

Queensland



PARLIAMENTARY COMMITTEES ACT 1995

Act No. 38 of 1995

Queensland



PARLIAMENTARY COMMITTEES ACT 1995

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Main object of Act and its achievement	6
3	Definitions—the dictionary	6
PART 2—COMMITTEES OF THE LEGISLATIVE ASSEMBLY		
4	Establishment of statutory committees	7
5	Act does not limit Assembly's powers	7
6	Application of Act to committees established by Assembly etc.	7
PART 3—ROLE OF STATUTORY COMMITTEES		
7	Purpose of pts 3 and 4	8
8	Role of statutory committees	8
PART 4—AREAS OF RESPONSIBILITY OF STATUTORY COMMITTEES		
<i>Division 1—Legal, Constitutional and Administrative Review Committee</i>		
9	Areas of responsibility of Legal, Constitutional and Administrative Review Committee	9
10	Administrative review reform	9
11	Constitutional reform	10
12	Electoral reform	10
13	Legal reform	10
<i>Division 2—Members' Ethics and Parliamentary Privileges Committee</i>		
14	Areas of responsibility of Members' Ethics and Parliamentary Privileges Committee	10

15	Ethical conduct—registration of interests	11
16	Ethical conduct—code of conduct	11
17	Parliamentary privilege	12
	<i>Division 3—Public Accounts Committee</i>	
18	Area of responsibility of Public Accounts Committee	12
19	Reference of issues to Auditor-General	13
	<i>Division 4—Public Works Committee</i>	
20	Areas of responsibility of Public Works Committee	13
21	Meaning of “constructing authority” for work	14
	<i>Division 5—Scrutiny of Legislation Committee</i>	
22	Area of responsibility of Scrutiny of Legislation Committee	15
	<i>Division 6—Standing Orders Committee</i>	
23	Area of responsibility of Standing Orders Committee	16
	PART 5—MINISTERIAL RESPONSE TO REPORTS BY COMMITTEES	
24	Ministerial response to committee reports	16
	PART 6—GENERAL POWERS OF COMMITTEES	
25	Powers to call for persons etc.	17
26	Privilege against self-incrimination	17
	PART 7—PROVISIONS ABOUT PUBLIC WORKS COMMITTEE	
27	Issues to which committee may have regard	19
28	Entry and inspection of places	19
29	Restriction on procurement of capital works project	20
30	Dealing with commercially sensitive information in private session	21
31	Reporting commercially sensitive information to Assembly	21
	PART 8—OTHER PROVISIONS ABOUT STATUTORY COMMITTEES	
32	Issues dealt with by previously constituted committees	22
33	Annual report of committee	22
	PART 9—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS	
34	Repeals	23
35	Amendments	23

36	Legal, Constitutional and Administrative Review Committee to take over unfinished issues from Parliamentary Committee for Electoral and Administrative Review	23
37	Legal, Constitutional and Administrative Review Committee to take over unfinished issues from Parliamentary Criminal Justice Committee	24
38	Public Accounts Committee to take over from Parliamentary Committee of Public Accounts	24
39	Public Works Committee to take over from Parliamentary Committee of Public Works	24
40	Scrutiny of Legislation Committee to take over from Committee of Subordinate Legislation	24
41	Expiry of part	24
	SCHEDULE 1	25
	ACTS AMENDED	
	CRIMINAL JUSTICE ACT 1989	25
	ELECTORAL ACT 1992	26
	FINANCIAL ADMINISTRATION AND AUDIT ACT 1977	27
	FREEDOM OF INFORMATION ACT 1992	28
	LEGISLATIVE STANDARDS ACT 1992	30
	PARLIAMENTARY COMMISSIONER ACT 1974	31
	PARLIAMENTARY PAPERS ACT 1992	36
	PARLIAMENTARY SERVICE ACT 1988	37
	PUBLIC SECTOR ETHICS ACT 1994	46
	WHISTLEBLOWERS PROTECTION ACT 1994	46
	SCHEDULE 2	47
	DICTIONARY	

Queensland



Parliamentary Committees Act 1995

Act No. 38 of 1995

**An Act to provide for certain committees of the Legislative Assembly,
and for other purposes**

[Assented to 15 September 1995]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Parliamentary Committees Act 1995*.

Main object of Act and its achievement

2.(1) The main object of this Act is to enhance the accountability of public administration in Queensland.

(2) The Act's main object is to be achieved by establishing committees of the Legislative Assembly with areas of responsibility that include—

- (a) administrative review reform, and constitutional, electoral and legal reform; and
- (b) the ethical conduct of members and parliamentary privileges; and
- (c) the integrity, economy, efficiency and effectiveness of Government financial management; and
- (d) certain works undertaken by or for Government; and
- (e) the application of fundamental legislative principles to particular Bills and subordinate legislation and the lawfulness of particular subordinate legislation; and
- (f) the Assembly's standing orders.

Definitions—the dictionary

3. The dictionary in schedule 2 defines particular words used in this Act.¹

¹ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14(4).

PART 2—COMMITTEES OF THE LEGISLATIVE ASSEMBLY

Establishment of statutory committees

4. The following committees of the Legislative Assembly (the “**statutory committees**”) are established—

- Legal, Constitutional and Administrative Review Committee
- Members’ Ethics and Parliamentary Privileges Committee
- Public Accounts Committee
- Public Works Committee
- Scrutiny of Legislation Committee
- Standing Orders Committee.

Act does not limit Assembly’s powers

5. The Legislative Assembly’s power to establish committees, and confer functions and powers on committees (including statutory committees), is not limited by this Act.

Example—

The Assembly may, by resolution, establish a standing or select committee.

Application of Act to committees established by Assembly etc.

6.(1) Although this Act is mainly about statutory committees, the following sections also apply to committees established by the Legislative Assembly—

- section 24 (Ministerial response to committee reports)
- section 25 (Powers to call for persons etc.)
- section 26 (Privilege against self-incrimination).

(2) However, the sections apply to a committee established by the Assembly subject to any resolution of the Assembly.

(3) Also, this Act applies to the Legal, Constitutional and Administrative Review Committee subject to the *Criminal Justice Act 1989*.

PART 3—ROLE OF STATUTORY COMMITTEES

Purpose of pts 3 and 4

7.(1) This part sets out the role of statutory committees for their areas of responsibility.

(2) Part 4 sets out the areas of responsibility for each statutory committee.

Role of statutory committees

8.(1) The main role of a statutory committee is to deal with issues within its areas of responsibility.

(2) The committee is to also deal with an issue referred to the committee by the Legislative Assembly or under another Act, whether or not the issue is within its areas of responsibility.

(3) The committee may deal with an issue by—

- (a) considering it; and
- (b) reporting on it, and making recommendations about it, to the Legislative Assembly.

PART 4—AREAS OF RESPONSIBILITY OF STATUTORY COMMITTEES

Division 1—Legal, Constitutional and Administrative Review Committee

Areas of responsibility of Legal, Constitutional and Administrative Review Committee

9. The Legal, Constitutional and Administrative Review Committee has the following areas of responsibility—

- administrative review reform
- constitutional reform
- electoral reform
- legal reform.

Administrative review reform

10.(1) The committee's area of responsibility about administrative review reform includes considering legislation, or provisions of legislation, about—

- (a) access to information; or
- (b) review of administrative decisions; or
- (c) anti-discrimination; or
- (d) equal employment opportunity.

(2) The committee's area of responsibility does not include—

- (a) investigating particular conduct; or
- (b) reconsidering or reviewing a decision to investigate, conciliate or review, not to investigate, conciliate or review or to discontinue investigation, conciliation or review of a particular complaint or decision; or
- (c) reconsidering or reviewing reports, findings, recommendations or decisions in relation to a particular investigation, complaint or decision or in relation to particular conduct the subject of a report

under the *Parliamentary Commissioner Act 1974*, section 24(6).²

Constitutional reform

11. The committee's area of responsibility about constitutional reform includes any Bill expressly or impliedly repealing any law relevant to the State's constitution.

Electoral reform

12. The committee's area of responsibility about electoral reform includes monitoring generally the conduct of elections under the *Electoral Act 1992* and the capacity of the Electoral Commission to conduct elections.

Legal reform

13. The committee's area of responsibility about legal reform includes—

- (a) recognition of Aboriginal tradition and Island custom under Queensland law; and
- (b) proposed national scheme legislation referred to the committee by the Legislative Assembly.

Division 2—Members' Ethics and Parliamentary Privileges Committee

Areas of responsibility of Members' Ethics and Parliamentary Privileges Committee

14. The Members' Ethics and Parliamentary Privileges Committee has the following areas of responsibility—

² The *Parliamentary Commissioner Act 1974*, section 24(6) allows the Parliamentary Commissioner for Administrative Investigations to cause a report to be tabled in the Legislative Assembly if it appears to the commissioner that no steps that seem to be appropriate have been taken within a reasonable time of the making of a report or recommendation after investigation.

- the ethical conduct of members
- parliamentary privilege.

Ethical conduct—registration of interests

15. The committee's area of responsibility about the ethical conduct of members includes—

- (a) examining the arrangements, under resolutions of the Legislative Assembly, for compiling, keeping and allowing inspection of—
 - (i) a register of the interests of members; and
 - (ii) a register of the interests of persons related to a member; and
- (b) considering proposals made by members and other persons about the form and content of the registers and documents relevant to the registers, including statements of interests to be made by members; and
- (c) considering complaints referred to the committee about the failure to register particular interests; and
- (d) considering the classes of persons who should be treated as related to a member; and
- (e) considering any other issue about the registration of interests.

Ethical conduct—code of conduct

16.(1) The committee's area of responsibility about the ethical conduct of members includes—

- (a) recommending to the Legislative Assembly a proposed code of conduct for members (other than members in their capacity as Ministers); and
- (b) recommending to the Assembly a procedure for complaints about a member not complying with the code of conduct adopted by the Assembly, including, for example, the persons who may make complaints, or the persons who must refer complaints, to the committee; and
- (c) considering complaints against particular members for failing to

comply with the code of conduct, reporting to the Assembly about complaints and recommending action by the Assembly.

(2) In recommending a proposed code of conduct for members to the Legislative Assembly, the committee must have regard to—

- (a) the ethics principles and obligations set out in the *Public Sector Ethics Act 1994*; and
- (b) the desirability of consistency between standards in the code of conduct and the ethics principles and obligations, to the extent the principles and obligations are relevant to members and their functions.

(3) A complaint about a member not complying with the code of conduct for members may be considered only by the Legislative Assembly or the committee.

(4) Subsection (3) has effect despite any other law, but the subsection does not apply to a court, tribunal or other entity if the entity may, under a law, consider an issue and the issue that is considered involves the commission, or claimed or suspected commission, of a criminal offence.

Parliamentary privilege

17. The committee's area of responsibility about parliamentary privilege includes the privileges of the Legislative Assembly and its committees and members.

Division 3—Public Accounts Committee

Area of responsibility of Public Accounts Committee

18. The Public Accounts Committee's area of responsibility is to assess the integrity, economy, efficiency and effectiveness of Government financial management by—

- (a) examining Government financial documents; and
- (b) considering the annual and other reports of the Auditor-General.

Reference of issues to Auditor-General

19. The committee may refer issues within its area of responsibility to the Auditor-General for consideration.

Division 4—Public Works Committee**Areas of responsibility of Public Works Committee**

20.(1) The Public Works Committee's areas of responsibility are—

- (a) works (“**public works**”) undertaken by an entity that is a constructing authority for the work if the committee decides to consider the work; and
- (b) major GOC works referred to the committee by the Legislative Assembly.

(2) In deciding whether to consider a public work, the committee may have regard to—

- (a) the stated purpose of the work and the apparent suitability of the work for the purpose; and
- (b) the necessity for, and the advisability of, the work; and
- (c) value for money achieved, or likely to be achieved, by the work; and
- (d) revenue produced by, and recurrent costs of, the work or estimates of revenue and costs for the work; and
- (e) the present and prospective public value of the work, including, for example, consideration of the impact of the work on the community, economy and environment; and
- (f) procurement methods for the work; and
- (g) the balance of public and private sector involvement in the work; and
- (h) the performance of—
 - (i) the constructing authority for the work; and
 - (ii) the consultants and contractors for the work;

with particular regard to the time taken for finishing the work and the cost and quality of it; and

- (i) the actual suitability of the work in meeting the needs and in achieving the stated purpose of the work.

Meaning of “constructing authority” for work

21.(1) An entity is a constructing authority for a work if the entity is the State or a department.

(2) An entity is also a constructing authority for a work if—

- (a) the entity is established under an Act, or under State or local government authorisation for a public, State or local government purpose; and
- (b) the work is funded from—
 - (i) the public accounts; or
 - (ii) the proceeds of a financial arrangement within the meaning of the *Statutory Bodies Financial Arrangements Act 1982*.

(3) In addition, a GOC is a constructing authority for a work if the work is undertaken specifically or substantially for a community service obligation of the GOC.

(4) Also, an entity (a “**commercial entity**”) is a constructing authority for a work if, under an agreement for the work—

- (a) the State or another entity representing the State—
 - (i) has, or will or may have, a financial liability or interest; or
 - (ii) has granted, or will or may grant—
 - (A) land, or an interest in land; or
 - (B) another right, privilege, monopoly, concession, franchise or interest; or
 - (iii) has contributed, or will or may contribute, resources of any kind; and
- (b) the work has become, or will or may become, the absolute property of the State or another entity representing the State.

(5) A GOC is a constructing authority for major GOC works referred to the committee by the Legislative Assembly.

Division 5—Scrutiny of Legislation Committee

Area of responsibility of Scrutiny of Legislation Committee

22.(1) The Scrutiny of Legislation Committee’s area of responsibility is to consider—

- (a) the application of fundamental legislative principles³ to particular Bills and particular subordinate legislation; and
- (b) the lawfulness of particular subordinate legislation;

by examining all Bills and subordinate legislation.⁴

(2) The committee’s area of responsibility includes monitoring generally the operation of—

- (a) the following provisions of the *Legislative Standards Act 1992*—
 - section 4 (Meaning of “fundamental legislative principles”)
 - part 4 (Explanatory notes); and
- (b) the following provisions of the *Statutory Instruments Act 1992*—
 - section 9 (Meaning of “subordinate legislation”)
 - part 5 (Guidelines for regulatory impact statements)
 - part 6 (Procedures after making of subordinate legislation)
 - part 7 (Staged automatic expiry of subordinate legislation)

³ “Fundamental legislative principles” are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law (*Legislative Standards Act 1992*, section 4(1)). The principles include requiring that legislation has sufficient regard to rights and liberties of individuals and the institution of Parliament.

⁴ A member of the Legislative Assembly, including any member of the Scrutiny of Legislation Committee, may give notice of a disallowance motion under the *Statutory Instruments Act 1992*, section 50.

- part 8 (Forms)
- part 10 (Transitional).

Division 6—Standing Orders Committee

Area of responsibility of Standing Orders Committee

23. The Standing Orders Committee's area of responsibility is standing orders about the conduct of business by, and the practices and the procedures of, the Legislative Assembly and its committees.

PART 5—MINISTERIAL RESPONSE TO REPORTS BY COMMITTEES

Ministerial response to committee reports

24.(1) This section applies if a report of a committee of the Legislative Assembly (other than the Scrutiny of Legislation Committee) recommends the Government or a Minister should take particular action, or not take particular action, about an issue.

(2) The Minister who is responsible for the issue the subject of the report must provide the Legislative Assembly with a response.

(3) The response must set out—

- (a) any recommendations to be adopted, and the way and time within which they will be carried out; and
- (b) any recommendations not to be adopted and the reasons for not adopting them.

(4) The Minister must table the response within 3 months after the report is tabled.

(5) If a Minister cannot comply with subsection (4), the Minister must—

- (a) within 3 months after the report is tabled, table an interim response and the Minister's reasons for not complying within

3 months; and

(b) within 6 months after the report is tabled, table the response.

(6) If the Legislative Assembly is not sitting, the Minister must give the response (or interim response and reasons) to the Clerk of the Parliament for tabling on the next sitting day.

(7) Subsection (1) does not prevent a Minister providing a response to a recommendation in a report of the Scrutiny of Legislation Committee if it is practicable for the Minister to provide the response having regard to the nature of the recommendation and the time when the report is made.

Example—

If the committee recommends that a Bill be amended because, in the committee's opinion, it does not have sufficient regard to fundamental legislative principles and the Bill has not been passed by the Legislative Assembly, it may be practicable for the Minister to provide a response.

(8) This section does not apply to an annual report of a committee.

PART 6—GENERAL POWERS OF COMMITTEES

Powers to call for persons etc.

25.(1) The Public Accounts Committee and Public Works Committee are, by this subsection, authorised to call for persons, documents and other things.

(2) The Legislative Assembly may, by resolution, authorise another committee of the Assembly to call for persons, documents and other things.

Privilege against self-incrimination

26.(1) This section applies if—

- (a) the Public Accounts Committee or Public Works Committee calls for persons, documents or other things; or
- (b) the Legislative Assembly authorises a committee to call for persons, documents or other things.

(2) If a person appearing before the committee does not—

- (a) answer a question asked by the committee; or
- (b) produce a document or thing the committee asked the person to produce to it;

the chairperson of the committee may require the person to comply with the request.

(3) However, the person need not comply with the requirement if—

- (a) the person objects to answering the question, or producing the thing, because answering the question, or producing the thing, might tend to incriminate the person; and
- (b) the person would have a claim of privilege against self-incrimination in a Supreme Court action if the person were asked the question or asked to produce the thing.

(4) If a person does not comply with a request to appear before the committee or a requirement to answer a question or produce a document, the committee may report the failure to comply to the Legislative Assembly.

(5) The Legislative Assembly may order a person to appear before a committee and answer any or particular questions, or produce any or particular documents or other things.

(6) In deciding whether to make an order under subsection (5), the Legislative Assembly must have regard to—

- (a) the public interest in having the questions answered before the committee or the documents or other things produced to the committee; and
- (b) the public interest in providing appropriate protection to individuals against self-incrimination.

(7) A person to whom an order under subsection (5) is directed must comply with the order despite subsection (3).

(8) An order may be made under subsection (5) for a class of persons, including persons who have not appeared, or been asked to appear, before a committee.

(9) Evidence may not be given in any proceeding of an answer given by a person before a committee or the fact that a person produced a document

or other thing to a committee.

(10) However, subsection (9) does not apply to—

- (a) a proceeding before the Legislative Assembly or a committee of the Assembly; or
- (b) a criminal proceeding about the falsity, or the misleading, threatening or offensive nature, of the answer, document or other thing.

PART 7—PROVISIONS ABOUT PUBLIC WORKS COMMITTEE

Issues to which committee may have regard

27. In considering a work, the Public Works Committee may have regard to the issues mentioned in section 20(2)(a) to (i).⁵

Entry and inspection of places

28.(1) The Public Works Committee may authorise a committee member or anyone else (the “**authorised person**”) to enter and inspect a place where a work that the committee is considering is proposed to be, is being or has been carried out.

(2) The authorised person may inspect anything in the place relevant to the work.

(3) Nothing in subsection (1) prevents the committee from authorising all members of the committee to enter and inspect the place.

(4) However, the authorised person may enter the place only if the committee or authorised person gives reasonable written notice about the entry to the chief executive of the constructing authority for the work.

(5) On being given the notice, the chief executive must promptly make

⁵ Section 20(2)(a) to (i) sets out issues to which the committee may have regard in deciding whether to consider a public work.

arrangements for the entry, including, for example, obtaining the consent of the following—

- (a) if the place is occupied—the occupier of the place;
- (b) if the place is not occupied—the owner of the place.

(6) The arrangements must ensure proper regard is given to safety.

(7) The authorised person may enter and inspect the place without the consent mentioned in subsection (5) if the chief executive attempted to obtain the consent, but—

- (a) the attempt was unsuccessful (whether because the occupier or owner refused consent or otherwise); and
- (b) the chief executive gave written notice about the entry (of at least 7 days) to the occupier or owner.

(8) In this section—

“**building**” includes any structure.

“**chief executive**”, of a constructing authority, includes its chief executive officer, however called.

“**place**” includes premises.

“**premises**” includes—

- (a) a building; and
- (b) a part of a building; and
- (c) land where a building is situated.

Restriction on procurement of capital works project

29.(1) This section applies if the Legislative Assembly—

- (a) refers a work to the Public Works Committee; and
- (b) directs that procurement for the work must not start until the committee has considered the work and reported to the Assembly about it.

(2) The work must not start or further proceed until the committee’s report is tabled in the Legislative Assembly and considered by it.

(3) This section applies despite any other Act.

Dealing with commercially sensitive information in private session

30.(1) This section applies if, while considering a work, it appears to the Public Works Committee that confidential information may be given to the committee in a public hearing and publication of the information at the hearing could—

- (a) have a serious effect on the commercial interests of a GOC or commercial entity; or
- (b) reveal trade secrets of a GOC or commercial entity.

(2) The committee must deal with the information in private session.

(3) This section does not limit any other power of a committee to deal with an issue in private session.

Reporting commercially sensitive information to Assembly

31.(1) This section applies if the Public Works Committee considers that information obtained by the committee while considering a work could, if reported to the Legislative Assembly—

- (a) have a serious effect on the commercial interests of a GOC or commercial entity; or
- (b) reveal trade secrets of a GOC or commercial entity.

(2) The committee may report the information to the Legislative Assembly only if it considers it is in the public interest to report the information.

PART 8—OTHER PROVISIONS ABOUT STATUTORY COMMITTEES

Issues dealt with by previously constituted committees

32.(1) If the composition of a statutory committee changes before it finishes dealing with an issue, the newly constituted committee may continue and finish dealing with the issue as if it had dealt with the issue from the beginning.

Example—

Evidence given to the previous committee may be taken to have been given to the newly constituted committee.

(2) Subsection (1) applies even if the committees are constituted during different Parliaments.

Annual report of committee

33.(1) As soon as practicable after the end of each financial year, the chairperson of each statutory committee must table in the Legislative Assembly a report about the committee's activities during the year.

(2) The report must include—

- (a) a list of meetings of the committee and the names of members attending or absent from each meeting; and
- (b) a summary of issues considered by the committee, including a description of the more significant issues arising from the considerations; and
- (c) a statement of the committee's revenue and spending for the year; and
- (d) a brief description of responses by Ministers to recommendations of the committee.

PART 9—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

Repeals

34. The following Acts are repealed—

- Electoral and Administrative Review Act 1989 No. 106
- Electoral and Administrative Review Amendment Act 1993 No. 1
- Electoral and Administrative Review Commission Act 1989 No. 70
- Public Accounts Committee Act 1988 No. 84
- Public Works Committee Act 1989 No. 27.

Amendments

35. Schedule 1 amends the Acts it mentions.

Legal, Constitutional and Administrative Review Committee to take over unfinished issues from Parliamentary Committee for Electoral and Administrative Review

36.(1) This section applies if the Parliamentary Committee for Electoral and Administrative Review has not tabled a report about a report of the Electoral and Administrative Review Commission.

(2) The Legal, Constitutional and Administrative Review Committee may deal with the Commission's report in the place of the Parliamentary Committee for Electoral and Administrative Review and, for the purpose, has all the powers that committee had immediately before the commencement of this section.

Legal, Constitutional and Administrative Review Committee to take over unfinished issues from Parliamentary Criminal Justice Committee

37.(1) This section applies if the Parliamentary Criminal Justice Committee has not tabled a report about an issue it started considering.

(2) The Legal, Constitutional and Administrative Review Committee may deal with the issue as if it had dealt with the issue from the beginning.

Public Accounts Committee to take over from Parliamentary Committee of Public Accounts

38.(1) This section applies if the Parliamentary Committee of Public Accounts has not tabled a report about an issue it started considering.

(2) The Public Accounts Committee may deal with the issue as if it had dealt with the issue from the beginning.

Public Works Committee to take over from Parliamentary Committee of Public Works

39.(1) This section applies if the Parliamentary Committee of Public Works has not tabled a report about an issue it started considering.

(2) The Public Works Committee may deal with the issue as if it had dealt with the issue from the beginning.

Scrutiny of Legislation Committee to take over from Committee of Subordinate Legislation

40.(1) This section applies if the Committee of Subordinate Legislation has not tabled a report about an issue it started considering.

(2) The Scrutiny of Legislation Committee may deal with the issue as if it had dealt with the issue from the beginning.

Expiry of part

41. This part expires 1 year after it commences.

SCHEDULE 1**ACTS AMENDED**

section 35

CRIMINAL JUSTICE ACT 1989**1. Section 4(1), definition “Parliamentary Committee”—***omit.***2. Section 4(1)—***insert—*

‘ **“parliamentary committee”** means the Legal, Constitutional and Administrative Review Committee of the Legislative Assembly.’.

3. Section 65(1), ‘chairperson of the Parliamentary Service Commission’—*omit, insert—*

‘speaker’.

4. Part 4, division 1—*omit.***5. Part 4, division 2, heading—***omit.*

SCHEDULE 1 (continued)

6. Section 118—*insert—*

‘(3) Without limiting subsection (2)(a), the parliamentary committee has power to—

- (a) call for persons, documents and other things; and
- (b) administer oaths to witnesses; and
- (c) examine witnesses on oath.’.

ELECTORAL ACT 1992**1. Section 3—***insert—*

‘ “**parliamentary committee**” means the Legal, Constitutional and Administrative Review Committee of the Legislative Assembly.’.

2. Section 7(7) and (8)—*omit, insert—*

‘(7) A person may be appointed as the chairperson or non-judicial appointee only if the Minister has consulted with the parliamentary committee about—

- (a) the process of selection for appointment; and
- (b) the appointment of the person as the chairperson or non-judicial appointee.’.

3. Section 23(8)—*omit.*

SCHEDULE 1 (continued)

4. Section 23(3) to (7)—

renumber as section 23(4) to (8).

5. Section 23(2)—

omit, insert—

‘(2) A person may be appointed as a senior electoral officer only if—

- (a) press advertisements have been placed nationally calling for applications from suitably qualified persons to be considered for appointment; and
- (b) the Minister has consulted with the parliamentary committee about—
 - (i) the process of selection for appointment; and
 - (ii) the appointment of the person as the senior electoral officer.

‘(3) Subsection (2)(a) and (b)(i) does not apply to the reappointment of a person as a senior electoral officer.’.

FINANCIAL ADMINISTRATION AND AUDIT ACT 1977

1. Section 5(1), definition “Parliamentary Committee”—

omit, insert—

‘ **“parliamentary committee”** means the Public Accounts Committee of the Legislative Assembly.’.

2. Section 35(3), ‘, the Parliamentary Service Commission’—

omit.

SCHEDULE 1 (continued)

3. Section 35(5)(a), ‘, the Parliamentary Service Commission’—*omit.***4. Section 53(4)(d) and (e)—***omit, insert—*

‘(d) a member of the parliamentary committee.’.

FREEDOM OF INFORMATION ACT 1992**1. Section 7—***insert—*‘ **“parliamentary committee”** means the Legal, Constitutional and Administrative Review Committee of the Legislative Assembly.’.**2. Section 11(1)(d), ‘Commission’—***omit.***3. Section 67—***omit, insert—***‘Suspension and removal of the commissioner**‘**67.(1)** The Governor may, on an address from the Legislative Assembly, remove the commissioner from office—

- (a) on the ground of proved incapacity, incompetence or misconduct;
or
- (b) if the commissioner is convicted of an indictable offence.

‘**(2)** The motion for the address may be moved only by the Premier.‘**(3)** The Premier may move the motion only if—

SCHEDULE 1 (continued)

- (a) the Premier has given the commissioner a statement setting out the reasons for the motion; and
- (b) the statement and any written response by the commissioner have been tabled in the Legislative Assembly; and
- (c) the Premier has consulted with the parliamentary committee about the motion; and
- (d) agreement to the motion has been obtained from—
 - (i) all members of the parliamentary committee; or
 - (ii) a majority of members of the parliamentary committee (other than a majority consisting solely of the members of the political party or parties in government in the Assembly).

‘(4) The Governor in Council may suspend the commissioner from office—

- (a) on the ground of incapacity, incompetence or misconduct; or
- (b) if the commissioner is convicted of an indictable offence.

‘(5) When the Legislative Assembly is in session, the Governor in Council may suspend the commissioner only on an address from the Legislative Assembly.

‘(6) The motion for the address must comply with subsections (2) and (3).

‘(7) When the Legislative Assembly is not in session, the Governor in Council may suspend the commissioner only if—

- (a) the Premier has given the commissioner a statement setting out the reasons for the suspension; and
- (b) the Premier has considered any response by the commissioner to the statement.

‘(8) The Premier must table the statement and any written response by the commissioner in the Legislative Assembly within 3 sitting days after the day the suspension begins.

‘(9) A suspension made when the Legislative Assembly is not in session ceases to have effect—

SCHEDULE 1 (continued)

- (a) subject to paragraph (b), at the end of 7 sitting days after the day the suspension begins; or
- (b) if the commissioner is earlier suspended or removed from office on an address from the Legislative Assembly—at that earlier time.

‘**(10)** If the suspension ceases to have effect under subsection (9)(a), the commissioner is entitled to be paid salary and allowances for the period of the suspension.

‘**(11)** Except as provided in subsection (10), the commissioner is entitled to be paid salary and allowances for the period of a suspension only if—

- (a) the Legislative Assembly resolves that salary and allowances be paid for the period; or
- (b) the Governor in Council approves the payment of salary and allowances for the period.’

4. Section 101(1)—

omit.

5. Section 101(2) to (5)—

renumber as 101(1) to (4).

LEGISLATIVE STANDARDS ACT 1992**1. After section 9—**

insert—

‘Application of legal professional privilege to office

‘**9A.(1)** This section applies to communications made in or for the performance of the office’s functions under section 7(a) to (i) or a function incidental to those functions.

SCHEDULE 1 (continued)

‘(2) Confidential communications between a client of the office, and the Parliamentary Counsel or any member of the office’s staff, are subject to legal professional privilege.

Examples of office’s clients

1. A Minister to whom the office provides advice on the application of fundamental legislative principles to proposed subordinate legislation drafted by the office.

2. A member who asks the Parliamentary Counsel to draft a Bill, an amendment of a Bill or an instrument to be used in the Legislative Assembly.

‘(3) Without limiting subsection (2), the communications may not be disclosed by the Parliamentary Counsel or a member of the office’s staff without the client’s consent.

‘(4) This section has effect despite any other law.’.

2. Section 10(3) to (5)—

omit.

PARLIAMENTARY COMMISSIONER ACT 1974**1. Section 4(1)—**

insert—

‘ **“parliamentary committee”** means the Legal, Constitutional and Administrative Review Committee of the Legislative Assembly.’.

2. Section 5(7), ‘Premier’—

omit, insert—

‘Minister’.

SCHEDULE 1 (continued)

3. Section 5(7) and (8)—

renumber as section 5(8) and (9).

4. Section 5(6)—

omit, insert—

‘**(6)** A person may be appointed as the commissioner only if—

- (a) press advertisements have been placed nationally calling for applications from suitably qualified persons to be considered for appointment; and
- (b) the Minister has consulted with the parliamentary committee about—
 - (i) the process of selection for appointment; and
 - (ii) the appointment of the person as commissioner.

‘**(7)** Subsection (6)(a) and (b)(i) does not apply to the reappointment of a person as commissioner.’

5. Section 6—

omit, insert—

‘Suspension and removal of the commissioner

‘**6.(1)** The Governor may, on an address from the Legislative Assembly, remove the commissioner from office—

- (a) on the ground of proved incapacity, incompetence or misconduct; or
- (b) if the commissioner is convicted of an indictable offence.

‘**(2)** The motion for the address may be moved only by the Premier.

‘**(3)** The Premier may move the motion only if—

- (a) the Premier has given the commissioner a statement setting out the reasons for the motion; and

SCHEDULE 1 (continued)

- (b) the statement and any written response by the commissioner have been tabled in the Legislative Assembly; and
- (c) the Premier has consulted with the parliamentary committee about the motion; and
- (d) agreement to the motion has been obtained from—
 - (i) all members of the parliamentary committee; or
 - (ii) a majority of members of the parliamentary committee (other than a majority consisting solely of the members of the political party or parties in government in the Assembly).

‘(4) The Governor in Council may suspend the commissioner from office—

- (a) on the ground of incapacity, incompetence or misconduct; or
- (b) if the commissioner is convicted of an indictable offence.

‘(5) When the Legislative Assembly is in session, the Governor in Council may suspend the commissioner only on an address from the Legislative Assembly.

‘(6) The motion for the address must comply with subsections (2) and (3).

‘(7) When the Legislative Assembly is not in session, the Governor in Council may suspend the commissioner only if—

- (a) the Premier has given the commissioner a statement setting out the reasons for the suspension; and
- (b) the Premier has considered any response by the commissioner to the statement.

‘(8) The Premier must table the statement and any written response by the commissioner in the Legislative Assembly within 3 sitting days after the day the suspension begins.

‘(9) A suspension made when the Legislative Assembly is not in session ceases to have effect—

- (a) subject to paragraph (b), at the end of 7 sitting days after the day the suspension begins; or

SCHEDULE 1 (continued)

- (b) if the commissioner is earlier suspended or removed from office on an address from the Legislative Assembly—at that earlier time.

‘(10) If the suspension ceases to have effect under subsection (9)(a), the commissioner is entitled to be paid salary and allowances for the period of the suspension.

‘(11) Except as provided in subsection (10), the commissioner is entitled to be paid salary and allowances for the period of a suspension only if—

- (a) the Legislative Assembly resolves that salary and allowances be paid for the period; or
- (b) the Governor in Council approves the payment of salary and allowances for the period.’.

6. Section 8(6), ‘Premier’—

omit, insert—

‘Minister’.

7. Section 10(6), ‘Premier’—

omit, insert—

‘Minister’.

8. After section 11, in part 2—

insert—

‘Commissioner not subject to direction about investigations

‘11A. The commissioner is not subject to direction by any person about—

- (a) the way in which the commissioner’s powers in relation to investigations are to be exercised; or
- (b) the priority given to investigations.’.

SCHEDULE 1 (continued)

9. Sections 31 and 32—

omit, insert—

‘Estimates

‘**31.(1)** The commissioner must prepare, for each financial year, estimates of proposed receipts and expenditure relating to the commissioner.

‘(2) The commissioner must give the estimates to the Minister responsible for the administration of the *Financial Administration and Audit Act 1977*, part 2.⁶

‘(3) The Minister mentioned in subsection (2) must consult with the parliamentary committee in developing the proposed budget of the commissioner for each financial year.

‘Strategic review of commissioner

‘**32.(1)** Strategic reviews of the commissioner are to be conducted under this section.

‘(2) A review is to be conducted at least every 5 years.

‘(3) Each review is to be undertaken by an appropriately qualified person appointed by the Governor in Council.

‘(4) The terms of reference for the review are to be decided by the Governor in Council.

‘(5) Before a person is appointed to conduct a review, the Minister must consult with the parliamentary committee and the commissioner about—

- (a) the appointment of the person; and
- (b) the terms of reference for the review.

‘(6) The remuneration and other terms of appointment of a person appointed to conduct a review are as decided by the Governor in Council.

⁶ The *Financial Administration and Audit Act 1977*, part 2 deals with financial administration.

SCHEDULE 1 (continued)

‘(7) In conducting the review—

- (a) the person has the powers that an authorised auditor has under the *Financial Administration and Audit Act 1977* for an audit of an entity; and
- (b) that Act and other Acts apply to the person as if the person were an authorised auditor conducting an audit of an entity.

‘(8) On completing the review, the person must give a report on the review to the Minister and the commissioner.

‘(9) If the person proposes to include in the report a matter that, in the person’s opinion, is a matter of significance, the person must—

- (a) give the Minister and the commissioner written advice of the matter; and
- (b) include in the advice a statement to the effect that comments on the matter may be made in writing to the person within—
 - (i) 21 days after the advice is received; or
 - (ii) such longer period as is specified in the advice.

‘(10) If the matter is included in the report, any comments given to the person under subsection (9)(b) must also be included in the report.

‘(11) The Minister must table the report in the Legislative Assembly within 3 sitting days after the Minister receives the report.

‘Regulation making power

‘33. The Governor in Council may make regulations under this Act.’.

PARLIAMENTARY PAPERS ACT 1992

1. Section 6(3), definition “person to whom this section applies”, paragraph (b)—

omit.

SCHEDULE 1 (continued)

2. Section 6(3), definition “person to whom this section applies”, paragraph (d), ‘Commission’—

omit.

3. Section 6(3), definition “person to whom this section applies”, paragraphs (c) to (f)—

renumber as paragraphs (b) to (e).

PARLIAMENTARY SERVICE ACT 1988**1. Title, ‘and a Parliamentary Service Commission’—**

omit.

2. Section 3—

omit.

3. Section 4, heading—

omit, insert—

‘Definitions’.

4. Section 4, definitions “Chairman”, “Clerk”, “industrial agreement”, “industrial award”, “Minister” and “Parliamentary Service Commission” or “Commission”—

omit.

5. Section 4—

insert—

“clerk” means the clerk of the Parliament.

SCHEDULE 1 (continued)

“industrial agreement” see *Industrial Relations Act 1990*.

“industrial award” see *Industrial Relations Act 1990*, section 5, definition “award”.

6. Section 4, definition “Parliamentary precinct”, ‘Department of Geographic Information’—

omit, insert—

‘department in which the *Land Act 1994* is administered’.

7. Part 2—

omit, insert—

**‘PART 2—ADMINISTRATIVE FUNCTIONS OF THE
SPEAKER**

‘Administration under speaker’s control

‘5. The speaker has the control of—

- (a) accommodation and services in the parliamentary precinct; and
- (b) accommodation and services supplied elsewhere by the Legislative Assembly for its members.

‘Speaker’s role for parliamentary service

‘6.(1) The general role of the speaker in relation to the parliamentary service is to—

- (a) decide major policies to guide the operation and management of the parliamentary service; and
- (b) prepare budgets; and
- (c) decide the size and organisation of the parliamentary service and the services to be supplied by the parliamentary service; and

SCHEDULE 1 (continued)

- (d) be the employing authority, for the Legislative Assembly, of parliamentary service officers and employees deciding their remuneration and conditions of service; and
- (e) supervise the management and delivery of services by the parliamentary service.

‘(2) The speaker must ensure that the remuneration, conditions of employment and other benefits given to the clerk, and parliamentary service officers and employees, are comparable to those of State officers and employees who have similar duties.

‘Speaker’s powers for administrative functions

‘7.(1) This section declares the powers and legal capacity of the speaker in performing the administrative functions of the speaker’s office, including the speaker’s role in relation to the parliamentary service.

‘(2) The powers include all the powers, and the legal capacity, that an individual has in a private capacity.

‘(3) The powers may be exercised at any place.

‘(4) The powers are exercised for the Legislative Assembly.

‘(5) This section does not limit the speaker’s powers.

Example—

This part does not affect any power the speaker has apart from this section to bind the Legislative Assembly by contract.

‘Delegation by speaker

‘8. The speaker may delegate the speaker’s powers under this Act to the clerk or a parliamentary service officer or employee.

‘Advisory committee to speaker

‘9.(1) The speaker may establish a committee of Legislative Assembly (the “**advisory committee**”) members to advise the speaker on issues arising under this Act referred to it by the speaker.

SCHEDULE 1 (continued)

‘(2) The advisory committee consists of the members appointed by the speaker.

‘(3) This section is subject to the standing orders.

‘Speaker’s annual report

‘10. As soon as possible after the end of each financial year, the speaker must prepare, and table in the Legislative Assembly, a report on this Act’s operation during the year.’.

8. Sections 18(2), 20(1), 22(1)(b)(ii), 24(2), 26(1), 28(4), 29(1), 32(2)(b), 38, 40(1)(f), 41(4), 43(1), 44, 49, 50 (heading) and 50(1),

‘Parliamentary Service Commission’—

omit, insert—

‘speaker’.

9. Sections 20, 27(1)(b) and (3), 28(1)(a), (2) and (4), 30(1) and (4), 31, 35(4), 37(3) and (4), 39(1), 40(3), 41(1), (3) and (5), 43(1)(b)(ii), (2)(b) and (4) to (6), 44, 49, 50(2)(a) and 51(2)(a), ‘commission’—

omit, insert—

‘speaker’.

10. Section 21(2), ‘or Acting Speaker of the Legislative Assembly’, ‘or Acting Speaker’ and ‘and Acting Speaker’—

omit.

11. Section 21(2), ‘are absent’—

omit, insert—

‘is absent’.

SCHEDULE 1 (continued)

12. Section 25—*omit, insert—***‘Delegation by clerk as chief executive of parliamentary service**

‘25. The clerk may delegate the clerk’s powers as chief executive of the parliamentary service to a parliamentary service officer or employee.’.

13. Section 28(1)(b)—*omit, insert—*

‘(b) is to be governed by the contract of employment between the speaker and the officer concerned; and’.

14. Section 29(2)—*omit.***15. Section 30(1), ‘the Governor in Council otherwise determines’—***omit, insert—*

‘a regulation otherwise provides’.

16. Section 30(3)—*omit.***17. Section 39(2), ‘the commission’—***omit, insert—*

‘the speaker’.

SCHEDULE 1 (continued)

18. Section 40(3), second sentence, paragraph (f), ‘\$100’—

omit, insert—

‘2 penalty units’.

19. Section 40(3), third sentence—

omit.

20. Section 42(2), ‘chairman’—

omit, insert—

‘speaker’.

21. Sections 45 to 47—

omit.

22. Section 50(2)(c)—

omit, insert—

‘(2B) A by-law is subordinate legislation.’.

23. Section 50(5) and (6)—

omit, insert—

‘(5) The speaker may authorise the clerk or a parliamentary service officer or employee to give directions (not inconsistent with any directions given by the speaker) under this section for the speaker.’.

24. Section 51(3), ‘commission’—

omit, insert—

‘Legislative Assembly’.

SCHEDULE 1 (continued)

25. Section 52—

omit, insert—

‘Protection from liability

‘52.(1) In this section—

“protected person” means—

- (a) the speaker; or
- (b) the clerk; or
- (c) an authorised person under section 50⁷; or
- (d) a person acting in aid of the clerk or an authorised person.

‘(2) A protected person does not incur civil liability for an act done, or omission made, honestly and without negligence under section 50.

‘(3) If subsection (2) prevents civil liability attaching to a protected person, the liability attaches instead to the Legislative Assembly.’.

26. Section 54—

omit.

27. Sections 55 and 56—

omit, insert—

‘Rules

‘55.(1) The speaker may make rules under this Act.

‘(2) A rule may make provision about the parliamentary service and, in particular—

- (a) the entitlements, responsibilities, authorities, obligations and liabilities of parliamentary service officers and employees; and
- (b) appeals about promotional appointments and disciplinary action

⁷ Section 50 (Behaviour in parliamentary precinct at discretion of speaker)

SCHEDULE 1 (continued)

within the parliamentary service.

‘(3) A rule is subordinate legislation.

‘Regulation making power

‘56. The Governor in Council may make regulations under this Act.

‘PART 7—TRANSITIONAL PROVISIONS**‘Parliamentary service commission references**

‘57. In an Act or document, a reference to the parliamentary service commission may, if the context permits, be taken to be a reference to the Legislative Assembly.

‘Clerk of the Legislative Assembly references

‘58. In an Act or document, a reference to the clerk of the Legislative Assembly may, if the context permits, be taken to be a reference to the clerk of the Parliament.

‘Abolition of commission etc.

‘59.(1) On the commencement of this part, the parliamentary service commission is abolished, and its assets, rights and liabilities vest in the Legislative Assembly.

‘(2) A legal proceeding by or against the commission that has not been finished before the commencement may be continued and finished by or against the Legislative Assembly.

‘Existing instruments

‘60. On the commencement, an arrangement, by-law, code, declaration, guideline, rule or other instrument made, approved or given by the parliamentary service commission, and in existence immediately before the

SCHEDULE 1 (continued)

commencement, is taken to be an instrument of that type made, approved or given by the speaker.

‘Unfinished appeals

‘61. An appeal that has been made under section 43 to the parliamentary service commission before the commencement, and not finished before the commencement, continues as if it were an appeal made to the speaker.

‘Saving of employment conditions

‘62. To remove any possible doubt, it is declared that the conditions of appointment or employment of parliamentary service officers and employees are not affected merely because of the abolition of the parliamentary service commission.

‘Transitional regulations

‘63.(1) A regulation may make provision about any matter for which—

- (a) it is necessary or convenient to assist the transition from the operation of the Act in force immediately before the commencement of this part to the operation of the Act in force immediately after the commencement; and
- (b) this Act does not make provision or sufficient provision.

‘(2) A regulation under subsection (1) may be given retrospective operation to a date not earlier than the commencement.

‘Expiry

‘64. Sections 59 to 63, and this section, expire 3 months after the commencement of this part.’.

29. Schedule—

omit.

SCHEDULE 1 (continued)

PUBLIC SECTOR ETHICS ACT 1994**1. Section 2, definition “responsible authority”, paragraph (a), ‘Parliamentary Service Commission’—***omit, insert—**‘speaker’.***WHISTLEBLOWERS PROTECTION ACT 1994****1. Schedule 1, ‘Parliamentary Service Commission and’—***omit.***2. Schedule 5, section 2(1)(b), ‘the Parliamentary Service Commission and’—***omit.*

SCHEDULE 2

DICTIONARY

section 3

“Annual Appropriation Act” has the meaning given under the *Financial Administration and Audit Act 1977*, section 5(1).

“Bill” means a Bill proposed for enactment by the Parliament.

“commercial entity” see section 21(4).

“committee” means a committee of the Legislative Assembly, however established.

“community service obligation” has the meaning given in the *Government Owned Corporations Act 1993*, section 121.

“consider” includes examine and inquire.

“constructing authority” see section 21.

“Government financial documents” includes—

- (a) a document tabled in the Legislative Assembly under the *Financial Administration and Audit Act 1977*; and
- (b) the annual financial statements and annual reports of a GOC; and
- (c) a document that would be a Government financial document if it had been tabled in the Legislative Assembly as required by law;

but does not include estimates of receipts for the proposed expenditure under an Annual Appropriation Act.

“major GOC work” means a work (other than a public work) undertaken as part of a major infrastructure investment outlined in a GOC’s statement of corporate intent.⁸

⁸ Under the *Government Owned Corporations Act 1993*, section 115(1)(e) a GOC’s statement of corporate intent must include an outline of the major infrastructure investments proposed to be undertaken by it during the relevant financial year.

SCHEDULE 2 (continued)

“member” means a member of the Legislative Assembly.

“proposed national scheme legislation” means a Bill for an Act—

- (a) that is intended to be substantially uniform with, or complementary to, legislation of the Commonwealth or another State; and
- (b) whose operation may, under the Act, be changed by amendment of a law of the Commonwealth or another State.

“public work” see section 20(1).

“statutory committee” see section 4.

“work” includes—

- (a) a project, service, utility or undertaking; and
- (b) a part or stage of a work; and
- (c) a repair, reconstruction or extension of a work.

Examples of paragraph (b)—

1. Any intermediate stage of a work between planning and completion.
2. Engagement of professional consultants for a work.
3. Calling of tenders for a work.