 9(6) and (7) of the Act.

## 11 Custody and use of records—Child Sexual Abuse Royal Commission

*Scope*

- (1) For the purposes of subsection 9(2) of the Act, this regulation applies in relation to Royal Commission records of the Child Sexual Abuse Royal Commission.

Note 1: The Final Report of the Child Sexual Abuse Royal Commission was presented to the Governor-General on 15 December 2017 and tabled in the Parliament on the same day.

Note 2: Royal Commission records are explained in subsection 9(1) of the Act.

- (2) To avoid doubt, a reference in this regulation to a Royal Commission record includes a reference to a part of a Royal Commission record.

*Custody of records*

- (3) For the purposes of paragraph 9(2)(a) of the Act, the Royal Commission records are to be kept in the custody of the Secretary of the Attorney-General's Department (the *custodian* of those records).



*Requesting copies of records given to Royal Commission*

- (4) For the purposes of paragraphs 9(2)(c) and (d) of the Act, if a person or body requests a copy of a Royal Commission record, or access to a Royal Commission record, circumstances in which the custodian of the record may give the person or body a copy of, or access to, the record are that:
- (a) free access to the record is not publicly available (for example, by being published on the Child Sexual Abuse Royal Commission website); and
  - (b) the requesting person or body:
    - (i) gave the Child Sexual Abuse Royal Commission the record, or information or matter that the record contains, or that can be obtained from it; or
    - (ii) in the case of a record of a private session under section 6OB of the Act—appeared at the private session; or
    - (iii) is an authorised representative of a person or body to whom subparagraph (i) or (ii) applies; and
  - (c) the request is not made on behalf of a State or Territory, or a Department of State or agency of a State or Territory; and
  - (d) the custodian is reasonably satisfied of the identity of the requesting person or body, and (for a representative) that the representative's authorisation is genuine and currently effective.

Note: In 2019, the Child Sexual Abuse Royal Commission website could be viewed at <https://www.childabuseroyalcommission.gov.au>.

- (5) For the purposes of paragraphs 9(2)(c) and (d) of the Act, if a person, on behalf of a State or Territory, or a Department of State or agency of a State or Territory, requests a copy of a Royal Commission record, or access to a Royal Commission record, circumstances in which the custodian of the record may give the person a copy of, or access to, the record are that:
- (a) free access to the record is not publicly available (for example, by being published on the Child Sexual Abuse Royal Commission website); and
  - (b) the record, or information or matter that the record contains or that can be obtained from it, was given to the Child Sexual Abuse Royal Commission by any person on behalf of:
    - (i) that State or Territory; or
    - (ii) any Department of State or agency of that State or Territory.

Note: In 2019, the Child Sexual Abuse Royal Commission website could be viewed at <https://www.childabuseroyalcommission.gov.au>.

*Access to records for law enforcement purposes*

- (6) For the purposes of paragraphs 9(2)(c) and (d) of the Act, circumstances in which the custodian of the Royal Commission records may give a copy of a Royal Commission record to a person or body, or allow a person or body access to a Royal Commission record, are that:
- (a) free access to the record is not publicly available (for example, by being published on the Child Sexual Abuse Royal Commission website); and
  - (b) the person or body performs a function relating to law enforcement purposes; and
  - (c) a copy of, or access to, the record is requested for those purposes; and
  - (d) the record does not:

- (i) contain information or a matter, or enable information or a matter to be obtained, that was given or obtained at a private session under section 6OB of the Act, unless the information or matter is included under section 6OJ of the Act in a report or recommendation of the Child Sexual Abuse Royal Commission; or
- (ii) identify a natural person, or enable a natural person to be identified, as a person who appeared at any private session under section 6OB of the Act.

Note 1: For law enforcement purposes, see subsection 9(1) of the Act.

Note 2: In 2019, the Child Sexual Abuse Royal Commission website could be viewed at <https://www.childabuseroyalcommission.gov.au>.

*Way in which requests are responded to*

- (7) For the purposes of this regulation, the custodian of the Royal Commission records may:
  - (a) respond to a request by a person or body for a copy of a Royal Commission record by allowing the person or body access to the record; or
  - (b) respond to a request by a person or body for access to a Royal Commission record by giving a copy of the record to the person or body; or
  - (c) give a copy of a Royal Commission record, or allow access to a Royal Commission record, to a person or body in any form reasonably considered by the custodian to allow access to information or a matter contained in the record, or that can be obtained from it.

Example: For a record that is an audio recording, a copy of, or access to, the record may be given in the form of a transcript of the recording.

*No limitation on circumstances or operation of Act*

- (8) This regulation does not limit the circumstances in which the custodian of the Royal Commission records may:
  - (a) give a copy of a Royal Commission record to a person or body; or
  - (b) allow access to a Royal Commission record to a person or body.
- (9) This regulation does not limit the operation of subsections 9(6) and (7) of the Act.

## **12 Custody and use of records—Banking, Superannuation and Financial Services Royal Commission**

*Scope*

- (1) For the purposes of subsection 9(2) of the Act, this regulation applies in relation to Royal Commission records of the Banking, Superannuation and Financial Services Royal Commission.

Note: Royal Commission records are explained in subsection 9(1) of the Act.

- (2) To avoid doubt, a reference in this regulation to a Royal Commission record includes a reference to a part of a Royal Commission record.

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*Custody of records*

- (3) For the purposes of paragraph 9(2)(a) of the Act, the Royal Commission records are to be kept in the custody of the Secretary of the Attorney-General's Department (the *custodian* of those records).

*Requesting copies of records given to Royal Commission*

- (4) For the purposes of paragraphs 9(2)(c) and (d) of the Act, if a person or body requests a copy of a Royal Commission record, or access to a Royal Commission record, circumstances in which the custodian of the record may give the person or body a copy of, or access to, the record are that:
- (a) free access to the record is not publicly available (for example, by being published on the Banking, Superannuation and Financial Services Royal Commission website); and
  - (b) the requesting person or body:
    - (i) gave the Banking, Superannuation and Financial Services Royal Commission the record, or information or matter that the record contains or that can be obtained from it; or
    - (ii) is an authorised representative of a person or body to whom subparagraph (i) applies; and
  - (c) the custodian is reasonably satisfied of the identity of the requesting person or body, and (for a representative) that the representative's authorisation is genuine and currently effective.

Note: In 2019, the Banking, Superannuation and Financial Services Royal Commission website could be viewed at <https://financialservices.royalcommission.gov.au>.

*Access to records for law enforcement purposes*

- (5) For the purposes of paragraphs 9(2)(c) and (d) of the Act, circumstances in which the custodian of the Royal Commission records may give a copy of a Royal Commission record to a person or body, or allow a person or body access to a Royal Commission record, are that:
- (a) free access to the record is not publicly available (for example, by being published on the Banking, Superannuation and Financial Services Royal Commission website); and
  - (b) the person or body performs a function relating to law enforcement purposes; and
  - (c) a copy of, or access to, the record is requested for those purposes.

Note 1: For law enforcement purposes, see subsection 9(1) of the Act.

Note 2: In 2019, the Banking, Superannuation and Financial Services Royal Commission website could be viewed at <https://financialservices.royalcommission.gov.au>.

*Way in which requests are responded to*

- (6) For the purposes of this regulation, the custodian of the Royal Commission records may:
- (a) respond to a request by a person or body for a copy of a Royal Commission record by allowing the person or body access to the record; or
  - (b) respond to a request by a person or body for access to a Royal Commission record by giving a copy of the record to the person or body; or

- (c) give a copy of a Royal Commission record, or allow access to a Royal Commission record, to a person or body in any form reasonably considered by the custodian to allow access to information or a matter contained in the record, or that can be obtained from it.

Example: For a record that is an audio recording, a copy of, or access to, the record may be given in the form of a transcript of the recording.

*No limitation on circumstances or operation of Act*

- (7) This regulation does not limit the circumstances in which the custodian of the Royal Commission records may:
  - (a) give a copy of a Royal Commission record to a person or body; or
  - (b) allow access to a Royal Commission record to a person or body.
- (8) This regulation does not limit the operation of subsections 9(6) and (7) of the Act.

## **Part 4—Application, savings and transitional provisions**