

**ROYAL COMMISSIONS AMENDMENT (DEFENCE AND VETERAN SUICIDE
PRIVATE SESSIONS) REGULATIONS 2021**

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

in compliance with section 15J of the *Legislation Act 2003*

PURPOSE AND OPERATION OF THE INSTRUMENT

The Act provides for the establishment, powers and operation of Royal Commissions and for the management of Royal Commission records.

Section 17 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that the Act requires or permits to be prescribed, or necessary or convenient for carrying out or giving effect to the Act.

The purpose of the Minute is to recommend amendments to the *Royal Commissions Regulations 2019*, to authorise the use of Private Sessions under Part 4 of the Act, by the Royal Commission.

On 8 July 2021, the Governor-General issued Letters Patent for a Royal Commission into Defence and Veteran Suicide. On that day the Prime Minister, the Hon Scott Morrison MP, issued a media release announcing the establishment of the Royal Commission and confirmed that the Royal Commission would be authorised to hold private sessions, in acknowledgement of the sensitive and personal nature of the issues that witnesses may face.

Private sessions, which were first utilised by the Royal Commission into Institutional Responses to Child Sexual Abuse, enable individuals to tell their story about matters into which the Commission is inquiring in a less formal setting than a hearing. The power to prescribe Royal Commissions for which private sessions may be held was inserted into the Act by the *Royal Commissions Amendment (Private Sessions) Act 2019*.

Details of the proposed Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence the day after registration.

Authority: Section 17 of the *Royal Commissions Act 1902*.

CONSULTATION

The Royal Commission has indicated that it would be desirable to be able to hold private sessions, given the subject matter of its inquiry.

REGULATION IMPACT STATEMENT

No Regulation Impact Statement was completed following consultation with the OBPR (OBPR reference is ID 44298). OBPR advised that based on the information provided OBPR considers that the determination is machinery in nature. As Cabinet is not the decision-maker, a Regulation Impact Statement is not required for this proposal.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Royal Commissions Amendment (Defence and Veteran Suicide Private Sessions) Regulations 2021

1. The Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

2. The Regulations reflects the original intent of the provision ensuring that Royal Commissions can hold private sessions given the sensitive and personal nature of the issues that witnesses may face.

Human rights implications

3. The amendments will have a positive impact on the rights of those interacting with the Royal Commission. Allowing private sessions will give greater comfort to people who wish to share stories of a personally sensitive nature to the Royal Commission. This will support the prohibition on interference with privacy and attacks on reputation, which is contained in Article 17 of the International Covenant on Civil and Political Rights.

NOTES ON SECTIONS

Details of the proposed *Royal Commissions Amendment (Defence and Veteran Suicide Private Sessions) Regulations 2021*

Section 1 - Name of Regulations

This section would provide that the title of the Regulations is the *Royal Commissions Amendment (Defence and Veteran Suicide Private Sessions) Regulations 2021*.

Section 2 - Commencement

This section would provide for the Regulations to commence on the day after the instrument is registered.

Section 3 - Authority

This section would provide that the *Royal Commissions Amendment (Defence and Veteran Suicide Private Sessions) Regulations 2021* is made under the *Royal Commissions Act 1902*.

Section 4 - Schedules

This section would provide that 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 2019

Item 1 – Section 4 – would be amended by inserting a definition of the Royal Commission into Defence and Veteran Suicide.

Item 2 – Section 7 – would be amended by inserting the Defence and Veteran Royal Commission at the end of the list of prescribed Royal Commissions pursuant to section 6OAB(b) of the Royal Commissions Act.