




Speech By
Hon. Leanne Enoch

MEMBER FOR ALGESTER

Record of Proceedings, 12 October 2023

INFORMATION PRIVACY AND OTHER LEGISLATION AMENDMENT BILL

Message from Governor

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.14 pm): I present a message from Her Excellency the Governor.

Madam DEPUTY SPEAKER (Ms Lui): The message from Her Excellency the Governor recommends the Information Privacy and Other Legislation Amendment Bill. The contents of the message will be incorporated into the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

INFORMATION PRIVACY AND OTHER LEGISLATION AMENDMENT BILL 2023

Constitution of Queensland 2001, section 68

I, DR JEANNETTE ROSITA YOUNG AC PSM, Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to amend the Criminal Code, the Information Privacy Act 2009, the Ombudsman Act 2001, the Right to Information Act 2009 and the legislation mentioned in schedule 1 for particular purposes

GOVERNOR

Date: 12 October 2023

Tabled paper: Message, dated 12 October 2023, from Her Excellency the Governor, recommending the Information Privacy and Other Legislation Amendment Bill 2023 [1654](#).

Introduction

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.15 pm): I present a bill for an act to amend the Criminal Code, the Information Privacy Act 2009, the Ombudsman Act 2001, the Right to Information Act 2009 and the legislation mentioned in schedule 1 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights on behalf of the Attorney-General. I nominate the Education, Employment and Training Committee to consider the bill.

Tabled paper: Information Privacy and Other Legislation Amendment Bill 2023 [1655](#).

Tabled paper: Information Privacy and Other Legislation Amendment Bill 2023, explanatory notes [1656](#).

Tabled paper: Information Privacy and Other Legislation Amendment Bill 2023, statement of compatibility with human rights [1657](#).

Today, in the absence of the Attorney-General, I present the Information Privacy and Other Legislation Amendment Bill 2023. This is the third bill to implement recommendations from Professor Peter Coaldrake's 2022 report *Let the sunshine in: review of culture and accountability in the Queensland public sector* and demonstrates this government's commitment to integrity and

transparency. More than the Coaldrake report, this bill is the culmination of many other broad-ranging reports and reviews including: the Crime and Corruption Commission's report titled *Operation Impala: report on misuse of confidential information in the Queensland public sector*, tabled in February 2020; the Crime and Corruption Commission's report titled *Culture and corruption risks in local government: lessons from an investigation into Ipswich City Council*, tabled in August 2018; the *Strategic review of the Office of the Information Commissioner*, tabled in May 2017; and the *Report on the review of the Right to Information Act 2009 and Information Privacy Act 2009*, tabled in October 2017.

The bill also makes additional clarifications and improvements to information privacy and right to information frameworks, including in response to judicial decisions and consultation with stakeholders. In implementing these reports and recommendations, the bill enhances the protection of personal information held by Queensland government agencies; improves remedies and responses for data breaches and misuse of personal information by Queensland government agencies; and clarifies and improves the operation of Queensland's information privacy and right to information framework.

The government has undertaken significant consultation in developing these reforms, including several rounds of consultation with the public and key stakeholders. In 2022, the government released a public consultation paper seeking feedback on proposed reforms, including the introduction of new privacy principles for Queensland and a mandatory data breach notification scheme. The government also conducted extensive consultation with departments, statutory bodies, local councils, universities and other entities that are currently subject to Queensland's right to information and information privacy frameworks. More recently, government has also conducted targeted consultation on a draft bill. Feedback from this consultation has been instrumental in developing a practical and workable improved framework, appropriate for Queensland, as represented in this bill today.

I will now take members through each significant area of reform. Firstly, the bill modernises the Information Privacy Act 2009 to ensure that Queensland's privacy laws remain contemporary and relevant given the changes to the use of technology and to the way in which personal information is collected, used, accessed, stored and disclosed in today's digital world. The Information Privacy Act 2009 regulates how personal information is collected, secured, used and disclosed by Queensland public sector agencies and their contractors.

There are currently two sets of privacy principles: the National Privacy Principles, which apply to health agencies, and the Information Privacy Principles, which apply to all other Queensland government agencies. The bill provides for a new and enhanced single set of privacy principles for all agencies and contracted service providers, referred to as the Queensland Privacy Principles.

The Queensland Privacy Principles are broadly based on the Australian Privacy Principles in the Commonwealth Privacy Act 1998, with some adaptations to make them appropriate for Queensland's needs and legislative environment. The Queensland Privacy Principles will improve consistency with the Commonwealth privacy framework, providing an uplift of privacy protections for Queenslanders. The new Queensland Privacy Principles will provide individuals with greater understanding of their privacy rights, and enhance public confidence that personal information will be handled in a similar way across the Commonwealth, state or local government. They will also provide a higher standard of protection for sensitive information, which includes health related information, genetic information and biometric data. The Queensland privacy principles will also reduce red tape for businesses that may be subject to multiple sets of privacy principles such as larger businesses that contract with the Queensland government. These requirements promote responsible and fair management of personal information.

I know some people might be asking why we are making these changes now when the Commonwealth government has only recently released its response to the Privacy Act review report. The Commonwealth government has conducted a very thorough review into the Commonwealth Privacy Act over recent years. That review is still underway and is likely to continue for quite some time, noting that many of the recommendations were accepted in principle by the Commonwealth government and are subject to further regulatory impact analysis.

The reforms in the bill provide a stepping stone for Queensland agencies and provide a sound foundation on which further legislative reforms can be considered once the Commonwealth progresses legislative reforms. Not all reforms being considered by the Commonwealth will be suitable for Queensland. By strengthening Queensland's privacy framework now, public sector agencies will be able to continue to manage the challenges of digital service delivery while meeting community expectations around privacy. It is crucial that Queensland's privacy legislation is contemporary and remains fit for purpose. In today's interconnected digital era, information, including personal information, such as a person's contact details, private health records and financial information, has become more sought after and accessible than ever.

Another significant reform in the bill is the establishment of a mandatory data breach notification scheme as recommended by the Coaldrake report. Recent high-profile data breaches demonstrate that loss or unauthorised access or disclosure of personal information has the potential to result in serious harm to individuals. This could include: identity theft; identity fraud; financial loss; physical harm; reputational harm; emotional harm such as embarrassment or distress; and discrimination.

Queensland agencies currently operate a voluntary notification scheme under the Office of the Information Commissioner's Privacy Breach Management and Notification Guideline. The bill will establish a mandatory data breach notification scheme to ensure that there are clear, consistent requirements for government agencies to notify individuals of data breaches by Queensland government agencies so that individuals are empowered to take steps to reduce the risk of harm resulting from a data breach. The mandatory data breach notification scheme will introduce requirements to notify affected individuals and the Office of the Information Commissioner of eligible data breaches—that is, unauthorised access to, unauthorised disclosure of, or loss of personal information held by an agency where it is likely to result in serious harm to the individuals concerned.

The proposed MDBN scheme will also require agencies to conduct assessments of suspected eligible data breaches within 30 days to identify whether notification is required and, if an eligible data breach has occurred, provide a statement containing details about the breach to the OIC and notify affected individuals. Consistent and transparent handling of data breaches under the mandatory data breach notification scheme will empower individuals to mitigate the potential harm of data breaches in a timely manner, resulting in greater trust and confidence in government agencies.

The bill also provides enhanced powers for the Information Commissioner to respond to privacy breaches, including an own-motion power to investigate an act or practice without having received a privacy complaint. The bill also provides the Office of the Information Commissioner with new functions and regulatory powers in relation to compliance with the new mandatory data breach notification scheme.

In relation to computer hacking, the bill amends the offence in section 408E of the Criminal Code, which deals with the use of restricted computers without consent, to improve its operation and clarity having regard to key concerns highlighted in the CCC's Impala report. This includes amendments to rename section 408E. The Impala report highlighted that the title of the section does not make it clear to public officers that their conduct in accessing confidential information to which they have access in the performance of their duties can be a criminal offence. The CCC was also concerned that current maximum penalties do not adequately reflect the serious nature of deliberate breaches of the public's privacy by public officers and in some cases the offence becomes statute barred. To this end, the amendments increase the maximum penalty of the current simple offence in subsection (1) relating to use of a restricted computer without the consent of the computer's controller from two to three years imprisonment and reclassifies this offence as a misdemeanour which means that it is an indictable offence.

The bill will also make important improvements to the right to information and information privacy frameworks under the Right to Information Act 2009 and the Information Privacy Act 2009. The Right to Information Act provides a right of access to government information unless, on balance, it is contrary to the public interest to release the information. The Information Privacy Act also provides a right for a person to access or amend their own personal information.

The bill will provide a single right of access to information, including for personal information, all under the Right to Information Act. Applications for amendment of personal information will also be made under the Right to Information Act rather than the Information Privacy Act. This will reduce complexity for individuals and agencies and deliver efficiencies.

The bill also includes a suite of enhancements to the right to information and information privacy frameworks, including to: make improvements to the processing of applications; modify internal and external review processes; clarify the definition of 'public authority'; rationalise requirements for disclosure logs and make changes to annual reporting requirements; and enhance arrangements for privacy complaints. Lastly, the bill amends the Right to Information Act to support the operation of the administrative scheme which will provide for the proactive release of cabinet documents.

In conclusion, the bill implements critical reforms which go to the heart of Queensland's integrity framework. The Right to Information Act and the Information Privacy Act have important roles in our democratic society and in Queensland's integrity framework. The Palaszczuk government's implementation of the important measures in the Information Privacy and Other Legislation Amendment Bill will ensure transparency, accountability and privacy protections for individuals that accord with the Queensland community's expectations. I commend the bill to the House.

First Reading

Hon. LM ENOCH (Alger—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.26 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Education, Employment and Training Committee

Mr DEPUTY SPEAKER (Mr Hart): Order! In accordance with standing order 131, the bill is now referred to the Education, Employment and Training Committee.

Portfolio Committee, Reporting Date

Hon. LM ENOCH (Alger—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.27 pm), by leave, without notice: I move—

That, under the provisions of standing order 136, the Education, Employment and Training Committee report to the House on the Information Privacy and Other Legislation Amendment Bill by Friday, 24 November 2023.

Question put—That the motion be agreed to.

Motion agreed to.