



New South Wales

Privacy and Personal Information Protection Regulation 2014

under the

Privacy and Personal Information Protection Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Privacy and Personal Information Protection Act 1998*.

BRAD HAZZARD, MP
Attorney General

Explanatory note

The object of this Regulation is to remake, with some changes, the *Privacy and Personal Information Protection Regulation 2005*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation does the following:

- (a) prescribes the Inspector of Custodial Services as an investigative agency that is exempt from the need to comply with certain requirements of the *Privacy and Personal Information Protection Act 1998* (*the Act*),
- (b) provides that certain information contained in archives or held by a library, art gallery, museum or the State Records Authority is not personal information for the purposes of the Act,
- (c) exempts certain public sector agencies from the requirements under section 33 of the Act to prepare and implement a privacy management plan,
- (d) exempts certain public sector agencies from the provisions of Part 6 of the Act relating to public registers,
- (e) exempts the Council of the Bar Association and the Council of the Law Society from all provisions of the Act,
- (f) exempts local councils using CCTV cameras to film a public place, and disclosing information obtained thereby to the NSW Police Force by way of live transmission, from certain provisions of the Act relating to the collection of personal information.

This Regulation is made under the *Privacy and Personal Information Protection Act 1998*, including paragraph (g) of the definition of *investigative agency* in section 3 (1) and sections 4 (3) (k), 4B, 33 and 71 (the general regulation-making power, including the power to exempt public sector agencies from provisions of the Act).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Privacy and Personal Information Protection Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Privacy and Personal Information Protection Regulation 2005* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Privacy and Personal Information Protection Act 1998*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Prescribed investigative agency

The Inspector of Custodial Services is prescribed for the purposes of paragraph (g) of the definition of *investigative agency* in section 3 (1) of the Act.

5 Meaning of personal information

For the purposes of section 4 (3) (k) of the Act, the following is not personal information:

- (a) information about an individual that is contained in a document kept in a library, art gallery or museum for the purposes of reference, study or exhibition,
- (b) information about an individual that is contained in a State record under the control of the State Records Authority that is available for public inspection in accordance with the *State Records Act 1998*,
- (c) information about an individual that is contained in archives within the meaning of the *Copyright Act 1968* of the Commonwealth.

6 Privacy management plan exemptions

(1) A public sector agency (*the relevant agency*) is exempt from the provisions of section 33 of the Act if:

- (a) the staff of the relevant agency are part of the staff of another public sector agency, or

- (b) the Minister has, by order published in the Gazette, declared that the relevant agency is taken not to be a separate agency for the purposes of section 33 of the Act but is taken to be included in another public sector agency, and the privacy management plan of that other agency states that the plan extends to the relevant agency.
- (2) An Official Community Visitor appointed for the purposes of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* is not to be regarded as a separate public sector agency and instead is to be regarded for the purposes of section 33 of the Act as part of and included in the Ombudsman's Office, but only if the privacy management plan of the Ombudsman's Office states that the plan extends to an Official Community Visitor.

7 Public register exemptions

A public sector agency responsible for keeping any of the following public registers is exempt from the provisions of Part 6 of the Act with respect to that register:

- (a) the following registers under the *Conveyancing Act 1919*:
 - (i) the General Register of Deeds under section 184C of that Act,
 - (ii) any index of registers under section 198 of that Act,
 - (iii) the Central Register of Restrictions under Part 24 of that Act,
- (b) any register under Part 4 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- (c) the register of justices of the peace under the *Justices of the Peace Act 2002*,
- (d) the Lobbyists Register under the *Lobbying of Government Officials Act 2011* as amended by the *Electoral and Lobbying Legislation Amendment (Electoral Commission) Act 2014*, and the Register of Lobbyists on the Department of Premier and Cabinet's website,
- (e) the Register of Parties under section 66C of the *Parliamentary Electorates and Elections Act 1912*,
- (f) the Register under the *Real Property Act 1900* (that is, the Torrens Register) and any index kept by the Registrar-General under that Act in connection with it,
- (g) the Register of Land Values under the *Valuation of Land Act 1916*,
- (h) the Water Access Licence Register under section 71 of the *Water Management Act 2000*, and the register of approvals under section 113 of that Act.

8 Bar Association and Law Society councils exemption

The Council of the Bar Association and the Council of the Law Society are exempt from all provisions of the Act.

9 Local council CCTV camera exemptions

- (1) A local council is exempt from section 11 of the Act with respect to the collection of personal information by using a CCTV camera that the council installs for the purpose of filming a public place if the camera is positioned so no other land is filmed (unless it is not reasonably practicable to avoid filming the other land when filming the public place).
- (2) The local council is also exempt from section 18 of the Act with respect to the disclosure to the NSW Police Force of personal information by way of live transmission from such a CCTV camera.

- (3) In this clause, *public place* has the same meaning as in the *Local Government Act 1993*.

10 Saving

Any act, matter or thing that, immediately before the repeal of the *Privacy and Personal Information Protection Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.