



Queensland

**Parliamentary (Heiner Affair  
and Related Matters)  
Commission of Inquiry  
Bill 2014**





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# Parliamentary (Heiner Affair and Related Matters) Commission of Inquiry Bill 2014

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	4
2	Definitions . . . . .	4
<b>Part 2</b>	<b>Establishment and operation of commission of inquiry</b>	
3	Establishment . . . . .	4
4	Membership . . . . .	4
5	Cessation of membership . . . . .	5
6	Death, incapacity or resignation of member . . . . .	5
7	Deciding questions . . . . .	6
8	Fees and allowances of members . . . . .	6
<b>Part 3</b>	<b>Role of commission of inquiry</b>	
9	Functions . . . . .	6
10	Report . . . . .	7
<b>Part 4</b>	<b>Proceedings of commission of inquiry</b>	
11	Application of Commissions of Inquiry Act 1950 . . . . .	8
12	Consideration of previous investigations . . . . .	9
13	Provision of assistance and information to commission of inquiry . . . . .	9
14	Claim of privilege not available . . . . .	9
15	Statement of witness inadmissible . . . . .	10
16	Documents committed to custody of Speaker . . . . .	10
<b>Part 5</b>	<b>Other</b>	
17	Officers and staff of commission of inquiry . . . . .	11
18	Conduct of inquiry not subject to review . . . . .	11
19	Regulation-making power . . . . .	11
20	Expiry . . . . .	12
<b>Schedule 1</b>	<b>Dictionary</b> . . . . .	13



**2014**

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**A Bill**

for

**An Act for the purpose of establishing a parliamentary  
commission of inquiry to inquire into the Heiner affair and  
related matters**

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Short title</b>	3
This Act may be cited as the <i>Parliamentary (Heiner Affair and Related Matters) Commission of Inquiry Act 2014</i> .	4 5
<b>2 Definitions</b>	6
The dictionary in schedule 1 defines particular words used in this Act.	7 8
<b>Part 2 Establishment and operation of commission of inquiry</b>	9 10
<b>3 Establishment</b>	11
(1) As soon as reasonably practicable after the commencement, the Legislative Assembly must, by resolution, establish a parliamentary commission of inquiry.	12 13 14
(2) The inquiry is to be known as the Parliamentary (Heiner Affair and Related Matters) Commission of Inquiry (the <i>commission of inquiry</i> ).	15 16 17
<b>4 Membership</b>	18
(1) The Legislative Assembly must, by resolution—	19
(a) appoint 3 members to the commission of inquiry; and	20
(b) nominate 1 of the 3 members as the presiding member.	21

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- (2) A person is eligible for appointment as a member only if the person is a former judge. 1  
2
- (3) In this section— 3  
*former judge* means— 4
- (a) a former Supreme Court judge or District Court judge; 5  
or 6
- (b) a former judge of a court of the Commonwealth or 7  
another State, other than a Magistrates Court of the 8  
Commonwealth or another State. 9
- 5 Cessation of membership 10**
- (1) A person ceases to be a member on the day the report of the 11  
commission of inquiry is given to the Speaker under section 12  
10. 13
- (2) If more than 1 report is given to the Speaker, a person ceases 14  
to be a member on the day the last report is given to the 15  
Speaker. 16
- 6 Death, incapacity or resignation of member 17**
- (1) This section applies if a member— 18
- (a) dies; or 19
- (b) is removed from membership by resolution of the 20  
Legislative Assembly because the member is mentally 21  
or physically incapable of satisfactorily performing the 22  
member's functions; or 23
- (c) resigns the member's appointment to the commission of 24  
inquiry by written notice to the Speaker. 25
- (2) The 2 remaining members are taken to constitute the 26  
commission of inquiry. 27
- (3) The Legislative Assembly must, by resolution, appoint 1 of 28  
the remaining members as the presiding member. 29
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(4)	However, if the Legislative Assembly is not sitting, the Governor in Council must appoint the presiding member under subsection (3).	1 2 3
<b>7</b>	<b>Deciding questions</b>	4
(1)	If the commission of inquiry is constituted by 3 members and the decisions of the members differ, the commission of inquiry's decision is the decision of the majority.	5 6 7
(2)	If the commission of inquiry is constituted by 2 members and the decisions of the members differ, the commission of inquiry's decision is the decision of the presiding member.	8 9 10
(3)	If the decisions of the members differ, a member may require that the particulars of the members' decisions are recorded in the commission of inquiry's report to the Speaker under section 10.	11 12 13 14
<b>8</b>	<b>Fees and allowances of members</b>	15
	The fee or allowance payable to a member is the fee or allowance decided by resolution of the Legislative Assembly.	16 17
<b>Part 3</b>	<b>Role of commission of inquiry</b>	18
<b>9</b>	<b>Functions</b>	19
(1)	The commission of inquiry is to inquire into, and report to the Legislative Assembly on—	20 21
(a)	whether it recommends that any act or omission by a person to be investigated in relation to the Heiner affair—	22 23 24
(i)	warrants a charge of an offence to be brought against the person; or	25 26



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(ii)	for a person who is a judicial officer—warrants the removal of the person from judicial office; and	1 2
(b)	whether it recommends that any act or omission by a person named in the Rofe audit or by any other person who becomes known to the commission of inquiry during the course of its proceedings—	3 4 5 6
(i)	warrants a charge of an offence to be brought against the person; or	7 8
(ii)	warrants any other action being taken against the person; and	9 10
(c)	whether it recommends any constitutional, legislative or administrative changes arising from the commission of inquiry’s functions under paragraph (a) or (b).	11 12 13
(2)	In this section—	14
	<i>person to be investigated</i> , in relation to the Heiner affair, means—	15 16
(a)	a person who is a Supreme Court judge; or	17
(b)	a person who is a District Court judge; or	18
(c)	a person who is a magistrate; or	19
(d)	the person who held the office of State Coroner on 1 January 2013.	20 21
<b>10</b>	<b>Report</b>	22
(1)	The commission of inquiry must report to the Speaker on—	23
(a)	the commission of inquiry’s findings of fact; and	24
(b)	the commission of inquiry’s recommendations in relation to its functions.	25 26
(2)	The commission of inquiry must report to the Speaker within 6 months of the commencement.	27 28
(3)	The commission of inquiry may report under subsection (1) in the form of 1 or more reports.	29 30

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| (4) | The commission of inquiry must also provide to the Speaker as much of the record of evidence of its proceedings as it considers to be necessary to substantiate a report of the commission of inquiry.                             | 1<br>2<br>3<br>4 |
| (5) | The Speaker must, as soon as reasonably practicable after receiving a report or a record of evidence of the commission of inquiry, lay, or cause to be laid, a copy of the report or the evidence before the Legislative Assembly. | 5<br>6<br>7<br>8 |
| (6) | The day by which the commission of inquiry must report to the Speaker under subsection (2) may be extended by resolution of the Legislative Assembly.  | 9<br>10<br>11    |

<b>Part 4</b>	<b>Proceedings of commission of inquiry</b>	12 13
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<b>11</b>	<b>Application of Commissions of Inquiry Act 1950</b>	14
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|-----|--|----------------|
| (1) | The commission of inquiry is deemed to be a commission within the meaning of the <i>Commissions of Inquiry Act 1950</i> , section 3.                               | 15<br>16<br>17 |
| (2) | Subject to this Act, the <i>Commissions of Inquiry Act 1950</i> , other than sections 4, 4A, 27, 28, 29 and 30, apply to the commission of inquiry.                | 18<br>19<br>20 |
| (3) | For the purposes of applying the <i>Commissions of Inquiry Act 1950</i> under subsection (2)—  | 21<br>22       |
| (a) | each member is deemed to be a commissioner within the meaning of section 3 of that Act; and  | 23<br>24       |
| (b) | the presiding member is deemed to be a chairperson within the meaning of section 3 of that Act; and  | 25<br>26       |
| (c) | section 5(2A) of that Act is to be construed as if the reference to the chairperson's writing under section 5(1) is a reference to the presiding member's writing. | 27<br>28<br>29 |

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- (4) A right or power conferred on the commission of inquiry by the operation of this section is in addition to a right or power otherwise conferred by this Act. 1  
2  
3
- 12 Consideration of previous investigations 4**
- (1) In carrying out its functions, the commission of inquiry may, to the extent it considers it necessary or desirable to do so, have regard to— 5  
6  
7
- (a) the record of evidence of the proceedings, or the findings, of any other inquiry into the Heiner affair; and 8  
9
- (b) the Rofe audit; and 10
- (c) any other related material. 11
- (2) The commission of inquiry may act under subsection (1) despite any other Act or privilege of the Legislative Assembly. 12  
13
- 13 Provision of assistance and information to commission of inquiry 14  
15**
- (1) At the request of the presiding member, an entity may— 16
- (a) provide assistance to the commission of inquiry; or 17
- (b) provide a document, material or information to the commission of inquiry that is relevant to the commission of inquiry’s functions. 18  
19  
20
- (2) A person may provide information to the commission of inquiry under this section despite any other Act prohibiting the provision of the information. 21  
22  
23
- 14 Claim of privilege not available 24**
- (1) This section applies to a person who has possession of— 25
- (a) a document relating to discussions by Ministers or a decision arising from a discussion by Ministers; or 26  
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- (b) a document relating to a recommendation made to the Governor in Council and any decision by the Governor in Council as a result of that recommendation. 1  
2  
3
- (2) A person to whom subsection (1) applies cannot claim privilege on behalf of the State from production of those documents to the commission of inquiry. 4  
5  
6
- (3) The documents referred to in subsection (1) are not protected from production to the commission of inquiry. 7  
8
- 15 Statement of witness inadmissible** 9
- (1) This section applies to the following material (*witness information*)— 10  
11
- (a) a statement or disclosure made by a witness to the commission of inquiry; 12  
13
- (b) a document or thing produced by a witness to the commission of inquiry; 14  
15
- (c) a document, information or thing obtained as a direct or indirect consequence of a statement, disclosure, document or thing referred to in paragraph (a) or (b). 16  
17  
18
- (2) Witness information is not admissible in evidence in any civil or criminal proceeding in any court of the Commonwealth or a State. 19  
20  
21
- (3) Subsection (2) does not apply to a proceeding for an offence against this Act or the *Commissions of Inquiry Act 1950*. 22  
23
- 16 Documents committed to custody of Speaker** 24
- (1) At the time of making its report or, if more than 1 report is made, its last report to the Speaker, the commission of inquiry must give documents in its possession to the custody of the Speaker. 25  
26  
27  
28
- (2) The Speaker is to deal with the documents according to law. 29

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<b>Part 5</b>	<b>Other</b>	1
<b>17</b>	<b>Officers and staff of commission of inquiry</b>	2
(1)	The commission of inquiry may, with the approval of the Attorney-General, appoint or engage a lawyer or other person to assist it either generally or in relation to a particular matter.	3 4 5
(2)	The staff of the commission of inquiry are the persons employed by it or made available to it by the Speaker.	6 7
(3)	The Speaker may arrange with the clerk of the Parliament or the chief executive of the Public Service Commission for the services of officers or employees of the parliamentary service or public service employees to be made available to the commission of inquiry.	8 9 10 11 12
(4)	In this section— <i>employee</i> , in relation to the parliamentary service, see the <i>Parliamentary Service Act 1988</i> , section 4. <i>officer</i> , in relation to the parliamentary service, see the <i>Parliamentary Service Act 1988</i> , section 4.	13 14 15 16 17
<b>18</b>	<b>Conduct of inquiry not subject to review</b>	18
(1)	The conduct of the commission of inquiry and the right of the commission of inquiry to inquire into a matter is not subject to review by court.	19 20 21
(2)	However, the <i>Judicial Review Act 1991</i> , part 5 applies to a decision of the commission of inquiry to the extent it is affected by jurisdictional error.	22 23 24
<b>19</b>	<b>Regulation-making power</b>	25
	The Governor in Council may make regulations under this Act.	26 27

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**20 Expiry**

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This Act expires 1 year after commencement.

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<b>Schedule 1</b>	<b>Dictionary</b>	1
	section 2	2
	<i>commission of inquiry</i> see section 3(2).	3
	<i>Heiner affair</i> means the events referred to in the report by the Queensland Child Protection Commission of Inquiry entitled ‘3(e) Report’, June 2013.	4 5 6
	<i>member</i> means a member of the commission of inquiry.	7
	<i>parliamentary service</i> see the <i>Parliamentary Service Act 1988</i> , section 23.	8 9
	<i>Rofo audit</i> means the document entitled ‘The Rofo QC audit of the Heiner affair’ by David Rofo QC, tendered to the Queensland Child Protection Commission of Inquiry on 24 July 2012.	10 11 12 13
	<i>witness information</i> see section 15(1).	14

Authorised by the Parliamentary Counsel