Queensland

Integrity Reform (Miscellaneous Amendments) Act 2010

Act No. 37 of 2010

Queensland

Integrity Reform (Miscellaneous Amendments) Act 2010

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Queensland

Integrity Reform (Miscellaneous Amendments) Act 2010

Act No. 37 of 2010

An Act to amend the Ambulance Service Act 1991, the Auditor-General Act 2009, the Civil Liability Act 2003, the Corrective Services Act 2006, the Education (General Provisions) Act 2006, the Fire and Rescue Service Act 1990, the Government Owned Corporations Act 1993, the Integrity Act 2009, the Ombudsman Act 2001, the Parliament of Queensland Act 2001, the Public Sector Ethics Act 1994, the Public Service Act 2008, the Public Service Regulation 2008, the Right to Information Act 2009 and the Transport Operations (Passenger Transport) Act 1994 for particular purposes

[Assented to 20 September 2010]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Integrity Reform (Miscellaneous Amendments) Act 2010*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Ambulance Service Act 1991

3 Act amended

This part amends the *Ambulance Service Act 1991*.

4 Replacement of pt 2, div 3, hdg (Staff of the service)

Part 2, division 3, heading—

omit, insert—

‘Division 2 The commissioner’.

5 Insertion of new pt 2, div 3, hdg

After section 9—

insert—

‘Division 3 Staff of the service generally’.

6 Insertion of new s 13A

After section 13—

insert—

‘13A Requirement to disclose previous history of serious disciplinary action

‘(1) If the chief executive proposes to appoint a person under section 13, the chief executive may require the person to disclose to the chief executive particulars of any serious disciplinary action taken against the person.

‘(2) The person must comply with the requirement before the appointment takes effect and within the time and in the way stated by the chief executive.

‘(3) The chief executive may have regard to information disclosed by the person under this section in deciding whether to appoint the person under section 13.

‘(4) The chief executive is not required to further consider the person for appointment under section 13 if the person—

(a) fails to comply with the requirement; or

(b) gives false or misleading information in response to the requirement.’.

7 Renumbering of pt 2, div 4 (Other matters about the service)

Part 2, division 4—

renumber as part 2, division 5.

8 Insertion of new pt 2, div 4

Part 2—

insert—

‘Division 4 Disciplinary action for service officers and former service officers

‘Subdivision 1 Grounds and disciplinary action generally

‘18A Grounds for discipline

‘(1) The chief executive may discipline a service officer if the chief executive is reasonably satisfied the officer has—

(a) performed the officer’s duties carelessly, incompetently or inefficiently; or

(b) been guilty of misconduct; or

(c) been absent from duty without approved leave and without reasonable excuse; or

(d) contravened, without reasonable excuse, a direction given to the officer as a service officer by a responsible person; or

(e) used, without reasonable excuse, a substance to an extent that has adversely affected the competent performance of the officer’s duties; or

(f) contravened, without reasonable excuse, a requirement of the chief executive under section 13A(1) in relation to the officer’s appointment by, in response to the requirement—

(i) failing to disclose a serious disciplinary action; or

(ii) giving false or misleading information; or

(g) contravened, without reasonable excuse, a provision of this Act or an obligation imposed on the person under—

(i) a code of practice; or

(ii) a code of conduct—

(A) approved under the *Public Sector Ethics Act 1994*; or

(B) prescribed under a directive of the commission chief executive under the *Public Service Act 2008*; or

(iii) an industrial instrument.

‘(2) A disciplinary ground arises when the act or omission constituting the ground is done or made.

‘(3) Also, the chief executive may—

(a) discipline a service officer under subdivision 2 if a ground mentioned in subsection (1) exists; or

(b) discipline a former service officer under subdivision 3 or 4 on the same grounds mentioned in subsection (1).

‘(4) If the chief executive is contemplating taking disciplinary action against a service officer in relation to performance or conduct that the chief executive considers may have been influenced by the officer’s health, or on the ground of absence from duty, the chief executive may—

(a) appoint a medical practitioner to examine the officer and to give the chief executive a written report about the officer’s mental or physical condition, or both; and

(b) direct the officer to submit to the medical examination.

‘(5) In this section—

misconduct means—

(a) inappropriate or improper conduct in an official capacity; or

(b) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the ambulance service.

Example of misconduct—

victimising another service officer in the course of the other officer’s employment in the ambulance service

responsible person, for a direction, means a person with authority to give the direction, whether the authority derives from this Act or otherwise.

‘18B Disciplinary action that may be taken against a service officer generally

‘(1) In disciplining a service officer, the chief executive may take the action, or order the action be taken, (***disciplinary action***) that the chief executive considers reasonable in the circumstances.

Examples of disciplinary action—

- termination of employment
- reduction of classification level and a consequential change of duties
- transfer or redeployment to other ambulance service employment
- forfeiture or deferment of a remuneration increment or increase
- reduction of remuneration level
- imposition of a monetary penalty
- if a penalty is imposed, a direction that the amount of the penalty be deducted from the officer’s periodic remuneration payments
- a reprimand

‘(2) If the disciplinary action is taken following an agreement under section 18F(1) between the previous chief executive and the employing chief executive mentioned in the section, the chief executives must agree on the disciplinary action.

‘(3) A monetary penalty can not be more than the total of 2 of the officer’s periodic remuneration payments.

‘(4) Also, an amount directed to be deducted from any particular periodic remuneration payment of the officer—

(a) must not be more than half of the amount payable to or for the officer in relation to the payment; and

(b) must not reduce the amount of salary payable to the officer in relation to the period to less than—

(i) if the officer has a dependant—the guaranteed minimum wage for each week of the period; or

(ii) otherwise—two-thirds of the guaranteed minimum wage for each week of the period.

‘(5) An order under subsection (1) is binding on anyone affected by it.

Note—

See the following provisions in relation to appeals against a decision of the chief executive to take disciplinary action against a person—

(a) the *Public Service Act 2008,* sections 23 and 194;

(b) the *Public Service Regulation 2008*, sections 5 and 7 and schedule 1, item 4.

‘Subdivision 2 Disciplinary action against a service officer who was a public service employee or fire service officer

‘18C Application of sdiv 2

‘(1) This subdivision applies if—

(a) a person is a public service employee in a department and a relevant disciplinary ground arises in relation to the person; and

(b) after the relevant disciplinary ground arises, the person changes employment from that department to employment under section 13.

‘(2) This subdivision also applies if—

(a) a person is a fire service officer and a relevant disciplinary ground arises in relation to the person; and

(b) after the relevant disciplinary ground arises, the person changes employment from employment as a fire service officer to employment under section 13.

‘(3) However, this subdivision does not apply if the person’s previous chief executive has taken, is taking, or intends to take, disciplinary action against the person under a relevant disciplinary provision.

Note—

See—

(a) the *Public Service Act 2008*, section 188A in relation to taking disciplinary action against a person who was a public service employee; and

(b) the *Fire and Rescue Service Act 1990*, part 4, division 3, subdivision 3 in relation to taking disciplinary action against a person who was a fire service officer.

‘(4) For this section, a person changes employment from a department, or from employment as a fire service officer, to employment under section 13 if—

(a) the person’s employment under section 13 starts after the person’s employment in the department or as a fire service officer ends; or

(b) the person is employed under section 13 following the commissioner transferring or redeploying the person from the department or the Queensland Fire and Rescue Service.

Note—

See the following provisions in relation to transfers or deployments by the commissioner—

(a) the *Public Service Act 2008,* sections 23 and 133;

(b) the *Public Service Regulation 2008*, section 5 and schedule 1, item 4.

‘18D Definitions for sdiv 2

‘In this subdivision—

disciplinary finding, in relation to a relevant disciplinary ground, means a finding that a relevant disciplinary ground exists.

employing chief executive means the chief executive under this Act.

previous chief executive means—

(a) for a person who was a public service employee—the chief executive of the department in which the person held an appointment, or was employed, as a public service employee; or

(b) for a person who was a fire service officer—the fire service chief executive.

relevant disciplinary ground means—

(a) for a person who was a public service employee—a disciplinary ground under the *Public Service Act 2008*; or

(b) for a person who was a fire service officer—a disciplinary ground under the *Fire and Rescue Service Act 1990*.

relevant disciplinary provision means—

(a) for a person who was a public service employee—the *Public Service Act 2008*, chapter 6; or

(b) for a person who was a fire service officer—the *Fire and Rescue Service Act 1990*, part 4, division 3.

‘18E Action previous chief executive may take

‘(1) The person’s previous chief executive may make a disciplinary finding about the relevant disciplinary ground even though the person is no longer employed—

(a) for the chief executive of a department—as a public service employee in the chief executive’s department; or

(b) for the fire service chief executive—as a fire service officer.

‘(2) The previous chief executive may not take disciplinary action about the relevant disciplinary ground other than to the extent provided under section 18F(1).

‘(3) Despite subsection (1) and without limiting or being limited by any other power of delegation under any Act, the previous chief executive may delegate to the employing chief executive the authority under subsection (1) to make a disciplinary finding about the person.

‘(4) The previous chief executive may give to the employing chief executive any information about a person or a relevant disciplinary ground relating to the person to help the employing chief executive to perform a function under section 18F(1) or (2) in relation to the person.

‘18F Action employing chief executive may take

‘(1) If—

(a) the previous chief executive makes a disciplinary finding about the relevant disciplinary ground; and

(b) the previous chief executive and the employing chief executive agree that disciplinary action against the person is reasonable in the circumstances;

the employing chief executive may take disciplinary action against the person under section 18B as if a disciplinary ground under section 18A exists.

‘(2) If—

(a) the previous chief executive delegates to the employing chief executive the authority under section 18E(1) to make a disciplinary finding about the person; and

(b) the employing chief executive makes a disciplinary finding about the person;

the employing chief executive may take disciplinary action against the person under section 18B without the agreement of the previous chief executive.

‘18G Declaration if same chief executive is the previous chief executive and employing chief executive

‘(1) This section applies if, in relation to a person who is a service officer, the chief executive is both the previous chief executive and employing chief executive under this subdivision.

‘(2) This subdivision applies with necessary changes to allow the chief executive to take disciplinary action against the person as provided under this subdivision.

‘Subdivision 3 Disciplinary action against a former service officer

‘18H Application of sdiv 3

‘(1) This subdivision applies if—

(a) a disciplinary ground arises in relation to a service officer (the ***former service officer***); and

(b) after the disciplinary ground arises, the officer’s employment as a service officer ends for any reason.

‘(2) However, this subdivision does not apply in relation to a former service officer if the chief executive is aware—

(a) the officer is a public service employee in a department and the officer’s chief executive under the *Public Service Act 2008* has taken, is taking, or intends to take disciplinary action against the officer under section 188AB of that Act; or

Note—

The *Public Service Act 2008*, section 188AB provides for a public service employee’s chief executive to take disciplinary action under that Act against the employee in relation to a disciplinary ground that arose under this Act while the employee was a service officer. The section also empowers the chief executive under this Act to do particular things to facilitate disciplinary action being taken under the section.

(b) the officer is a fire service officer and the fire service chief executive has taken, is taking, or intends to take disciplinary action against the officer under the *Fire and Rescue Service Act 1990*, part 4, division 3, subdivision 2.

Note—

The *Fire and Rescue Service Act 1990*, part 4, division 3, subdivision 2 provides for the fire service chief executive to take disciplinary action under that Act against a fire service officer in relation to a disciplinary ground that arose under this Act while the fire service officer was a service officer. The subdivision also empowers the chief executive under this Act to do particular things to facilitate disciplinary action being taken under the subdivision.

‘18I Action chief executive may take

‘(1) The chief executive may make a disciplinary finding or take or continue to take disciplinary action against the former service officer in relation to the disciplinary ground.

‘(2) The disciplinary finding or disciplinary action must be made or taken within a period of 2 years after the end of the officer’s appointment.

‘(3) However, subsection (2) does not stop disciplinary action being taken following an appeal or review.

‘(4) Subsection (2) does not affect—

(a) an investigation of a suspected criminal offence; or

(b) an investigation of a matter for the purpose of notifying the Crime and Misconduct Commission of suspected official misconduct under the *Crime and Misconduct Act 2001*.

‘(5) In disciplining the former service officer, the chief executive may make a disciplinary declaration and may not take any other disciplinary action.

‘(6) The chief executive may only make a disciplinary declaration if the disciplinary action that would have been taken against the officer if the officer’s employment had not ended would have been—

(a) termination of employment; or

(b) reduction of classification level.

‘(7) The making of the disciplinary declaration does not affect the way in which the officer’s employment ended, or any benefits, rights or liabilities arising because the employment ended.

‘(8) In this section—

disciplinary declaration means a declaration of—

(a) the disciplinary finding against the former service officer; and

(b) the disciplinary action that would have been taken against the officer if the officer's employment had not ended.

'Subdivision 4 Provisions about information about disciplinary action

'18J Information about disciplinary action to be given by chief executive

'(1) This section applies if—

(a) the chief executive of a department (the ***other chief executive***) asks the chief executive under this Act (the ***ambulance service chief executive***) for disciplinary information that the ambulance service chief executive has about a person who is or was a service officer; and

(b) the information is reasonably necessary for the other chief executive to make a decision about—

(i) an appointment or continued appointment, or employment or continued employment, of the person by the other chief executive; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the other chief executive is considering in relation to the person under a relevant Act.

'(2) The ambulance service chief executive must give the disciplinary information to the other chief executive unless the ambulance service chief executive is reasonably satisfied that giving the information may prejudice the investigation of a suspected contravention of the law in a particular case.

'(3) In this section—

disciplinary information, in relation to a request made of the ambulance service chief executive about a person, means information about the following made or taken against the person under this Act by the ambulance service chief executive or the commissioner—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

relevant Act means—

(a) the *Public Service Act 2008*; or

(b) the *Fire and Rescue Service Act 1990.*

this Act includes a disciplinary provision of a code of practice, including a code of practice as in force from time to time before the commencement of this section.

'18K Information about disciplinary action to be given to chief executive

'(1) This section applies if—

(a) the chief executive (the ***ambulance service chief executive***) asks the chief executive of another department (the ***other chief executive***) for disciplinary information that the other chief executive has about a person who is or was—

(i) a public service employee; or

(ii) a fire service officer; and

(b) the information is reasonably necessary for the ambulance service chief executive to make a decision about—

(i) the employment or continued employment of the person under section 13; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the ambulance service chief executive is considering in relation to the person under this Act.

‘(2) The other chief executive must give the disciplinary information to the ambulance service chief executive unless the other chief executive is reasonably satisfied that giving the information may prejudice the investigation of a suspected contravention of the law in a particular case.

‘(3) In this section—

disciplinary information, in relation to a request made of the other chief executive about a person, means information about the following made or taken against the person under a public sector disciplinary law by the other chief executive or another entity—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

‘18L Use of particular information about disciplinary action obtained by chief executive in another capacity

‘(1) This section applies if—

(a) under a relevant Act, the chief executive has or has access to disciplinary information about a person who is or was—

(i) a public service employee; or

(ii) a fire service officer; and

(b) the information is reasonably necessary for the chief executive to make a decision about—

(i) the appointment or continued appointment of the person under section 13; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the chief executive is considering in relation to the person under this Act.

‘(2) Despite any other Act or law, the chief executive may use the disciplinary information for the purpose of making the decision mentioned in subsection (1)(b).

‘(3) In this section—

disciplinary information means information about the following made or taken against the person under a public sector disciplinary law—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

relevant Act means—

(a) the *Public Service Act 2008*; or

(b) the *Fire and Rescue Service Act 1990*.

‘Subdivision 5 Other provisions about disciplinary action etc.

‘18M Suspension of service officer liable to discipline

‘(1) The chief executive may suspend a service officer from duty if the chief executive reasonably believes the officer is liable to discipline under this Act.

‘(2) The chief executive may cancel the suspension at any time.

‘18N Procedure for disciplinary action

‘(1) In disciplining a service officer or former service officer or suspending a service officer, the chief executive must comply with this Act, any relevant code of practice, and the principles of natural justice.

‘(2) However, natural justice is not required if the suspension is on normal remuneration.

‘(3) In this section—

former service officer means a person who was a service officer.

‘18O Effect of suspension from duty

‘(1) This section applies to a service officer suspended from duty under this subdivision unless the chief executive decides otherwise.

‘(2) During the period of the suspension the officer is entitled to normal remuneration, less any amount earned by the officer from alternative employment that the officer engages in during the period.

‘(3) For subsection (2), alternative employment does not include employment if—

(a) the officer was engaged in the employment at the time of the suspension; and

(b) the officer’s engaging in the employment was not in contravention of this Act or an obligation imposed on the officer under a code of conduct—

(i) approved under the *Public Sector Ethics Act 1994*; or

(ii) prescribed under a directive of the commission chief executive under the *Public Service Act 2008*.

‘(4) The deduction under subsection (2) must not be more than the amount of the officer’s normal remuneration during the period of the suspension.

‘(5) The continuity of the officer’s service as a service officer is taken not to have been broken only because of the suspension.

‘18P Additional procedures for suspension or termination

‘(1) If the chief executive decides to suspend or terminate the employment of a service officer, the chief executive must give the officer notice of the suspension or termination.

‘(2) The notice must state—

(a) for a suspension—

(i) when the suspension starts and ends; and

(ii) the remuneration to which the officer is entitled for the period of the suspension, under a decision mentioned in section 18O(1) or, if no decision has been made under section 18O(1), under section 18O(2); and

(iii) the effect that alternative employment may, under section 18O, have on the entitlement; or

(b) for a termination—the day when it takes effect.’.

9 Insertion of new pt 8, div 6

Part 8—

insert—

‘Division 6 Provisions for Integrity Reform (Miscellaneous Provisions) Amendment Act 2010

‘96 Definition for div 6

‘In this division—

commencement means the commencement of this section.

‘97 Disciplinary action for acts or omissions happening before commencement

‘(1) Part 2, division 4, subdivision 1 applies in relation to a disciplinary ground arising before the commencement only if, before the commencement, disciplinary action could have been taken against a service officer on the same ground under a relevant disciplinary provision.

‘(2) If, at the commencement, the chief executive or commissioner has started disciplinary action against a service officer under a relevant disciplinary provision—

(a) the chief executive may continue to take disciplinary action against the person under part 2, division 4, subdivision 1; and

(b) for that purpose, anything done by the chief executive or commissioner in relation to the disciplinary action under the relevant disciplinary provision is taken to have been done by the chief executive under part 2, division 4, subdivision 1.

‘(3) In this section—

relevant disciplinary provision means a disciplinary provision of a code of practice.

‘98 Disciplinary action against former public service employee or fire service officer

‘Part 2, division 4, subdivision 2 only applies to a service officer who commenced employment under section 13 after the commencement.

‘99 Disciplinary action against former service officer

‘Part 2, division 4, subdivisions 3 and 4 apply to a person who was a service officer only if the person’s employment under section 13 ends after the commencement.’.

10 Amendment of schedule (Dictionary)

Schedule—

insert—

‘***award*** see the *Industrial Relations Act 1999*, schedule 5.

code of practice means a code of practice under section 41.

commencement, for part 8, division 6, see section 96.

disciplinary action see section 18B(1).

disciplinary declaration, in relation to a person, means—

(a) for a disciplinary declaration made under a public sector disciplinary law—

(i) a disciplinary declaration made under—

(A) the *Public Service Act 2008,* section 188A(7); or

(B) the *Police Service Administration Act 1990*, section 7A.2(2); or

(C) the repealed *Misconduct Tribunals Act 1997* or the QCAT Act; or

(D) the *Fire and Rescue Service Act 1990*, section 30H(5); or

(ii) a declaration under a public sector disciplinary law (other than a public sector disciplinary law mentioned in subparagraph (i)) that states the disciplinary action that would have been taken against the person if the person's employment had not ended; or

(b) otherwise, a disciplinary declaration made under section 18I(5).

disciplinary finding—

(a) generally means a finding that a disciplinary ground exists; and

(b) for part 2, division 4, subdivision 2, see section 18D.

disciplinary ground means a ground for disciplining a service officer under section 18A.

employing chief executive, for part 2, division 4, subdivision 2, see section 18D.

fire service chief executive means the chief executive under the *Fire and Rescue Service Act 1990.*

fire service officer means a person employed under the *Fire and Rescue Service Act 1990*, section 25.

former service officer, for part 2, division 4, subdivision 3, see section 18H(1)(a).

industrial agreement means an industrial agreement or a certified agreement under the *Industrial Relations Act 1999*.

industrial instrument includes—

(a) an award or industrial agreement; and

(b) a determination or rule of a commission, court, board, tribunal or other entity having authority under a law of the Commonwealth or this State to exercise powers of conciliation or arbitration for industrial matters or industrial disputes.

normal remuneration, in relation to a service officer, means all of the remuneration and other entitlements to which the officer is or would be entitled, calculated on the basis of—

(a) the ordinary hours worked by the officer; and

(b) the amounts payable to the officer for the hours worked by the officer, including, for example, allowances, loadings and penalties; and

(c) any other amounts payable to the officer under the officer's contract of employment.

previous chief executive, for part 2, division 4, subdivision 2, see section 18D.

public sector disciplinary law means—

(a) a public sector disciplinary law under the *Public Service Act 2008*; or

(b) the *Fire and Rescue Service Act 1990*, part 4, division 3.

relevant disciplinary ground, for part 2, division 4, subdivision 2, see section 18D.

relevant disciplinary law means—

(a) this Act or a disciplinary provision of a code of practice (including a code of practice as in force from time to time before the commencement of this definition); or

(b) a law of another State that provides for the same, or substantially the same, matters as this Act; or

(c) a code of practice or other instrument under a law mentioned in paragraph (b) providing for disciplinary matters; or

(d) a public sector disciplinary law.

relevant disciplinary provision, for part 2, division 4, subdivision 2, see section 18D.

serious disciplinary action, in relation to a person, means—

(a) disciplinary action under a relevant disciplinary law involving—

  (i) termination of employment; or

  (ii) reduction of classification level or rank; or

  (iii) transfer or redeployment to other employment; or

  (iv) reduction of remuneration level; or

(b) a disciplinary declaration under a public sector disciplinary law that states a disciplinary action mentioned in paragraph (a)(i) or (ii) as the disciplinary action that would have been taken against the person if the person's employment had not ended.'.

Part 3 Amendment of Auditor-General Act 2009

11 Act amended

This part amends the *Auditor-General Act 2009*.

12 Replacement of s 12 (Declaration of interests)

Section 12—

omit, insert—

‘12 Declaration of interests

‘(1) This section applies to the auditor-general on appointment.

Note—

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, section 36, definition *appoint.*

‘(2) The auditor-general must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—

(a) the interests of the auditor-general; and

(b) the interests of each person who is a related person in relation to the auditor-general.

‘(3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the auditor-general were a member of the Legislative Assembly.

‘(4) Subsections (5) and (6) apply if, after the giving of the statement—

(a) there is a change in the interests mentioned in subsection (2); and

(b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the auditor-general were a member of the Legislative Assembly.

‘(5) The auditor-general must give the Speaker a revised statement.

‘(6) The revised statement must—

(a) be given as soon as possible after the relevant facts about the change come to the auditor-general’s knowledge; and

(b) comply with subsection (3).

‘(7) The Speaker must, if asked, give a copy of the latest statement to—

(a) the Premier; or

(b) the leader of a political party represented in the Legislative Assembly; or

(c) the Crime and Misconduct Commission; or

(d) a member of the parliamentary committee; or

(e) the integrity commissioner.

‘(8) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the auditor-general to another member of the Legislative Assembly.

‘(9) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the auditor-general has not complied with the requirements of this section.

‘(10) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

‘(11) In this section—

integrity commissioner means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

related person, in relation to the auditor-general, means—

(a) the auditor-general’s spouse; or

(b) a person who is totally or substantially dependent on the auditor-general and—

(i) the person is the auditor-general’s child; or

(ii) the person’s affairs are so closely connected with the affairs of the auditor-general that a benefit derived by the person, or a substantial part of it, could pass to the auditor-general.

‘12A Conflicts of interest

‘(1) If the auditor-general has an interest that conflicts or may conflict with the discharge of the auditor-general’s responsibilities, the auditor-general—

(a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as practicable after the relevant facts come to the auditor-general’s knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.

‘(2) If the conflict or possible conflict between an interest of the auditor-general and the auditor-general’s responsibilities is resolved, the auditor-general must give to the Speaker and parliamentary committee a statement advising of the action the auditor-general took to resolve the conflict or possible conflict.

‘(3) A reference in this section to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.’.

13 Amendment of s 25 (Pecuniary interests declaration)

(1) Section 25, heading—

omit, insert—

‘25 Declaration of interests and conflicts of interest’.

(2) Section 25—

insert—

‘(2) If the deputy auditor-general is acting as auditor-general, section 12A applies to the deputy auditor-general in the same way as it applies to the auditor-general.’.

14 Insertion of new pt 7, div 1, hdg

Part 7, before section 74—

insert—

‘Division 1 Provisions for Act No. 8 of 2009’.

15 Amendment of s 74 (Definitions for pt 7)

Section 74, heading, ‘pt 7’—

omit, insert—

‘**div 1**’.

16 Insertion of new pt 7, div 2

After section 85—

insert—

‘Division 2 Provision for Integrity Reform (Miscellaneous Amendments) Act 2010

‘86 Declarations of interests by auditor-general and deputy auditor-general

‘(1) The auditor-general is taken to have complied with section 12 as amended by the *Integrity Reform (Miscellaneous Amendments) Act 2010* if, at the commencement of this section, the auditor-general is not in breach of section 12 as in force before the commencement.

‘(2) The deputy auditor-general is taken to have complied with section 12 as amended by the *Integrity Reform (Miscellaneous Amendments) Act 2010* if, at the commencement of this section, the deputy auditor-general is not in breach of section 12 as in force before the commencement.’.

Part 4 Amendment of Civil Liability Act 2003

17 Act amended

This part amends the *Civil Liability Act 2003*.

18 Insertion of new ch 4, pt 1A

After section 72—

insert—

‘Part 1A Apologies

‘72A Application of pt 1A

‘(1) This part applies to civil liability of any kind.

‘(2) However, this part does not apply to the following—

(a) civil liability that is excluded from the operation of this part by section 5;

(b) civil liability for defamation;

(c) civil liability of a person for an unlawful intentional act done by the person with intent to cause personal injury;

(d) civil liability of a person for an unlawful sexual assault or other unlawful sexual misconduct committed by the person.

‘72B Purpose of pt 1A

‘The purpose of this part is to allow a person to make an apology about a matter without the apology being construed or used as an admission of liability in relation to the matter.

‘72C Meaning of *apology*

‘An ***apology*** is an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter, whether or not it admits or implies an admission of fault in relation to the matter.

‘72D Effect of apology on liability

‘(1) An apology made by or on behalf of a person in relation to any matter alleged to have been caused by the person—

(a) does not constitute an express or implied admission of fault or liability by the person in relation to the matter; and

(b) is not relevant to the determination of fault or liability in relation to matter.

‘(2) Evidence of an apology made by a person is not admissible in any civil proceeding as evidence of the fault or liability of the person in relation to the matter.’.

19 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘***apology***, for chapter 4, part 1A, see section 72C.’.

Part 5 Amendment of Fire and Rescue Service Act 1990

20 Act amended

This part amends the *Fire and Rescue Service Act 1990.*

21 Insertion of new ss 25B and 25C

After section 25A—

insert—

'25B Requirement to disclose previous history of serious disciplinary action to chief executive

'(1) If the chief executive proposes to employ a person under section 25, the chief executive may require the person to disclose to the chief executive particulars of any serious disciplinary action taken against the person.

'(2) The person must comply with the requirement before the employment takes effect and within the time and in the way stated by the chief executive.

'(3) The chief executive may have regard to information disclosed by the person under this section in deciding whether to employ the person under section 25.

'(4) The chief executive is not required to further consider the person for employment under section 25 if the person—

(a) fails to comply with the requirement; or

(b) gives false or misleading information in response to the requirement.

'25C Requirement to disclose previous history of serious disciplinary action to commissioner

'(1) If the commissioner proposes to second a person to the service, the commissioner may require the person to disclose to the commissioner particulars of any serious disciplinary action taken against the person.

Note—

See the following provisions in relation to secondments by the commissioner—

(a) the *Public Service Act 2008*, sections 23 and 120;

(b) the *Public Service Regulation 2008*, section 5 and schedule 1, item 7.

‘(2) The person must comply with the requirement before the secondment takes effect and within the time and in the way stated by the commissioner.

‘(3) The commissioner may have regard to information disclosed by the person under this section in deciding whether to second the person to the service.

‘(4) The commissioner is not required to further consider the person for secondment if the person—

(a) fails to comply with the requirement; or

(b) gives false or misleading information in response to the requirement.’.

22 Replacement of pt 4, div 3, hdg (Discipline and appeals)

Part 4, division 3, heading—

omit, insert—

‘Division 3 Disciplinary action

‘Subdivision 1 Grounds and disciplinary action generally’.

23 Amendment of s 30 (Discipline)

(1) Section 30, heading—

omit, insert—

‘30 Grounds for disciplinary action’.

(2) Section 30(1)(c)—

omit, insert—

‘(c) wilful failure to comply, without reasonable excuse, with a provision of this Act or an obligation imposed on the officer under—

(i) a code of practice; or

(ii) a code of conduct—

(A) approved under the *Public Sector Ethics Act 1994*; or

(B) prescribed under a directive of the commission chief executive under the *Public Service Act 2008*; or

(iii) an industrial instrument;'.

(3) Section 30(1)—

insert—

'(g) use, without reasonable excuse, of a substance to an extent adversely affecting competent performance of duties;

(h) contravention of a requirement of the chief executive under section 25B(1) or of the commissioner under section 25C(1) by, in response to the requirement—

(i) failing to disclose a serious disciplinary action; or

(ii) giving false or misleading information.'.

(4) Section 30(2) to (5)—

omit, insert—

'(2) A disciplinary ground arises when the act or omission constituting the ground is done or made.

'(3) Also, the chief executive may—

(a) discipline a fire service officer under subdivision 2 as if a ground mentioned in subsection (1) exists; or

(b) discipline a former fire service officer under subdivision 3 or 4 on the same grounds mentioned in subsection (1).

'(4) If the chief executive is contemplating taking disciplinary action against a fire service officer on the ground of absence from duty, the chief executive may—

(a) appoint a medical practitioner to examine the officer and to give the chief executive a written report about the officer's mental or physical condition, or both; and

(b) direct the officer to submit to the medical examination.

‘(5) In this section—

misconduct means—

(a) inappropriate or improper conduct in an official capacity; or

(b) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the fire service.

Example of misconduct—

victimising another fire service officer in the course of the other officer’s employment in the fire service’.

24 Insertion of new s 30A

After section 30—

insert—

‘30A Disciplinary action that may be taken against a fire service officer generally

‘(1) In disciplining a fire service officer, the chief executive may take the action, or order the action be taken, (***disciplinary action***) that the chief executive considers reasonable in the circumstances.

Examples of disciplinary action—

- dismissal
- reduction of classification level and a consequential change of duties
- transfer or redeployment to other fire service employment
- forfeiture or deferment of a remuneration increment or increase
- reduction of salary level
- imposition of a monetary penalty
- if a penalty is imposed, a direction that the amount of the penalty be deducted from the officer’s periodic salary payments
- a reprimand

‘(2) If the disciplinary action is taken following an agreement under section 30E(1) between the previous chief executive and the employing chief executive mentioned in the section, the chief executives must agree on the disciplinary action.

‘(3) A monetary penalty can not be more than the total of 2 of the officer’s periodic salary payments.

‘(4) Also, an amount directed to be deducted from any particular periodic salary payment of the officer—

(a) must not be more than half of the amount payable to or for the officer in relation to the payment; and

(b) must not reduce the amount of salary payable to the officer in relation to the period to less than—

(i) if the officer has a dependant—the guaranteed minimum wage for each week of the period; or

(ii) otherwise—two-thirds of the guaranteed minimum wage for each week of the period.

‘(5) An order under subsection (1) is binding on anyone affected by it.

Note—

See the following provisions in relation to appeals against a decision of the chief executive to take disciplinary action against a person—

(a) the *Public Service Act 2008*, sections 23 and 194;

(b) the *Public Service Regulation 2008*, sections 5 and 7 and schedule 1, item 7.’.

25 Insertion of new pt 4, div 3, sdivs 2–4

After section 30A—

insert—

‘Subdivision 2 Disciplinary action against a fire service officer who was a public service employee or ambulance service officer

‘30B Application of sdiv 2

‘(1) This subdivision applies if—

(a) a person is a public service employee in a department and a relevant disciplinary ground arises in relation to the person; and

(b) after the relevant disciplinary ground arises, the person changes employment from that department to employment under section 25.

‘(2) This subdivision also applies if—

(a) a person is an ambulance service officer and a relevant disciplinary ground arises in relation to the person; and

(b) after the relevant disciplinary ground arises, the person changes employment from employment as an ambulance service officer to employment under section 25.

‘(3) However, this subdivision does not apply if the person's previous chief executive has taken, is taking, or intends to take, disciplinary action against the person under a relevant disciplinary provision.

Note—

See—

(a) the *Public Service Act 2008*, section 188A in relation to taking disciplinary action against a person who was a public service employee; and

(b) the *Ambulance Service Act 1991*, part 2, division 4, subdivision 3 in relation to taking disciplinary action against a person who was an ambulance service officer.

‘(4) For this section, a person changes employment from a department or from employment as an ambulance service officer to employment under section 25 if—

(a) the person’s employment under section 25 starts after the person’s employment in the department or as an ambulance service officer ends; or

(b) the person is employed under section 25 following the commissioner transferring, redeploying or seconding the person from the department or the Queensland Ambulance Service.

Notes—

1 See the following provisions in relation to transfers or deployments by the commissioner—

(a) the *Public Service Act 2008*, sections 23 and 133;

(b) the *Public Service Regulation 2008*, section 5 and schedule 1, item 7.

2 See the following provisions in relation to secondments by the commissioner—

(a) the *Public Service Act 2008*, sections 23 and 120;

(b) the *Public Service Regulation 2008*, section 5 and schedule 1, item 7.

‘30C Definitions for sdiv 2

‘In this subdivision—

disciplinary finding, in relation to a relevant disciplinary ground, means a finding that a relevant disciplinary ground exists.

employing chief executive means the chief executive under this Act.

previous chief executive means—

(a) for a person who was a public service employee—the chief executive of the department in which the person held appointment, or was employed, as a public service employee; or

(b) for a person who was an ambulance service officer—the chief executive under the *Ambulance Service Act 1991*.

relevant disciplinary ground means—

(a) for a person who was a public service employee—a disciplinary ground under the *Public Service Act 2008*; or

(b) for a person who was an ambulance service officer—a disciplinary ground under the *Ambulance Service Act 1991*.

relevant disciplinary provision means—

(a) for a person who was a public service employee—the *Public Service Act 2008*, chapter 6; or

(b) for a person who was an ambulance service officer—the *Ambulance Service Act 1991*, part 2, division 4.

‘30D Action previous chief executive may take

‘(1) The person’s previous chief executive may make a disciplinary finding about the relevant disciplinary ground even though the person is no longer employed—

(a) for the chief executive of a department—as a public service employee in the chief executive’s department; or

(b) for the chief executive under the *Ambulance Service Act 1991*—as an ambulance service officer.

‘(2) The previous chief executive may not take disciplinary action about the relevant disciplinary ground other than to the extent provided under section 30E(1).

‘(3) Despite subsection (1) and without limiting or being limited by any other power of delegation under any Act, the previous chief executive may delegate to the employing chief executive the authority under subsection (1) to make a disciplinary finding about the person.

‘(4) The previous chief executive may give to the employing chief executive any information about the person or a relevant disciplinary ground relating to the person to help the employing chief executive to perform a function under section 30E(1) or (2) in relation to the person.

'30E Action employing chief executive may take

'(1) If—

(a) the previous chief executive makes a disciplinary finding about the relevant disciplinary ground; and

(b) the previous chief executive and the employing chief executive agree that disciplinary action against the person is reasonable in the circumstances;

the employing chief executive may take disciplinary action against the person under section 30A as if a disciplinary ground under section 30 exists.

'(2) If—

(a) the previous chief executive delegates to the employing chief executive the authority under section 30D(1) to make a disciplinary finding about the person; and

(b) the employing chief executive makes a disciplinary finding about the person;

the employing chief executive may take disciplinary action against the person under section 30A without the agreement of the previous chief executive.

'30F Declaration if same chief executive is the previous chief executive and employing chief executive

'(1) This section applies if, in relation to a person who is a fire service officer, the chief executive is both the previous chief executive and employing chief executive under this subdivision.

'(2) This subdivision applies with necessary changes to allow the chief executive to take disciplinary action against the person as provided under this subdivision.

‘Subdivision 3 Disciplinary action against a former fire service officer

‘30G Application of sdiv 3

‘(1) This subdivision applies if—

(a) a disciplinary ground arises in relation to a fire service officer (the ***former fire service officer***); and

(b) after the disciplinary ground arises, the officer’s employment as a fire service officer ends for any reason.

‘(2) However, this subdivision does not apply in relation to a former fire service officer if the chief executive is aware—

(a) the officer is a public service employee in a department and the officer’s chief executive under the *Public Service Act 2008* has taken, is taking, or intends to take disciplinary action against the officer under section 188AB of that Act; or

Note—

The *Public Service Act 2008*, section 188AB provides for a public service employee’s chief executive to take disciplinary action under that Act against the employee in relation to a disciplinary ground that arose under this Act while the employee was a fire service officer. The section also empowers the chief executive under this Act to do particular things to facilitate disciplinary action being taken under the section.

(b) the officer is an ambulance service officer and the ambulance service chief executive has taken, is taking, or intends to take disciplinary action against the officer under the *Ambulance Service Act 1991*, part 2, division 4, subdivision 2.

Note—

The *Ambulance Service Act 1991*, part 2, division 4, subdivision 2 provides for the ambulance service chief executive to take disciplinary action under that Act against an ambulance service officer in relation to a disciplinary ground that arose under this Act while the ambulance service officer was a fire service officer. The subdivision also empowers the chief executive under this Act to do particular things to facilitate disciplinary action being taken under the subdivision.

‘(3) In this section—

ambulance service chief executive means the chief executive under the *Ambulance Service Act 1991*.

‘30H Action chief executive may take

‘(1) The chief executive may make a disciplinary finding or take or continue to take disciplinary action against the former fire service officer in relation to the disciplinary ground.

‘(2) The disciplinary finding or disciplinary action must be made or taken within a period of 2 years after the end of the officer’s employment.

‘(3) However, subsection (2) does not stop disciplinary action being taken following an appeal or review.

‘(4) Subsection (2) does not affect—

(a) an investigation of a suspected criminal offence; or

(b) an investigation of a matter for the purpose of notifying the Crime and Misconduct Commission of suspected official misconduct under the *Crime and Misconduct Act 2001*.

‘(5) In disciplining the former fire service officer, the chief executive may make a disciplinary declaration and may not take any other disciplinary action.

‘(6) The chief executive may only make a disciplinary declaration if the disciplinary action that would have been taken against the officer if the officer’s employment had not ended would have been—

(a) dismissal; or

(b) reduction of classification level.

‘(7) The making of the disciplinary declaration does not affect the way in which the officer’s employment ended, or any benefits, rights or liabilities arising because the employment ended.

‘(8) In this section—

disciplinary declaration means a declaration of—

(a) the disciplinary finding against the former fire service officer; and

(b) the disciplinary action that would have been taken against the officer if the officer’s employment had not ended.

‘Subdivision 4 Provisions about information about disciplinary action

‘30I Information about disciplinary action to be given by chief executive

‘(1) This section applies if—

(a) the chief executive of a department (the ***other chief executive***) asks the chief executive under this Act (the ***fire service chief executive***) for disciplinary information that the fire service chief executive has about a person who is or was a fire service officer; and

(b) the information is reasonably necessary for the other chief executive to make a decision about—

(i) an appointment or continued appointment, or the employment or continued employment, of the person by the other chief executive; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the other chief executive is considering in relation to the person under a relevant Act.

‘(2) The fire service chief executive must give the disciplinary information to the other chief executive unless the fire service chief executive is reasonably satisfied that giving the information may prejudice the investigation of a suspected contravention of the law in a particular case.

‘(3) In this section—

disciplinary information, in relation to a request made of the fire service chief executive about a person, means information about the following made or taken against the person under this Act by the chief executive—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

relevant Act means—

(a) the *Public Service Act 2008*; or

(b) the *Ambulance Service Act 1991*.

‘30J Information about disciplinary action to be given to chief executive

‘(1) This section applies if—

(a) the chief executive (the ***fire service chief executive***) asks the chief executive of another department (the ***other chief executive***) for disciplinary information that the other chief executive has about a person who is or was—

(i) a public service employee; or

(ii) an ambulance service officer; and

(b) the information is reasonably necessary for the fire service chief executive to make a decision about—

(i) the employment or continued employment of the person under section 25; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the chief executive is considering in relation to the person under this Act.

‘(2) The other chief executive must give the disciplinary information to the fire service chief executive unless the other chief executive is reasonably satisfied that giving the information may prejudice the investigation of a suspected contravention of the law in a particular case.

‘(3) In this section—

disciplinary information, in relation to a request made of the other chief executive about a person, means information about the following made or taken against the person under a public sector disciplinary law by the other chief executive or another entity—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

‘30K Use of particular information about disciplinary action obtained by chief executive in another capacity

‘(1) This section applies if—

(a) under a relevant Act, the chief executive has or has access to disciplinary information about a person who is or was—

(i) a public service employee; or

(ii) an ambulance service officer; and

(b) the information is reasonably necessary for the chief executive to make a decision about—

(i) the employment or continued employment of the person under section 25; or

(ii) a disciplinary finding, disciplinary action or disciplinary declaration the chief executive is considering in relation to the person under this Act.

‘(2) Despite any other Act or law, the chief executive may use the disciplinary information for the purpose of making the decision mentioned in subsection (1)(b).

‘(3) In this section—

disciplinary information means information about the following made or taken against the person under a public sector disciplinary law—

(a) a current investigation into whether the person should be disciplined;

(b) a finding that the person should be disciplined;

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

relevant Act means—

(a) the *Public Service Act 2008*; or

(b) the *Ambulance Service Act 1991*.’.

26 Insertion of new pt 4, div 3, sdiv 5, hdg

After section 30K—

insert—

‘Subdivision 5 Other provisions about disciplinary action’.

27 Insertion of new pt 12, div 5

Part 12—

insert—

‘Division 5 Provisions for Integrity Reform (Miscellaneous Amendments) Act 2010

‘190 Definition for div 5

‘In this division—

commencement means the commencement of this section.

‘191 Particular disciplinary grounds only apply to acts or omissions happening after commencement

‘The following disciplinary grounds apply a fire service officer only in relation to acts or omissions happening after the commencement—

(a) the ground mentioned in section 30(1)(c) other than to the extent it applies to failures to comply with a code of practice;

(b) the ground mentioned in section 30(1)(g).

‘192 Disciplinary action against former public service employee or ambulance service officer

‘Part 4, division 3, subdivision 2 only applies to a fire service officer who commenced employment under section 25 after the commencement.

‘193 Disciplinary action against former fire service officer

‘Part 4, division 3, subdivisions 3 and 4 apply to a person who was a fire service officer only if the person’s employment under section 25 ends after the commencement.’.

28 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

'***ambulance service officer*** means a person employed under the *Ambulance Service Act 1991*, section 13.

commencement, for part 12, division 5, see section 190.

disciplinary action see section 30A(1).

disciplinary declaration, in relation to a person, means—

(a) for a disciplinary declaration made under a public sector disciplinary law—

  (i) a disciplinary declaration made under—

    (A) the *Public Service Act 2008*, section 188A(6); or

    (B) the *Police Service Administration Act 1990*, section 7A.2(2); or

    (C) the repealed *Misconduct Tribunals Act 1997* or the QCAT Act; or

    (D) the *Ambulance Service Act 1991*, section 18I(5); or

  (ii) a declaration under a public sector disciplinary law (other than a public sector disciplinary law mentioned in subparagraph (i)) that states the disciplinary action that would have been taken against the person if the person's employment had not ended; or

(b) otherwise, a disciplinary declaration made under section 30H(5).

disciplinary finding—

(a) generally means a finding that a disciplinary ground exists; or

(b) for part 4, division 3, subdivision 2, see section 30C.

disciplinary ground means a ground for disciplining a fire service officer under section 30.

employing chief executive, for part 4, division 3, subdivision 2, see section 30C.

former fire service officer, for part 4, division 3, subdivision 3, see section 30G(1)(a).

previous chief executive, for part 4, division 3, subdivision 2, see section 30C.

public sector disciplinary law means—

(a) a public sector disciplinary law under the *Public Service Act 2008*; or

(b) the *Ambulance Service Act 1991*, part 2, division 4 or a disciplinary provision of a code of practice under that Act (including a code of practice as in force from time to time under that Act before the commencement of this definition).

relevant disciplinary ground, for part 4, division 3, subdivision 2, see section 30C.

relevant disciplinary law means—

(a) this Act; or

(b) a law of another State that provides for the same, or substantially the same, matters as this Act; or

(c) a code of practice or other instrument under a law mentioned in paragraph (b) providing for disciplinary matters; or

(d) a public sector disciplinary law.

relevant disciplinary provision, for part 4, division 3, subdivision 2, see section 30C.

serious disciplinary action means—

(a) disciplinary action under a relevant disciplinary law involving—

  (i) dismissal; or

  (ii) reduction of classification level or rank; or

  (iii) transfer or redeployment to other employment; or

  (iv) reduction of remuneration level; or

(b) a disciplinary declaration under a public sector disciplinary law that states a disciplinary action mentioned in paragraph (a)(i) or (ii) as the disciplinary action that would have been taken against the person if the person's employment had not ended.'.

Part 6 Amendment of Government Owned Corporations Act 1993

29 Act amended

This part amends the *Government Owned Corporations Act 1993*.

30 Amendment of s 156 (Application of Crime and Misconduct Act)

Section 156(8), definition *GOC*—

omit, insert—

'***GOC*** does not include a GOC that is a declared entity under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009* in relation to those parts of the entity's businesses, assets and liabilities that are being disposed of in a declared project under that Act.'.

31 Amendment of sch 4 (Application of chapter 3 of Act to prescribed GOC subsidiaries)

(1) Schedule 4, section 156(1), 'of a shareholding GOC'—

omit.

(2) Schedule 4, section 156(3)(b), 'of the shareholding GOC'—

omit.

(3) Schedule 4, section 156(8), definitions *prescribed GOC subsidiary* and *shareholding GOC*—

omit.

(4) Schedule 4, section 156(8)—

insert—

'***prescribed GOC subsidiary*** *does not include a prescribed GOC subsidiary that is a declared entity under the Infrastructure Investment (Asset Restructuring and Disposal) Act 2009 in relation to those parts of the entity's businesses, assets and liabilities that are being disposed of in a declared project under that Act.*'.

Part 7 Amendment of Integrity Act 2009

32 Act amended

This part amends the *Integrity Act 2009*.

33 Amendment of s 11 (Meaning of *interests issues)*

Section 11, from 'register', first mention—

omit, insert—

'register of members' interests, or the register of related persons' interests, kept under the *Parliament of Queensland Act 2001*, section 69C.'.

34 Amendment of s 15 (Request for advice)

Section 15(2), 'involving another particular designated person'—

omit.

35 Amendment of s 16 (Request by Premier)

Section 16, from 'advice'—

omit, insert—

'advice on—

(a) an ethics or integrity issue involving any person who is, or has been, a designated person other than a non-government member; or

(b) standard setting for ethics or integrity issues.'.

36 Amendment of s 21 (Advice)

Section 21(3)(a)(i)—

omit, insert—

'(i) approved codes of conduct and approved standards of practice under the *Public Sector Ethics Act 1994*;'.

37 Amendment of s 23 (Advice)

Section 23(3)(a)(i)—

omit, insert—

'(i) approved codes of conduct and approved standards of practice under the *Public Sector Ethics Act 1994*;'.

38 Amendment of s 29 (Disclosure to Premier)

Section 29(1)(b), from 'and'—

omit, insert—

'or perceived, and significant, ethics or integrity issue.'.

39 Amendment of s 32 (Disclosure to Leader of the Opposition)

Section 32(1)(b), from ‘and’—

omit, insert—

‘or perceived, and significant, ethics or integrity issue.’.

40 Amendment of s 33 (Disclosure to chief executive officer)

(1) Section 33(1)(b) and (2)(b)—

omit, insert—

‘(b) either—

(i) the chief executive asks for a copy of the document; or

(ii) the integrity commissioner reasonably believes the designated person has an actual or perceived, and significant, ethics or integrity issue.’.

(2) Section 33—

insert—

‘(3) The integrity commissioner may give a copy of a relevant document to a chief executive under subsection (1)(b)(ii) or (2)(b)(ii) only if—

(a) the integrity commissioner gives the designated person written advice that the integrity commissioner has the belief mentioned in subsection (1)(b)(ii) or (2)(b)(ii) and is required to give a copy of the document to the chief executive; and

(b) the designated person fails to resolve the issue to the integrity commissioner’s satisfaction within 5 business days after being given the advice.’.

41 Amendment of s 34 (Definitions for division)

Section 34, definition *member to whom a relevant document relates*, after ‘the member’—

insert—

'of the Legislative Assembly'.

42 Amendment of s 36 (Disclosure by member to whom a relevant document relates)

Section 36, 'of the Legislative Assembly'—

omit.

43 Amendment of s 38 (Disclosure to Premier)

Section 38(1)(b), 'and significant'—

omit, insert—

'or perceived, and significant,'.

44 Amendment of s 39 (Disclosure to Leader of the Opposition)

(1) Section 39(1)(b), 'and significant'—

omit, insert—

'or perceived, and significant,'.

(2) Section 39(2)(a), after 'gives the'—

insert—

'non-government'.

45 Amendment of s 41 (Meaning of *lobbyist* and related concepts)

(1) Section 41—

insert—

'(1A) To remove any doubt, it is declared that a lobbying activity may be carried out for a third party client even though no fees are payable for carrying out the lobbying activity.'.

(2) Section 41(3)(a), 'subsection (2)(a)'—

omit, insert—

'subsection (3)(a)'.

(3) Section 41(3)(b), 'subsection (2)(e)'—

omit, insert—

'subsection (3)(e)'.

(4) Section 41(5), examples—

omit, insert—

'*Examples of entities for subsection (6)—*

- an entity carrying on the business of providing architectural services as, or by using, a practising architect under the *Architects Act 2002*
- an entity carrying on the business of providing professional engineering services as, or by using, a registered professional engineer under the *Professional Engineers Act 2002*
- an entity carrying on the business of providing legal services as an Australian legal practitioner or a law practice under the *Legal Profession Act 2007*
- an entity carrying on the business of providing accounting services as, or by using, an accountant who holds a practising certificate issued by CPA Australia, the Institute of Chartered Accountants in Australia or the National Institute of Accountants'.

(5) Section 41(1A) to (5)—

renumber as section 41(2) to (6).

46 Amendment of s 42 (Meaning of *lobbying activity* and *contact*)

(1) Section 42(2)(i), after 'issues,'—

insert—

'including,'.

(2) Section 42(2)—

insert—

'(j) contact only for the purpose of making a statutory application.'.

(3) Section 42—

insert—

‘(4) In this section—

statutory application means an application under an Act that is considered and decided by a government representative under that Act.

Example—

an application for a licence, permit or other authority’.

47 Amendment of s 45 (Meaning of *former senior government representative*)

Section 45—

insert—

‘(2) In this section—

senior executive equivalent means an employee, other than a chief executive, whose remuneration is equal to or greater than the remuneration payable to a senior executive.’.

48 Amendment of s 49 (Register)

(1) Section 49(2), ‘internet’—

omit.

(2) Section 49(3)(d), ‘section 53 or this division’—

omit, insert—

‘this division or section 53’.

49 Amendment of s 54 (Integrity commissioner’s powers before deciding application)

Section 54(1), ‘the application,’—

omit, insert—

‘an entity’s application for registration,’.

50 Amendment of s 57 (Show cause notice)

Section 57(3), '5'—

omit, insert—

'10'.

51 Amendment of pt 2, div 4, hdg (Cancellation of registration)

Part 2, division 4, heading, after 'Cancellation'—

insert—

'**etc.**'.

52 Amendment of s 62 (Grounds for cancellation)

(1) Section 62, heading, after 'cancellation'—

insert—

'**etc.**'.

(2) Section 62—

insert—

'(2) The grounds mentioned in subsection (1) are also grounds for issuing a warning or suspending the registrant's registration under section 66A.'.

53 Amendment of s 63 (Show cause notice)

(1) Section 63(1), from 'exists' to 'the registration'—

omit, insert—

'mentioned in section 62(1) exists in relation to a registrant's registration, the integrity commissioner must, before taking action under section 66 or 66A'.

(2) Section 63(2)—

insert—

'(ca) state that, under section 66A, the integrity commissioner may instead of cancelling the registration issue a warning to the registrant or suspend the registration for a reasonable period if the integrity commissioner is satisfied cancellation of the registration is not warranted; and'.

(3) Section 63(2)(d), from '***period***)'—

omit, insert—

'***period***)—

(i) why the registration should not be cancelled; or

(ii) why the integrity commissioner should issue a warning or suspend the registration instead of cancelling the registration.'.

(4) Section 63(2)(ca) and (d)—

renumber as section 63(2)(d) and (e).

(5) Section 63(3), '5'—

omit, insert—

'10'.

54 Amendment of s 65 (No cancellation)

(1) Section 65, heading, after 'cancellation'—

insert—

'**etc.**'.

(2) Section 65(1), from 'the ground'—

omit, insert—

'a ground mentioned in section 62(1) exists in relation to the registration.'.

55 Amendment of s 66 (Cancellation)

(1) Section 66(1)(a)—

omit, insert—

‘(a) still believes a ground mentioned in section 62(1) exists in relation to the registration; and’.

(2) Section 66—

insert—

‘(3A) In deciding whether to cancel the registration, the integrity commissioner may have regard to any warning previously issued to the registrant under section 66A.’.

(3) Section 66(3A) and (4)—

renumber as section 66(4) and (5).

56 Insertion of new s 66A

Chapter 4, part 2—

insert—

‘66A Alternatives to cancellation

‘(1) This section applies if, after considering the accepted representations for the show cause notice, the integrity commissioner—

(a) still believes a ground mentioned in section 62(1) exists in relation to the registration; and

(b) having regard to the seriousness of the matter constituting the ground and any warning previously issued to the registrant under this section, believes that action under subsection (2) should be taken instead of cancelling the registration.

‘(2) Instead of cancelling the registrant’s registration, the integrity commissioner may decide to—

(a) issue a warning to the registrant; or

(b) suspend the registrant’s registration for a reasonable period.

‘(3) If the integrity commissioner decides to issue a warning to the registrant, the integrity commissioner must as soon as practicable give the registrant notice of the decision.

‘(4) The notice must state that, under section 66(4) and subsection (1)(b), the integrity commissioner may, in relation to a ground mentioned in section 62(1) arising after the warning is issued, have regard to the issue of the warning in deciding whether—

(a) the registrant’s registration should be cancelled; or

(b) action under subsection (2) should be taken instead of cancelling the registration.

‘(5) If the integrity commissioner decides to suspend the registration, the integrity commissioner must—

(a) give the registrant notice of the decision stating the period of the suspension; and

(b) ensure the registrant’s particulars are removed from the lobbyists register for the period of the suspension.’.

57 Amendment of s 68 (Lobbyists code of conduct)

Section 68(2), ‘internet’—

omit.

58 Amendment of s 71 (Lobbying by unregistered entity prohibited)

Section 71—

insert—

‘(3) If a government representative is aware that an entity seeking to carry out a lobbying activity for a third party client with the government representative is not a registered lobbyist, the responsible person for the government representative must give the entity’s details to the integrity commissioner as soon as practicable.

‘(4) The responsible person for a government representative may delegate the obligation to give details under subsection (3) to a person the responsible person considers to be an appropriate person to give the details to the integrity commissioner.’.

59 Insertion of new ch 4, pt 4 and ch 4A

After section 72—

insert—

‘Part 4 Miscellaneous

‘72A Disclosure of information

‘(1) This section applies if a lobbyist carries out a lobbying activity with a government representative.

‘(2) The responsible person for the government representative may give the integrity commissioner information about the lobbyist or lobbying activity if the responsible person reasonably believes the information may be relevant to the functions or powers of the integrity commissioner under this Act.

‘(3) Without limiting subsection (2), the responsible person may, under subsection (2), give the integrity commissioner personal information about—

(a) the lobbyist; or

(b) a person employed, contracted or otherwise engaged by the lobbyist to carry out the lobbying activity; or

(c) a client for which the lobbyist is carrying out the lobbying activity.

Note—

Under the *Information Privacy Act 2009*, an agency within the meaning of that Act having control of a document containing an individual’s personal information may disclose the personal information to an entity if the disclosure is authorised or required under a law. See the information privacy principle stated in the *Information Privacy Act 2009*, schedule 3, section 11(1)(d).

‘(4) The responsible person for a government representative may delegate the power to give information under this section to a person the responsible person considers to be an appropriate person to give the information to the integrity commissioner.

‘(5) In this section—

personal information has the meaning given by the *Information Privacy Act 2009*, section 12.

‘Chapter 4A Declaration of interests by statutory office holders

‘72B Definition for ch 4A

‘In this chapter—

relevant Minister means the Minister administering the Act under which a statutory office holder is appointed.

‘72C Declaration of interests

‘(1) This section applies to the following on appointment—

(a) a statutory office holder mentioned in schedule 1;

(b) another statutory office holder prescribed under a regulation.

Note—

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, section 36, definition *appoint*.

‘(2) The holder must, within 1 month, give the integrity commissioner and the relevant Minister a statement about his or her interests.

Note—

See section 10(2) for the meaning of a reference to an interest.

‘(3) The statement must include the information required under the *Public Service Act 2008*, section 101(3).

‘(4) Subsections (5) and (6) apply if—

(a) a change to the holder’s interests happens after the giving of the statement; and

(b) the change is of a type mentioned in the *Public Service Act 2008*, section 101(4)(b).

‘(5) The holder must give the integrity commissioner and the relevant Minister a revised version of the statement.

‘(6) The revised version must—

(a) be given as soon as possible after the relevant facts about the change come to the holder’s knowledge; and

(b) comply with subsection (3).

‘(7) When giving the integrity commissioner a statement under subsection (2) or (5), the holder must also give the integrity commissioner written advice that the holder has given the statement to the relevant Minister.

‘72D Conflicts of interest

‘(1) If a statutory office holder has an interest that conflicts or may conflict with the discharge of the holder’s responsibilities, the holder—

(a) must disclose the nature of the interest and conflict to the relevant Minister as soon as practicable after the relevant facts come to the holder’s knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the relevant Minister.

Note—

See section 10(2) for the meaning of a reference to an interest or to a conflict of interest.

‘(2) The relevant Minister may direct a statutory office holder to resolve a conflict or possible conflict between an interest of the holder and the holder’s responsibilities.’.

60 Replacement of ss 80 and 81

Sections 80 and 81—

omit, insert—

‘80 Declaration of interests

‘(1) This section applies to the integrity commissioner on appointment.

Note—

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, section 36, definition *appoint*.

‘(2) The integrity commissioner must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—

(a) the interests of the integrity commissioner; and

(b) the interests of each person who is a related person in relation to the integrity commissioner.

Note—

See section 10(2) for the meaning of a reference to an interest.

‘(3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the integrity commissioner were a member of the Legislative Assembly.

‘(4) Subsections (5) and (6) apply if, after the giving of the statement—

(a) there is a change in the interests mentioned in subsection (2); and

(b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the integrity commissioner were a member of the Legislative Assembly.

‘(5) The integrity commissioner must give the Speaker a revised statement.

‘(6) The revised statement must—

(a) be given as soon as possible after the relevant facts about the change come to the integrity commissioner's knowledge; and

(b) comply with subsection (3).

'(7) The Speaker must, if asked, give a copy of the latest statement to—

(a) the Premier; or

(b) the leader of a political party represented in the Legislative Assembly; or

(c) the Crime and Misconduct Commission; or

(d) a member of the parliamentary committee.

'(8) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the integrity commissioner to another member of the Legislative Assembly.

'(9) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the integrity commissioner has not complied with the requirements of this section.

'81 Conflicts of interest

'(1) If the integrity commissioner has an interest that conflicts or may conflict with the discharge of the integrity commissioner's responsibilities, the integrity commissioner—

(a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as practicable after the relevant facts come to the integrity commissioner's knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.

Note—

See section 10(2) for the meaning of a reference to an interest or to a conflict of interest.

'(2) If the conflict or possible conflict between an interest of the integrity commissioner and the integrity commissioner's responsibilities is resolved, the integrity commissioner must give to the Speaker and parliamentary committee a statement advising of the action the integrity commissioner took to resolve the conflict or possible conflict.'.

61 Amendment of s 85 (Annual reports of integrity commissioner)

(1) Section 85(2)(a) and (b)—

renumber as section 85(2)(b) and (c).

(2) Section 85(2)—

insert—

'(a) details of compliance by statutory office holders with requirements to give the integrity commissioner statements and written advice under section 72C; and'.

(3) Section 85(4)—

omit, insert—

'(4) However, the report may identify—

(a) a statutory office holder who has not complied with section 72C; or

(b) a chief executive who has not complied with the *Public Service Act 2008*, section 101.'.

62 Insertion of ch 8, div 1, hdg

Chapter 8, before section 92—

insert—

'Division 1 Provisions for Act No. 52 of 2009'.

63 Insertion of new ch 8, div 2

After section 99—

insert—

‘Division 2 Provisions for Integrity Reform (Miscellaneous Amendments) Act 2010

‘100 Declarations of interests by statutory office holders

‘(1) Subsection (2) applies if, immediately before the commencement—

(a) the integrity commissioner and the relevant Minister have a statement about the interests of a statutory office holder given to the integrity commissioner and the relevant Minister; and

(b) the statement would have complied with section 72C if that section had been in force before the commencement.

‘(2) On the commencement, the statutory office holder is taken to have complied with section 72C.

‘(3) Subsection (4) applies if, immediately before the commencement—

(a) a person was a statutory office holder; and

(b) subsection (1) does not apply to the person.

‘(4) The person must comply with section 72C(2) within 1 month after the commencement.

‘(5) In this section—

commencement means the commencement of this section.

statutory office holder means a statutory office holder mentioned in section 72C(1).

‘101 Declaration of interests by integrity commissioner

‘(1) This section applies to the person who, immediately before the commencement of this section, was the integrity commissioner.

'(2) The person must comply with section 80(2) within 1 month after the commencement of this section.'.

64 Insertion of new sch 1

Before schedule 2—

insert—

'Schedule 1 Statutory office holders for section 72C

section 72C(1)(a)

Anti-Discrimination Act 1991

- the anti-discrimination commissioner

Building and Construction Industry (Portable Long Service Leave) Act 1991

- the general manager of the Building and Construction Industry (Portable Long Service Leave) Authority

Commission for Children and Young People and Child Guardian Act 2000

- the commissioner for children and young people and child guardian

Education (Queensland College of Teachers) Act 2005

- the director of the Office of the Queensland College of Teachers

Education (Queensland Studies Authority) Act 2002

- the director of the Office of the Queensland Studies Authority

Electoral Act 1992

- the electoral commissioner

Energy Ombudsman Act 2006

- the energy ombudsman

Guardianship and Administration Act 2000

- the adult guardian

Health Practitioner Registration Boards (Administration) Act 1999

- the executive officer of the Office of Health Practitioner Registration Boards

Health Quality and Complaints Commission Act 2006

- the chief executive officer of the Office of the Health Quality and Complaints Commission

Industrial Relations Act 1999

- the industrial registrar
- the Queensland workplace rights ombudsman

Legislative Standards Act 1992

- the parliamentary counsel

Prostitution Act 1999

- the executive director of the Office of the Prostitution Licensing Authority

Public Service Act 2008

- the chief executive of the Public Service Commission

Public Trustee Act 1978

- the public trustee of Queensland

Transport Operations (TransLink Transit Authority) Act 2008

- the chief executive officer of the TransLink Transit Authority

Urban Land Development Authority Act 2007

- the chief executive officer of the Urban Land Development Authority

Water Act 2000

- the commissioner

Workers' Compensation and Rehabilitation Act 2003

- the chief executive officer of the Workers' Compensation Regulatory Authority'.

65 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *incidental lobbying activities*, *non-profit entity* and *senior executive equivalent*—

omit.

(2) Schedule 2—

insert—

‘***relevant Minister*** see section 72B.

responsible person, for a government representative, means—

(a) if the government representative is the Premier or another Minister—the Premier or other Minister; or

(b) if the government representative is a Parliamentary Secretary—the Parliamentary Secretary; or

(c) if the government representative is a councillor—the councillor; or

(d) if the government representative is a public sector officer who is the chief executive of a public sector entity—the chief executive; or

(e) if the government representative is a public sector officer who is an employee of a public sector entity—the chief executive of the public sector entity; or

(f) if the government representative is a ministerial staff member—the relevant Minister; or

(g) if the government representative is a parliamentary secretary staff member—the relevant Parliamentary Secretary.

public sector entity means an entity mentioned in section 47(a) to (h).’.

(3) Schedule 2, definition *accepted representations*, ‘and’—

omit, insert—

‘or’.

(4) Schedule 2, definition *chief executive*, paragraph (a), ‘means’—

omit.

(5) Schedule 2, definition *information*, ‘in’—

omit, insert—

‘for’.

(6) Schedule 2, definition *related person*—

relocate to section 69(5).

(7) Schedule 2, definition *statutory office*, ‘section 139’—

omit, insert—

‘schedule 4’.

Part 8 Amendment of Ombudsman Act 2001

66 Act amended

This part amends the *Ombudsman Act 2001*.

67 Insertion of new ss 63A and 63B

After section 63—

insert—

‘63A Declaration of interests

‘(1) This section applies to the ombudsman on appointment.

Note—

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, section 36, definition *appoint.*

‘(2) The ombudsman must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—

(a) the interests of the ombudsman; and

(b) the interests of each person who is a related person in relation to the ombudsman.

‘(3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the ombudsman were a member of the Legislative Assembly.

‘(4) Subsections (5) and (6) apply if, after the giving of the statement—

(a) there is a change in the interests mentioned in subsection (2); and

(b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the ombudsman were a member of the Legislative Assembly.

‘(5) The ombudsman must give the Speaker a revised statement.

‘(6) The revised statement must—

(a) be given as soon as possible after the relevant facts about the change come to the ombudsman’s knowledge; and

(b) comply with subsection (3).

‘(7) The Speaker must, if asked, give a copy of the latest statement to—

(a) the Minister; or

(b) the leader of a political party represented in the Legislative Assembly; or

(c) the Crime and Misconduct Commission; or

(d) a member of the parliamentary committee; or

(e) the integrity commissioner.

‘(8) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the ombudsman to another member of the Legislative Assembly.

‘(9) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the ombudsman has not complied with the requirements of this section.

‘(10) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

‘(11) In this section—

integrity commissioner means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

related person, in relation to the ombudsman, means—

(a) the ombudsman’s spouse; or

(b) a person who is totally or substantially dependent on the ombudsman and—

(i) the person is the ombudsman’s child; or

(ii) the person’s affairs are so closely connected with the ombudsman’s affairs that a benefit derived by the person, or a substantial part of it, could pass to the ombudsman.

‘63B Conflicts of interest

‘(1) If the ombudsman has an interest that conflicts or may conflict with the discharge of the ombudsman’s responsibilities, the ombudsman—

(a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as practicable after the relevant facts come to the ombudsman’s knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.

‘(2) If the conflict or possible conflict between an interest of the ombudsman and the ombudsman’s responsibilities is resolved, the ombudsman must give to the Speaker and parliamentary committee a statement advising of the action the ombudsman took to resolve the conflict or possible conflict.

‘(3) A reference in this section to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.’.

68 Insertion of new pt 12, div 1, hdg

Part 12, before section 97—

insert—

‘Division 1 Provisions for Act No. 73 of 2001’.

69 Insertion of new pt 12, div 2

After section 103—

insert—

‘Division 2 Provision for Integrity Reform (Miscellaneous Amendments) Act 2010

‘104 Declaration of interests

‘(1) This section applies to the person who, immediately before the commencement of this section, was the ombudsman.

‘(2) The person must comply with section 63A(2) within 1 month after the commencement of this section.’.

Part 9 Amendment of Parliament of Queensland Act 2001

70 Act amended

This part and the schedule amend the *Parliament of Queensland Act 2001*.

71 Amendment of s 11 (Standing rules and orders may be made)

Section 11(2)(i)—

omit.

72 Amendment of s 37 (Meaning of *contempt* of the Assembly)

Section 37(2), examples 7 and 8—

omit, insert—

‘7 contravention of section 29(1), 30(1) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)

8 preventing or attempting to prevent a person from complying with section 29(1), 30(1) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)’.

73 Insertion of new s 59A

Chapter 3, part 4, after section 59—

insert—

‘59A References to when the Assembly is not sitting

‘(1) Subsection (2) applies if an Act or the standing rules and orders refer to something being done, or state the effect of something done, in relation to a document when the Assembly is not sitting.

‘(2) The reference to the Assembly not sitting is taken to include the Assembly being expired, prorogued or dissolved.

'(3) If a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly—

(a) has expired or is dissolved; or

(b) is prorogued and the Assembly expires or is dissolved before its next session;

the document is taken to be a document of the next Assembly.

'(4) If a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly is prorogued and the Assembly does not expire and is not dissolved before its next session, the document is taken to be a document of the next session of the Assembly.'.

74 Insertion of new ch 4, pt 2A

After section 69—

insert—

'Part 2A Registers of interests

'69A Definitions for pt 2A

'In this part—

child, in relation to a member, includes an adopted child, ex-nuptial child or stepchild of the member.

register means—

(a) the register of members' interests; or

(b) the register of related persons' interests.

related person, in relation to a member, means—

(a) the member's spouse; or

(b) a person who is totally or substantially dependent on the member and—

(i) the person is the member's child; or

(ii) the person's affairs are so closely connected with the member's affairs that a benefit derived by the person, or a substantial part of it, could pass to the member.

statement of interests means—

(a) a statement of interests (member); or

(b) a statement of interests (related persons).

statement of interests (member) see section 69B(1)(a).

statement of interests (related persons) see section 69B(1)(b).

'69B Statements of interests

'(1) A member must, within 1 month after taking the member's seat, give to the registrar the following statements—

(a) a statement of the interest, as at the date of the election, of the member (a ***statement of interests (member)***);

(b) a statement of the interest, as at the date of the election, of which the member is aware of each person who is a related person of the member (a ***statement of interests (related persons)***).

Notes—

1 Under the *Constitution of Queensland 2001*, section 22(3), a member takes the member's seat on taking the oath or making the affirmation mentioned in section 22(1) of that Act.

2 A contravention of subsection (1) constitutes contempt of the Assembly—see section 37.

'(2) A member must, within 1 month after becoming aware of a change in the particulars contained in the last statement of interests given by the member, notify the registrar in writing of the change.

Note—

A contravention of subsection (2) constitutes contempt of the Assembly—see section 37.

‘(3) A statement of interests and any change in the particulars of the interests must be given in accordance with the standing rules and orders.

‘(4) A member must not give to the registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.

Note—

A contravention of subsection (4) constitutes contempt of the Assembly—see section 37.

‘(5) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

‘69C Registrar

‘(1) There is to be a Registrar of Members’ Interests (***registrar***).

‘(2) The Clerk is to be the registrar.

‘(3) The registrar must keep—

(a) a register of members’ interests; and

(b) a register of related persons’ interests.

‘(4) The registrar must, in accordance with the standing rules and orders, enter the following particulars in the relevant register and keep the registers up to date—

(a) the particulars of the interests given by a member in a statement of interests (member) and any changes to the particulars notified by the member;

(b) the particulars of the interests given by a member in a statement of interests (related persons) and any changes to the particulars notified by the member.’.

75 Amendment of s 70 (Meaning of *transacts business*)

(1) Section 70(1)(a), after ‘State’—

insert—

'for the supply of goods to the entity to be used in the service of the public'.

(2) Section 70(2)(a), 'for a contract'—

omit, insert—

'for subsection (1)(a)'.

(3) Section 70(2)(a)(ii) and (iii)—

omit.

(4) Section 70(2)(a)(iv)—

renumber as section 70(2)(a)(ii).

(5) Section 70(2)(b), 'for a duty or service'—

omit, insert—

'for subsection (1)(b)'.

(6) Section 70(2)(b)(ii), 'service or duty'—

omit, insert—

'duty or service'.

(7) Section 70(5)—

insert—

'***duty or service*** includes a duty or service constituted by the act of transacting any business for the entity of the State concerned.

entity, of the State, does not include a local government.'.

76 Amendment of s 71 (Restrictions on member transacting business with an entity of the State)

(1) Section 71(7)—

omit.

(2) Section 71(8)—

insert—

‘***entity***, of the State, does not include a local government.’.

(3) Section 71(8)—

renumber as section 71(7).

77 Insertion of new ch 10, pts 1, 2 and 3, hdgs

(1) Chapter 10, before section 162—

insert—

‘Part 1 Parliament of Queensland Amendment Act 2003’.

(2) Before section 163—

insert—

‘Part 2 Parliament of Queensland Amendment Act 2004’.

(3) Before section 164—

insert—

‘Part 3 Parliament of Queensland Amendment Act 2009’.

78 Insertion of new ch 10, pt 4

After section 164—

insert—

‘Part 4 Integrity Reform (Miscellaneous Amendments) Act 2010

‘165 Statements of interests

‘A member is taken to have complied with section 69B if, at the commencement of this section, the member had, as required under schedule 2 of the standing rules and orders, provided a statement of interests and given notification of any change in details.

‘166 Registers under standing rules and orders

‘The registers kept under schedule 2 of the standing rules and orders and in existence immediately before the commencement of this section continue as the registers required to be kept under section 69C.

‘167 Provision for amendments to ss 70 and 71

‘(1) During the transitional period, section 71(1) and (2) are taken always to have applied in relation to a contract or the performance of a duty or service as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

‘(2) For deciding whether a member has contravened section 71(1) during the transitional period, section 72(1)(h) is taken to apply as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

‘(3) Section 159(6) has effect as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

‘(4) In this section—

amendment means the *Integrity Reform (Miscellaneous Amendments) Act 2010*, sections 75 and 76.

transitional period means the period starting at the beginning of 6 June 2002 and ending at the end of the day before the commencement of the amendment.’.

79 Amendment of schedule (Dictionary)

Schedule—

insert—

‘***registrar*** see section 69C(1).

transacts business, with an entity of the State, see section 70.’.

Part 10 Amendment of Public Sector Ethics Act 1994

80 Act amended

This part amends the *Public Sector Ethics Act 1994*.

81 Replacement of pt 2, hdg (Ethics principles for public officials)

Part 2, heading—

omit, insert—

‘Part 2 Ethics principles’.

82 Amendment of s 4 (Declaration of ethics principles)

Section 4(2)—

omit, insert—

‘(2) The ***ethics principles*** are—

- integrity and impartiality

- promoting the public good
- commitment to the system of government
- accountability and transparency.'.

83 Replacement of pt 3 (Ethics obligations for public officials)

Part 3—

omit, insert—

'Part 3 Ethics values

'Division 1 Nature, purpose and application of ethics values

'5 Nature, purpose and application of values

'(1) In recognition of the ethics principles, ethics values are to apply to public service agencies, public sector entities and public officials.

'(2) The values mentioned in division 2 are the ***ethics values*** for public service agencies, public sector entities and public officials.

'(3) The ethics values are intended to provide the basis for codes of conduct for public service agencies, public sector entities and public officials and are not of themselves legally enforceable.

'Division 2 The ethics values

'6 Integrity and impartiality

'In recognition that public office involves a public trust, public service agencies, public sector entities and public officials seek to promote public confidence in the integrity of the public sector and—

(a) are committed to the highest ethical standards; and

(b) accept and value their duty to provide advice which is objective, independent, apolitical and impartial; and

(c) show respect towards all persons, including employees, clients and the general public; and

(d) acknowledge the primacy of the public interest and undertake that any conflict of interest issue will be resolved or appropriately managed in favour of the public interest; and

(e) are committed to honest, fair and respectful engagement with the community.

‘7 Promoting the public good

‘In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public service agencies, public sector entities and public officials—

(a) accept and value their duty to be responsive to both the requirements of government and to the public interest; and

(b) accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions; and

(c) accept and value their duty to manage public resources effectively, efficiently and economically; and

(d) value and seek to achieve excellence in service delivery; and

(e) value and seek to achieve enhanced integration of services to better service clients.

‘8 Commitment to the system of government

‘(1) In recognition that the public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public service agencies, public sector entities and public officials—

(a) accept and value their duty to uphold the system of government and the laws of the State, the Commonwealth and local government; and

(b) are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and

(c) accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.

‘(2) Subsection (1) does not limit the responsibility of a public service agency, public sector entity or public official to act independently of government if the independence of the agency, entity or official is required by legislation or government policy, or is a customary feature of the work of the agency, entity or official.

‘9 Accountability and transparency

‘In recognition that public trust in public office requires high standards of public administration, public service agencies, public sector entities and public officials—

(a) are committed to exercising proper diligence, care and attention; and

(b) are committed to using public resources in an effective and accountable way; and

(c) are committed to managing information as openly as practicable within the legal framework; and

(d) value and seek to achieve high standards of public administration; and

(e) value and seek to innovate and continuously improve performance; and

(f) value and seek to operate within a framework of mutual obligation and shared responsibility between public service agencies, public sector entities and public officials.'.

84 Replacement of pt 4, div 1, hdg (Codes of conduct)

Part 4, division 1, heading—

omit, insert—

'Division 1 Codes of conduct generally'.

85 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

'10 Nature and purpose of codes

'(1) In recognition of the ethics principles and values for public service agencies, public sector entities and public officials, codes of conduct are to apply to those agencies, entities and officials in performing their official functions.

'(2) The purpose of a code is to provide standards of conduct for public service agencies, public sector entities and public officials consistent with the ethics principles and values.

'Division 1A Public service agencies

'Subdivision 1 Code of conduct for public service agencies

'11 Application of code

'(1) The code of conduct for public service agencies—

(a) must relate to all public service agencies; and

(b) applies to all public officials of a public service agency; and

(c) may apply to other persons who are not public officials of a public service agency who have a contract or other agreement with the public service agency.

Examples for paragraph (c)—

- contractors with the agency and their employees
- volunteers with the agency
- students on work experience with the agency

‘(2) The code may make different provision, consistent with the ethics values, for different types of—

(a) public officials; or

(b) persons mentioned in subsection (1)(c).

‘12 Contents of code

‘(1) The code of conduct for public service agencies may contain anything the commission chief executive considers necessary or useful for achieving the purpose of a code of conduct.

‘(2) In particular, the code may provide conduct obligations public officials must comply with.

‘(3) The code also may contain—

(a) information explaining the purpose of—

(i) the ethics principles and values generally or a particular ethics principle or value; or

(ii) standards of conduct generally or a particular standard of conduct; and

(b) information explaining the object intended to be achieved by the application of—

(i) the ethics principles and values generally or a particular ethics principle or value; or

(ii) standards of conduct generally or a particular standard of conduct; and

(c) guidelines about the application of an ethics principle, value or standard of conduct; and

(d) examples of the operation of an ethics principle, value or standard of conduct; and

(e) explanatory notes about an ethics principle, value or standard of conduct; and

(f) references to Acts applying to public officials in performing their official functions.

‘12A Preparation of code

‘(1) The commission chief executive must ensure that a code of conduct is prepared for public service agencies.

‘(2) The commission chief executive must ensure that reasonable steps are taken to consult about the code with—

(a) public service agencies; and

(b) public officials to whom the code is to apply; and

(c) industrial organisations representing the interests of a public official mentioned in paragraph (b); and

(d) other appropriate entities representing the interests of a public official mentioned in paragraph (b).

‘12B Approval of code

‘(1) The Premier may approve a code of conduct for public service agencies prepared under section 12A.

‘(2) The Premier may approve the code only if it is accompanied by a written statement by the commission chief executive outlining—

(a) the nature and extent of the consultations that took place during the preparation of the code; and

(b) the outcome of the consultations.

‘(3) In deciding whether to approve the code, the Premier must have regard to the statement mentioned in subsection (2).

‘(4) The code can not apply to a public service agency or a public official of the agency until it is approved by the Premier.

‘12C Review of code

‘(1) The commission chief executive must review the code of conduct for public service agencies within 1 year after it is approved under section 12B.

‘(2) The commission chief executive must subsequently review the code no later than 2 years after the previous review.

‘Subdivision 2 Standards of practice for public service agencies

‘12D Nature and application of a standard of practice

‘(1) A standard of practice applies additional standards of conduct and behaviour to public officials of a particular public service agency.

‘(2) A standard of practice must—

(a) have regard to the ethics principles and values; and

(b) support the standards of conduct in the code of conduct for public service agencies.

‘(3) A standard of practice—

(a) applies to all public officials of the public service agency; and

(b) may apply to other persons who are not public officials of the agency who have a contract or other agreement with the agency.

Examples for paragraph (b)—

- contractors with the agency and their employees
- volunteers with the agency

- students on work experience with the agency

‘(4) A standard of practice for a public service agency may make different provision, consistent with the ethics values, for different types of—

(a) public officials of the agency; or

(b) persons mentioned in subsection (3)(b).

‘12E Preparation of standard

‘(1) A public service agency may prepare its own standard of practice.

‘(2) The commission chief executive may issue guidelines for the preparation of a standard of practice by a public service agency.

‘(3) If a public service agency prepares a standard of practice, the chief executive officer of the agency must ensure that reasonable steps are taken to consult about the standard of practice with—

(a) public officials to whom the standard is to apply; and

(b) industrial organisations representing the interests of a public official mentioned in paragraph (a); and

(c) other appropriate entities representing the interests of a public official mentioned in paragraph (a).

‘12F Approval of standard

‘(1) The commission chief executive may approve a standard of practice for a public service agency.

‘(2) The commission chief executive may approve the standard of practice only if it is accompanied by a written statement by the chief executive officer of the public service agency outlining—

(a) the nature and extent of the consultations that took place during the preparation of the standard of practice; and

(b) the outcome of the consultations.

‘(3) In deciding whether to approve the standard of practice, the commission chief executive must have regard to the statement mentioned in subsection (2).

‘(4) A standard of practice can not apply to a public service agency or to a public official of an agency until it is approved by the commission chief executive.

‘12G Review of standard

‘(1) The chief executive of the public service agency must review a standard of practice for an agency within 1 year after it is approved.

‘(2) The chief executive of the public service agency must subsequently review the standard of practice no later than 2 years after the previous review.

‘Subdivision 3 Public officials to comply with code of conduct and standard of practice

‘12H Compliance with code and standard of practice

‘A public official of a public service agency must comply with the code of conduct for public service agencies and any standard of practice that applies to the official.

‘Subdivision 4 Additional responsibilities of chief executive officers

‘12I Access to ethics principles and values, and code of conduct

‘The chief executive officer of a public service agency must ensure that each public official of the agency and each person mentioned in section 11(1)(c) has reasonable access to a copy of the following—

(a) the ethics principles and values;

(b) the standards of conduct stated in the code of conduct for public service agencies that apply to the official or person;

(c) any standard of practice that applies to the official or person.

'12J Publication of code of conduct and standards of practice

'(1) The chief executive officer of a public service agency must publish and keep available for inspection by any person copies of the approved code of conduct for public service agencies and any standard of practice applying to the agency.

'(2) To remove any doubt, it is declared that a reference in this section to a person includes a reference to a member of the public.

'12K Education and training

'The chief executive officer of a public service agency must ensure that public officials of the agency are given access to appropriate education and training about public sector ethics on an annual basis.

'12L Procedures and practices of public service agencies

'The chief executive officer of a public service agency must ensure that the administrative procedures and management practices of the agency have proper regard to—

(a) this Act and, in particular, the ethics principles and values; and

(b) the approved code of conduct for public service agencies; and

(c) any standard of practice applying to the agency.

‘12M Reporting

‘(1) The commission chief executive must ensure that each report of the commission under the *Public Service Act 2008*, section 46(1)(fa) includes a statement about the following—

(a) the implementation during the reporting period of the code of conduct for public service agencies;

(b) details of the action taken during the reporting period to comply with section 12A.

‘(2) The chief executive officer of a public service agency must ensure that each annual report of the agency includes a statement about the following—

(a) the implementation during the reporting period of the code of conduct for public service agencies and any standard of practice applying to the agency;

(b) details of the action taken during the reporting period to comply with sections 12K and 12L.

‘Division 1B Public sector entities

‘Subdivision 1 Codes of conduct for public sector entities

‘13 Application of codes

‘(1) A code of conduct for a public sector entity—

(a) must relate to the particular public sector entity; and

(b) applies to all public officials of the entity; and

(c) may apply to other persons who are not public officials of the entity who have a contract or other agreement with the entity.

Examples for paragraph (c)—

- contractors with the entity and their employees
- volunteers with the entity
- students on work experience with the entity

‘(2) A code of conduct for a public sector entity may make different provision, consistent with the ethics values, for different types of—

(a) public officials; or

(b) persons mentioned in subsection (1)(c).’.

86 Amendment of s 14 (Contents of codes)

(1) Section 14(2), after ‘provide’—

insert—

‘conduct’.

(2) Section 14(3)(a)(i) and (ii) and (b)(i) and (ii)—

omit, insert—

‘(i) the ethics values generally or a particular ethics value; or

(ii) standards of conduct generally or a particular standard of conduct; and’.

(3) Section 14(3)(c), (d) and (e), ‘or conduct obligation’—

omit, insert—

‘principle, value or standard of conduct’.

87 Omission of pt 4, div 2, hdg (Preparation and approval of codes of conduct)

Part 4, division 2, heading—

omit.

88 Amendment of s 16 (Consultations in preparation of codes)

Section 16(2), from ‘consultation’ to ‘code,’—

omit, insert—

‘reasonable steps are taken to consult about the code’.

89 Amendment of s 17 (Approval of codes)

(1) Section 17(1), ‘by the entity’s chief executive officer’—

omit, insert—

‘under section 15’.

(2) Section 17(3), after ‘statement’—

insert—

‘mentioned in subsection (2)’.

(3) Section 17—

insert—

‘(4) The code of conduct can not apply to the public sector entity or to a public official of the entity until it is approved by the responsible authority for the entity.’.

90 Renumbering of pt 4, div 3 (Public officials to comply with codes)

Part 4, division 3—

renumber as part 4, division 1B, subdivision 2.

91 Amendment of s 18 (Compliance with codes)

Section 18, 'conduct obligations'—

omit, insert—

'standards of conduct'.

92 Renumbering of pt 5 (Additional responsibilities of chief executive officers)

Part 5—

renumber as part 4, division 1B, subdivision 3.

93 Replacement of s 19 (Access to ethics principles and obligations and codes of conduct)

Section 19—

omit, insert—

'19 Access to ethics values and codes of conduct

'The chief executive officer of a public sector entity must ensure that each public official of the entity and each person mentioned in section 13(1)(c) has reasonable access to a copy of the following—

(a) the ethics principles and values;

(b) the standards of conduct stated in the entity's code of conduct that apply to the official or person.'.

94 Amendment of s 20 (Inspection of codes of conduct)

(1) Section 20, heading—

omit, insert—

'20 Publication of codes of conduct'.

(2) Section 20(1), after 'must'—

'publish and'.

(3) Section 20(2) to (4)—

omit.

(4) Section 20(5)—

renumber as section 20(2).

95 Amendment of s 21 (Education and training)

Section 21(1), after 'given'—

insert—

'access to'.

96 Amendment of s 22 (Procedures and practices of public sector entities)

Section 22(a), 'obligations of public officials'—

omit, insert—

'principles and values'.

97 Amendment of s 23 (Implementation statements)

(1) Section 23, heading—

omit, insert—

'23 Reporting'.

(2) Section 23, second and third dot points—

omit.

98 Renumbering of pt 4, divs 1A and 1B

Part 4, divisions 1A and 1B—

renumber as part 4, divisions 2 and 3.

99 Replacement of pt 6, hdg (Disciplinary action for contravention of approved codes of conduct)

Part 6, heading—

omit, insert—

'Part 5 Disciplinary action'.

100 Insertion of new s 23A

Part 5, as renumbered—

insert—

'23A Application of pt 5

'This part does not apply to a person mentioned in section 11(1)(c) or 13(1)(c).'.

101 Amendment of s 24 (Disciplinary action)

(1) Section 24, heading—

omit, insert—

'24 Disciplinary action for contravention of code of conduct or standard of practice'.

(2) Section 24, from 'by' to 'entity'—

omit, insert—

'or an approved standard of practice by a public official'.

102 Renumbering of pt 7 (Miscellaneous)

Part 7—

renumber as part 6.

103 Insertion of new pt 7

After section 25—

insert—

‘Part 7 Transitional provisions for Integrity Reform (Miscellaneous Amendments) Act 2010

‘26 Codes of conduct for public sector entities

‘(1) This section applies to a code of conduct that, immediately before the commencement, was an approved code of conduct and in force for a continuing public sector entity.

‘(2) The code continues in force and is taken to be the approved code of conduct for the continuing public sector entity during the transition period.

‘(3) In this section—

commencement means the commencement of this section.

continuing public sector entity means an entity, other than a public service agency, that was a public sector entity immediately before the commencement.

transition period means the period—

(a) starting on the commencement; and

(b) ending on 1 July 2011.

‘27 Codes of conduct for public service agencies

‘(1) This section applies to a code of conduct that, immediately before the commencement, was an approved code of conduct and in force for an entity that is a public service agency on the commencement.

‘(2) The code continues in force and is taken to be the approved code of conduct for the public service agency during the transition period.

‘(3) In this section—

commencement means the commencement of this section.

transition period means the period—

(a) starting on the commencement; and

(b) ending on 1 January 2011.'.

104 Amendment of schedule (Dictionary)

(1) Schedule, definitions *approved code of conduct*, *chief executive officer* of a local government, *chief executive officer* of a public sector entity, *ethics obligations*, *ethics principles*, *government entity*, *maladministration*, *public official*, *public sector entity*, *public service office*, *remuneration*, *responsible authority*, *senior executive equivalent*, *senior executive officer*, *senior officer* and *statutory office*—

omit.

(2) Schedule—

insert—

'***approved code of conduct*** means—

(a) for public service agencies—the code of conduct approved under section 12B; or

(b) for a public sector entity—a code of conduct approved under section 17.

approved standard of practice means a standard of practice for a public sector agency approved under section 12F.

chief executive officer—

1 The *chief executive officer* of a public sector entity is—

(a) for the Parliamentary Service—the clerk of the Parliament; or

(b) for a local government—the local government's chief executive officer; or

(c) for a university or university college—the vice-chancellor of the university or university college; or

(d) for another public sector entity—the person prescribed under a regulation or, if no person is prescribed, the person responsible to the Minister for the management of the entity.

2 The *chief executive officer* of a public service agency is—

(a) for the administrative office of a court or tribunal—the chief executive of the department in which is administered the legislation under which the court or tribunal is established; or

(b) for a department—the chief executive of the department; or

(c) for another public service agency—the person prescribed under a regulation or, if no person is prescribed, the person responsible to the Minister for the management of the agency.

commission chief executive means the chief executive of the Public Service Commission under the *Public Service Act 2008*.

ethics principles see section 4(2).

ethics values see section 5(2).

public official—

(a) for a public service agency, means—

(i) an officer or employee of the agency; or

(ii) a constituent member of the agency, whether holding office by election or selection;

but does not include a judicial officer; or

(b) for a public sector entity, means—

(i) an officer or employee of the entity; or

(ii) a constituent member of the entity, whether holding office by election or selection;

but does not include a local government councillor.

public sector entity means any of the following—

(a) the Parliamentary Service;

(b) a local government;

(c) a university, university college or agricultural college;

(d) an entity established under an Act or under State or local government authorisation for a public, State or local government purpose;

(e) an entity prescribed under a regulation;

but does not include any of the following—

(f) a GOC;

(g) a corporate entity under the *Local Government Act 2009* or the *City of Brisbane Act 2010*;

(h) the following entities under the *Education (General Provisions) Act 2006*—

(i) a parents and citizens association;

(ii) a non-State school;

(iii) an advisory committee;

(iv) an international educational institution;

(i) an entity prescribed under a regulation as a public service agency.

public service agency means any of the following—

(a) a department;

(b) a TAFE institute or statutory TAFE institute;

(c) the administrative office of a court or tribunal;

(d) an entity prescribed under a regulation that is not a public service agency.

responsible authority, for a public sector entity, means—

(a) for the Parliamentary Service—the Speaker; or

(b) for a university or university college—the council of the university or university college; or

(c) for a local government—the local government's chief executive officer; or

(d) for another public sector entity established under an Act—the Minister administering the Act; or

(e) for another public sector entity—the Minister administering the entity.'.

(3) Schedule, definition *conduct obligation*, from 'that' to 'officials'—

omit.

Part 11 Amendment of Public Service Act 2008

105 Act amended

This part amends the *Public Service Act 2008*.

106 Amendment of long title

(1) Long title, after 'employees,'—

insert—

'and'.

(2) Long title, from ', and to amend'—

omit.

107 Amendment of s 9 (Public service employees)

(1) Section 9(3), including note 2, '218'—

omit, insert—

'217'.

(2) Section 9(3), note 1, 'commission chief executive'—

omit, insert—

'appeals officer'.

108 Amendment of s 12 (Application of Act to various types of employees etc.)

Section 12(4),'officers'—

omit, insert—

'employees'.

109 Amendment of s 26 (Work performance and personal conduct principles)

(1) Section 26(j), 'for public officials'—

omit.

(2) Section 26(k)—

omit, insert—

'(k) complying with an approved code of conduct and any approved standard of practice as required under the *Public Sector Ethics Act 1994*, section 12H or 18.'.

110 Amendment of s 46 (Main functions)

(1) Section 46(1)—

insert—

'(ba) enhance and promote an ethical culture and ethical decision-making across the public service;

(bb) enhance the public service's leadership and management capabilities in relation to disciplinary matters;

(fa) report, at least annually, to the Minister on the application of the management and employment principles within the public service, including reporting on the following—

(i) the application of the principles, as a whole, within the public service as a whole;

(ii) the application of only 1 or more of the principles within the public service as a whole or a part of the public service;

(iii) the application of 1 or more of the principles for a specific purpose or to a specific group of persons;

(fb) monitor, and report to the Minister about, the workforce profile of the public service;'.

(2) Section 46(1)(ba) to (i)—

renumber as section 46(1)(c) to (m).

(3) Section 46—

insert—

'(3) In this section—

workforce profile means the demographic categories and other characteristics of a workforce.'.

111 Amendment of s 53 (Rulings by commission chief executive)

Section 53(ba),'officer'—

omit, insert—

'employee'.

112 Amendment of s 57 (Basis of employment)

Section 57(3), 'Governor in Council'—

omit, insert—

'Minister'.

113 Amendment of s 58 (Main functions)

(1) Section 58(2)(e)—

omit.

(2) Section 58(2)(f)—

renumber as section 58(2)(e).

114 Amendment of s 62 (Delegation)

Section 62(1), from 'Act'—

omit, insert—

'Act to an appropriately qualified staff member of the commission.'.

115 Amendment of s 77 (Staff members of the commission)

Section 77(2), 'Persons'—

omit, insert—

'The appeals officer and persons'.

116 Amendment of s 78 (Staff subject to direction by commission chief executive)

(1) Section 78, heading, after 'Staff'—

insert—

'**generally**'.

(2) Section 78—

insert—

'(2) Subsection (1) does not apply to—

(a) the appeals officer performing appeal functions; or

(b) another staff member—

(i) performing functions under section 88E to help the appeals officer perform appeal functions; or

(ii) performing appeal functions under a delegation under section 88F.

Note—

See section 88G in relation to staff members performing appeal functions.

‘(3) In this section—

appeal functions means the functions of the appeals officer mentioned in section 88C(1) and (2)(a) and (b).’.

117 Insertion of new ch 3, pt 5

Chapter 3—

insert—

‘Part 5 Appeals officer

‘88A Appeals officer

‘(1) The commission chief executive must appoint a person as a senior executive who is the appeals officer (the ***appeals officer***).

‘(2) To be appointed as the appeals officer, a person—

(a) must have the knowledge, experience and personal qualities to perform the functions of the appeals officer; and

(b) must not be a disqualified person.

‘(3) To remove any doubt, it is declared that chapter 4, part 2 applies in relation to the appointment of the appeals officer.

‘88B Acting as appeals officer

‘(1) The commission chief executive may appoint a person to act as the appeals officer during any period or all periods when—

(a) no-one is employed in the office; or

(b) the person holding the office is absent from duty or is, for another reason, unable to perform the functions of the appeals officer.

‘(2) The appointee must be—

(a) a public service officer; and

(b) eligible for appointment as the appeals officer under section 88A(2).

‘(3) It does not matter whether the appointee is or is not a senior executive.

‘88C Appeals officer’s functions

‘(1) The appeals officer is responsible for hearing and deciding appeals under chapter 7, part 1.

‘(2) The appeals officer’s other main functions are to do the following—

(a) communicate, in the way the officer considers appropriate, matters arising out of an appeal under chapter 7, part 1 that may affect decision-making for particular decisions in the public service, or in a particular government entity, to—

(i) persons who are likely to make decisions of that kind; or

(ii) persons who are likely to be affected by decisions of that kind; or

(iii) any other person if the officer considers the matters may be relevant to the person’s functions under an Act or other law;

(b) report to the Minister on the performance of the appeals officer’s functions under subsection (1);

(c) perform other duties as directed by the commission chief executive.

‘88D Report on performance of functions

‘(1) As soon as practicable after a financial year ends, the appeals officer must give the Minister a written report about the performance of the officer's functions during the financial year.

'(2) If the Minister asks the appeals officer for particular information concerning a matter mentioned in the report, the appeals officer must—

(a) comply with the request; and

(b) give the help the Minister needs to consider the information.

'(3) Information provided to the Minister under subsection (2) is confidential.

'88E Staff members to help appeals officer

'The commission chief executive must arrange for the services of staff members of the commission to be made available to help the appeals officer perform his or her functions under this Act.

'88F Delegation

'The appeals officer may delegate his or her functions under this Act to an appropriately qualified person.

'88G Duty of persons performing appeal functions

'(1) The appeals officer or any other person performing appeal functions, and any staff member performing functions to help the appeals officer perform appeal functions—

(a) must perform the functions independently, impartially, fairly, and in the public interest; and

(b) in performing the functions, is not subject to direction by the commission, the commission chief executive, or any Minister.

'(2) In this section—

appeal functions means the functions of the appeals officer mentioned in section 88C(1) and (2)(a) and (b).'.

118 Amendment of s 112 (Acting senior executives)

Section 112—

insert—

'(3) This section does not apply to the office of the senior executive who is the appeals officer.

Note—

See section 88B in relation to acting arrangements for the office of the senior executive who is the appeals officer.'.

119 Amendment of s 113 (Contractual basis of employment)

(1) Section 113(3)—

renumber as section 113(5).

(2) Section 113—

insert—

'(3) The contract may provide that, if the person's employment as a senior executive continues to the end of the term of the person's appointment as senior executive, a further contract of employment may be entered into under this section.

'(4) The entry into a further contract of employment as mentioned in subsection (3) extends the person's appointment by the further term stated in the contract.'.

120 Amendment of s 114 (Term of appointment)

Section 114(1), after 'appointment'—

insert—

', or an extension of that term in the way provided for in section 113(3) and (4),'.

121 Amendment of s 120 (Secondment)

Section 120—

insert—

‘(5) A directive may provide for any of the following about the secondment of a public service officer under this section—

(a) the circumstances in which a public service officer may be seconded;

(b) the terms that may apply to a secondment;

(c) administrative arrangements that may apply to a secondment;

(d) any other matter the commission chief executive considers relevant to a secondment.

‘(6) In making a decision to second a public service officer under this section, the chief executive of the first department must comply with any relevant directive under subsection (5).’.

122 Amendment of s 126 (Appointments on probation)

Section 126(3) to (5)—

omit, insert—

‘(3) The longer period must be a reasonable period having regard to the nature and circumstances of the employment.

‘(4) The chief executive may, by signed notice given to the officer, terminate the officer’s employment at any time during the probationary period.

‘(5) If, at the end of the probationary period, the officer’s employment has not been terminated under subsection (4), the chief executive must—

(a) confirm the appointment; or

(b) extend the probationary period for a further period (***extended probationary period***); or

(c) by signed notice given to the officer, terminate the employment.

‘(6) The extended probationary period must be a reasonable period having regard to the nature and circumstances of the employment.’.

123 Amendment of s 127 (Requirement about citizenship etc.)

Section 127(1)(b) and (c)—

omit, insert—

‘(b) resides in Australia and has permission, under a Commonwealth law, to—

(i) work in Australia; and

(ii) remain in Australia indefinitely.’.

124 Omission of ch 5, pt 4, div 1, hdg (General provisions)

Chapter 5, part 4, division 1, heading—

omit.

125 Amendment of s 137 (Suspension other than as disciplinary action)

(1) Section 137(1), after ‘may’—

insert—

‘, by notice,’.

(2) Section 137—

insert—

‘(1A) The notice must state—

(a) when the suspension starts and ends; and

(b) the remuneration to which the officer is entitled for the period of the suspension under subsection (5); and

(c) the effect that alternative employment may, under subsections (6) and (7), have on the entitlement.’.

(3) Section 137(2), ‘alternate’—

omit, insert—

'alternative'.

(4) Section 137(5)—

omit, insert—

'(5) For subsection (5), alternative employment does not include employment if—

(a) the employee was engaged in the employment at the time of the suspension; and

(b) the officer's engaging in the employment was not in contravention of—

(i) this Act; or

(ii) a standard of conduct applying to the officer under an approved code of conduct under the *Public Sector Ethics Act 1994*; or

(c) a standard of conduct, if any, applying to the officer under an approved standard of practice under the *Public Sector Ethics Act 1994*.'.

(5) Section 137(6), 'subsection (4)'—

omit, insert—

'subsection (5)'.

(6) Section 137(1A) to (9)—

renumber as section 137(2) to (10).

126 Omission of ch 5, pt 4, div 2 (Removal of statutory office holders who are term appointees)

Chapter 5, part 4, division 2—

omit.

127 Amendment of s 149 (Review of status of temporary employee)

(1) Section 149(1)—

omit, insert—

‘(1) This section applies—

(a) at the end of 2 years after a temporary employee has been continuously employed as a temporary employee in a department; and

(b) at the end of each 1-year period, after the period mentioned in paragraph (a), that a temporary employee has been continuously employed as a temporary employee in the department.’.

(2) Section 149(2)(a), after ‘employee’—

insert—

‘according to the terms of the existing employment’.

(3) Section 149(4), after ‘employee’—

insert—

‘according to the terms of the existing employment’.

(4) Section 149—

insert—

‘(5) In this section—

temporary employee—

(a) includes a general employee employed on a temporary basis; but

(b) does not include a person employed under section 147 or 148 on a casual basis.’.

128 Insertion of new s 179AA

Chapter 5, part 7—

insert—

‘179AA Directives about applying this part

‘(1) A directive of the commission chief executive may provide for matters relevant to how this part is to be applied in relation to a public service employee.

‘(2) In acting under this part, a chief executive must comply with any relevant directive under subsection (1).’.

129 Amendment of s 179A (Requirement to disclose previous history of serious disciplinary action)

(1) Section 179A(1), after ‘a person to’—

insert—

‘, or employ a person in,’.

(2) Section 179A(2) and (3), ‘or secondment’—

omit, insert—

‘, secondment or employment’.

130 Amendment of ch 6, hdg (Disciplinary action for public service officers and former public service officers)

Chapter 6, heading, ‘officers’—

omit, insert—

‘**employees**’.

131 Amendment of s 186A (Definitions for ch 6)

(1) Section 186A, definitions *employing chief executive*, *former public service officer* and *previous chief executive*—

omit.

(2) Section 186A—

insert—

‘***employing chief executive***, of a public service employee, means the chief executive of a department in which the employee holds an appointment or is employed after the employee changes from one department to another department.

former public service employee means a public service employee whose employment ends for any reason after a disciplinary ground arises.

previous chief executive, for a public service employee, means the chief executive of the department in which the employee holds an appointment or is employed before—

(a) the employee changes employment from the department to another department; or

(b) the employment of the employee as a public service employee ends for any reason.'.

132 Amendment of s 187 (Grounds for discipline)

(1) Section 187(1), from 'officer's' to 'officer has'—

omit, insert—

'employee's chief executive may discipline the employee if the chief executive is reasonably satisfied the employee has'.

(2) Section 187(1)(a) and (e), 'officer's'—

omit, insert—

'employee's'.

(3) Section 187(1)(d) and (3),'officer'—

omit, insert—

'employee'.

(4) Section 187(1)(ea), 'officer's appointment or secondment'—

omit, insert—

'employee's appointment, secondment or employment'.

(5) Section 187(1)(f)—

omit, insert—

'(f) contravened, without reasonable excuse—

(i) a provision of this Act; or

(ii) a standard of conduct applying to the employee under an approved code of conduct under the *Public Sector Ethics Act 1994*; or

(iii) a standard of conduct, if any, applying to the employee under an approved standard of practice under the *Public Sector Ethics Act 1994*.'.

133 Amendment of s 187A (How disciplinary action may be taken against a public service officer after the officer changes employment)

(1) Section 187A, 'officer'—

omit, insert—

'employee'.

(2) Section 187A(1)(a) and (2), after 'with'—

insert—

', or is employed by,'.

134 Amendment of s 188 (Disciplinary action that may be taken against a public service officer)

(1) Section 188, 'officer'—

omit, insert—

'employee'.

(2) Section 188(1) and (2),'officer's'—

omit, insert—

'employee's'.

(3) Section 188(1A) to (5)—

renumber as section 188(2) to (6).

135 Amendment of s 188A (Disciplinary action that may be taken against a former public service officer)

(1) Section 188A, 'officer'—

omit, insert—

'employee'.

(2) Section 188A,'officer's'—

omit, insert—

'employee's'.

(3) Section 188A—

insert—

'(1A) However, this section does not apply if—

(a) the former public service employee is an ambulance service officer and the ambulance service chief executive has taken, is taking, or intends to take disciplinary action against the employee in relation to the disciplinary ground under the *Ambulance Service Act 1991*, part 2, division 4, subdivision 2; or

(b) the former public service employee is a fire service officer and the fire service chief executive has taken, is taking, or intends to take disciplinary action against the employee in relation to the disciplinary ground under the *Fire and Rescue Service Act 1990*, part 4, division 3, subdivision 2.'.

(4) Section 188A(4) and (5), '(3)'—

omit, insert—

'(4)'.

(5) Section 188A(1A) to (9)—

renumber as section 188A(2) to (10).

136 Insertion of new s 188AB

After section 188A—

insert—

‘188AB Disciplinary action that may be taken against a former ambulance service officer or former fire service officer

‘(1) This section applies if—

(a) a disciplinary ground arises in relation to an ambulance service officer or fire service officer (the ***former service officer***); and

(b) after the disciplinary ground arises, the officer’s employment as an ambulance service officer or fire service officer ends for any reason; and

(c) the officer is a public service employee in a department.

‘(2) However, this section does not apply in relation to a former service officer if—

(a) the officer was an ambulance service officer and the previous or employing chief executive has taken, is taking, or intends to take action against the officer under the *Ambulance Service Act 1991*, part 2, division 4, subdivision 3; or

(b) the officer was a fire service officer and the previous or employing chief executive has taken, is taking, or intends to take action against the officer under the *Fire and Rescue Service Act 1990*, part 4, division 3, subdivision 3.

‘(3) The previous chief executive may make a disciplinary finding about the disciplinary ground even though the former service officer is no longer employed in the service for which the previous chief executive is the chief executive.

‘(4) Despite subsection (3) and without limiting or being limited by any other power of delegation under any Act, the previous chief executive may delegate to the employing chief executive the authority under subsection (3) to make a disciplinary finding about the former service officer.

‘(5) If—

(a) the previous chief executive makes a disciplinary finding about the disciplinary ground; and

(b) the previous chief executive and the person's employing chief executive agree that disciplinary action against the former service officer is reasonable in the circumstances;

the employing chief executive may take disciplinary action against the officer under section 188 as if a disciplinary ground exists.

‘(6) If—

(a) the previous chief executive delegates to the employing chief executive the authority under subsection (4) to make a disciplinary finding about the former service officer; and

(b) the employing chief executive makes a disciplinary finding about the former service officer;

the employing chief executive may take disciplinary action against the officer under section 188 without the agreement of the previous chief executive.

‘(7) The previous chief executive may give to the employing chief executive any information about the person or a disciplinary ground relating to the person to help the employing chief executive to perform a function under subsection (5) or (6) in relation to the person.

‘(8) If, in relation to a person who was an ambulance service officer or fire service officer, a chief executive is both the previous chief executive and employing chief executive, this section applies with necessary changes to allow the chief executive to take disciplinary action against the person as provided under this section.

‘(9) In this section—

employing chief executive, for a person, means the chief executive of the department in which the person is employed.

previous chief executive means—

(a) for a person who was an ambulance service officer—the ambulance service chief executive; or

(b) for a person who was a fire service officer—the fire service chief executive.’.

137 Amendment of s 188B (Information about disciplinary action to be given by chief executive)

Section 188B(1)(b)(i), ‘or continued appointment’—

omit, insert—

‘or employment, or continued appointment or employment,’.

138 Amendment of s 189 (Suspension of public service officer liable to discipline)

(1) Section 189, ‘officer’—

omit, insert—

‘employee’.

(2) Section 189(2)—

renumber as section 189(3).

(3) Section 189—

insert—

‘(2) However, before suspending the employee, the chief executive must consider all alternative duties that may be available for the employee to perform.’.

139 Amendment of s 190 (Procedure for disciplinary action)

Section 190(1),‘officer’—

omit, insert—

‘employee’.

140 Amendment of s 191 (Effect of suspension from duty)

(1) Section 191, 'officer'—

omit, insert—

'employee'.

(2) Section 191, 'officer's'—

omit, insert—

'employee's'.

(3) Section 191(3)(b)—

omit, insert—

'(b) the employee's engaging in the employment was not in contravention of—

(i) this Act; or

(ii) a standard of conduct applying to the employee under an approved code of conduct under the *Public Sector Ethics Act 1994*; or

(c) a standard of conduct, if any, applying to the employee under an approved standard of practice under the *Public Sector Ethics Act 1994*.'.

(4) Section 191(5)—

omit, insert—

'(5) The continuity of a public service employee's service as a public service officer is taken not to have been broken only because of a suspension under this chapter.

'(6) The continuity of a general or temporary employee's employment as a general or temporary employee is taken not to have been broken only because of a suspension under this chapter.'.

141 Amendment of s 192 (Additional procedures for suspension or termination)

Section 192(1) and (2)(a)(ii),'officer'—

omit, insert—

'employee'.

142 Replacement of ch 7, pt 1, hdg (Appeals to the commission chief executive)

Chapter 7, part 1, heading—

omit, insert—

'Part 1 Appeals to the appeals officer'.

143 Amendment of s 193 (Appeals to commission chief executive)

Section 193, 'commission chief executive'—

omit, insert—

'appeals officer'.

144 Amendment of s 194 (Decisions against which appeals may be made)

(1) Section 194(1), 'commission chief executive'—

omit, insert—

'appeals officer'.

(2) Section 194(1)(b)(ii), 'officer'—

omit, insert—

'employee'.

(3) Section 194(1)(e), after 'employee'—

insert—

'(a ***temporary employment decision***)'.

(4) Section 194—

insert—

'(3) In this section—

temporary employee—

(a) includes a general employee employed on a temporary basis; but

(b) does not include a person employed under section 147 or 148 on a casual basis.'.

145 Amendment of s 195 (Decisions against which appeals can not be made)

(1) Section 195(1), 'to the commission chief executive'—

omit, insert—

'to the appeals officer'.

(2) Section 195(1)(h)—

omit.

(3) Section 195(1)(i)—

renumber as section 195(1)(h).

(4) Section 195(5), definition *non-appealable appointment*, paragraph (b), after 'notice'—

insert—

', or a directive for this part,'.

146 Amendment of s 196 (Who may appeal)

(1) Section 196, 'to the commission chief executive'—

omit, insert—

'to the appeals officer'.

(2) Section 196(a) and (b), 'officer'—

omit, insert—

'employee'.

(3) Section 196(c), after 'for'—

insert—

'a'.

(4) Section 196(e), 'decision mentioned in section 194(1)(e)'—

omit, insert—

'temporary employment decision'.

147 Amendment of s 197 (Starting an appeal)

(1) Section 197, 'commission chief executive'—

omit, insert—

'appeals officer'.

(2) Section 197(3), after 'notice'—

insert—

'if the appellant satisfies the appeals officer that there is a reasonable ground for extending the time'.

148 Amendment of s 198 (Notice by commission chief executive of appeal)

Section 198, 'commission chief executive'—

omit, insert—

'appeals officer'.

149 Amendment of s 199 (Stay of operation of decisions etc.)

Section 199, 'commission chief executive'—

omit, insert—

'appeals officer'.

150 Amendment of s 200 (Commission chief executive may decline to hear particular appeals)

(1) Section 200, heading, 'Commission chief executive'—

omit, insert—

‘**Appeals officer**’.

(2) Section 200(1)—

omit, insert—

‘(1) The appeals officer may decline to hear an appeal against a decision mentioned in section 194(1)(a) or (d) unless he or she is satisfied the appellant has used procedures required to be used under an employee complaints directive.’.

(3) Section 200(2) to (4), ‘commission chief executive’—

omit, insert—

‘appeals officer’.

(4) Section 200—

insert—

‘(5) In this section—

employee complaints directive means a directive made under section 218A.’.

151 Amendment of s 201 (Appeal is by way of review)

(1) Section 201, ‘commission chief executive’—

omit, insert—

‘appeals officer’.

(2) Section 201—

insert—

‘(1A) The purpose of the appeal is to decide whether the decision appealed against was fair and reasonable.’.

(3) Section 201(1A) to (3)—

renumber as section 201(2) to (4).

152 Amendment of s 202 (Commission chief executive’s functions on appeal)

(1) Section 202, heading, ‘Commission chief executive’s’—

omit, insert—

‘**Appeals officer’s**’.

(2) Section 202, ‘commission chief executive’—

omit, insert—

‘appeals officer’.

(3) Section 202—

insert—

‘*Note—*

See also section 88G.’.

153 Amendment of s 203 (Commission chief executive may decide procedures)

(1) Section 203, heading, ‘Commission chief executive’—

omit, insert—

‘**Appeals officer**’.

(2) Section 203, ‘commission chief executive’—

omit, insert—

‘appeals officer’.

(3) Section 203(1)(d), ‘if the parties to the appeal agree’—

omit.

154 Amendment of s 204 (Representation of parties)

Section 204(3), ‘commission chief executive’s’—

omit, insert—

‘appeals officer’s’.

155 Amendment of s 205 (Commission chief executive’s powers on appeal)

(1) Section 205, heading, ‘Commission chief executive’s’—

omit, insert—

‘**Appeals officer’s**’.

(2) Section 205, ‘commission chief executive’—

omit, insert—

‘appeals officer’.

156 Amendment of s 206 (Withdrawing an appeal)

Section 206, ‘commission chief executive’—

omit, insert—

‘appeals officer’.

157 Amendment of s 208 (Decision on appeal)

(1) Section 208(1), ‘commission chief executive may’—

omit, insert—

‘appeals officer may’.

(2) Section 208(1)(b), after ‘promotion decision’—

insert—

‘or temporary employment decision’.

(3) Section 208(2) and (4), ‘commission chief executive’—

omit, insert—

‘appeals officer’.

158 Amendment of s 209 (Criteria for deciding process deficiency)

Section 209, ‘commission chief executive must’—

omit, insert—

‘appeals officer must’.

159 Replacement of s 210 (Reopening decided appeals)

Section 210—

omit, insert—

‘210 Decision on appeal is binding on parties

‘(1) The appeals officer’s decision on an appeal is binding on all parties to the appeal.

‘(2) Without limiting subsection (1), a chief executive of a department must take all steps necessary to give effect to a decision of the appeals officer applying to the department.’.

160 Amendment of s 211 (Attendance at an appeal is part of an employee’s duties)

Section 211(b), ‘commission chief executive’—

omit, insert—

‘appeals officer’.

161 Amendment of s 212 (Public service employee’s entitlements for attending appeal as part of duties)

Section 212(2), ‘commission chief executive’—

omit, insert—

‘appeals officer’.

162 Amendment of s 213 (Entitlement of non-public service employees)

Section 213(1) and (3), ‘commission chief executive’—

omit, insert—

‘appeals officer’.

163 Amendment of s 214 (Relevant department’s or public service office’s financial obligation for appeal)

(1) Section 214(1)(a), ‘commission chief executive’s’—

omit, insert—

'appeals officer's'.

(2) Section 214(2), 'commission chief executive'—

omit, insert—

'appeals officer'.

164 Insertion of new ss 214A and 214B

Chapter 7, part 1—

insert—

'214A Protection of appeals officials from liability

'(1) An appeals official is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this chapter.

'(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

'(3) In this section—

appeals official means a staff member of the commission, or any other person, performing functions for an appeal under this part.

'214B Commission chief executive must make directive for this part

'(1) The commission chief executive must make a directive for this part.

'(2) The directive—

(a) must make provision for—

(i) the decisions, if any, against which an appeal may be made to the appeals officer; and

(ii) the persons who are entitled to appeal against a decision mentioned in section 194(1); and

(iii) the directions, if any, the appeals officer may give under section 208(1)(b); and

(b) may, for section 195(5), definition *non-appealable appointment*, declare an appointment to be an appointment against which an appeal may not be made.

'(3) However, the directive must not direct, or purport to direct, the appeals officer or another person to do or not do something, or to do or not do something in a particular way, in relation to an appeal under this part.'.

165 Amendment of s 215 (Jurisdiction of IRC for industrial matters)

Section 215(3), 'commission chief executive'—

omit, insert—

'appeals officer'.

166 Amendment of s 216 (Application of pt 3)

Section 216(1)(c)—

omit.

167 Insertion of new ch 7, pt 4

Chapter 7—

insert—

'Part 4 Miscellaneous

'218A Commission chief executive may make directive about dealing with complaints by officers and employees

'(1) The commission chief executive may make a directive about how departments must deal with complaints made by officers or employees of the department about—

(a) decisions made by officers or employees of the department; or

(b) the conduct of officers or employees of the department.

'(2) Without limiting subsection (1), a directive made under this section—

(a) must provide for—

(i) the procedures for dealing with complaints mentioned in subsection (1); and

(ii) the period within which the complaints must be finally dealt with; and

(iii) the notification of decisions made in dealing with the complaints; and

(b) must provide that, if a person required to deal with a complaint about a decision mentioned in subsection (1)(a) fails to finally deal with the complaint within the period mentioned in paragraph (a)(ii), the person is taken to have confirmed the decision at the end of that period; and

(c) may apply to a decision mentioned in section 194; and

(d) may provide for a system for dealing with complaints that involves—

(i) a person dealing with a complaint in the first instance; and

(ii) another person dealing with (including, for example, by way of review) decisions made by the person who dealt with the complaint in the first instance.'.

168 Amendment of ch 9, pt 2, hdg (Transitional provisions for Public Service Act 2008)

Chapter 9, part 2, heading, 'Public Service Act 2008'—

omit, insert—

'**Act No. 38 of 2008**'.

169 Insertion of new ch 9, pt 7

Chapter 9—

insert—

‘Part 7 Transitional provisions for Integrity Reform (Miscellaneous Amendments) Act 2010

‘268 Definitions for pt 7

‘In this part—

commencement means the commencement of this part.

initial review decision, for a person, means the decision under section 149(2) in relation to the person because the 2-year period mentioned in section 149(1)(a) has ended for the person.

section 149 directive means a commission chief executive directive made for section 149(2).

subsequent review decision, for a person, means a decision under section 149(2) in relation to the person because a 1-year period mentioned in section 149(1)(b) has ended for the person.

transition period means the period—

(a) starting at the commencement; and

(b) ending 1 year after the commencement.

‘269 Appeals officer

‘(1) This section applies to a person who, immediately before the commencement, held appointment under this Act as the Executive Director, Appeal Services, Public Service Commission.

'(2) The person is taken to have been appointed under this Act as the appeals officer.

'270 Appointments on probation if probationary period has not ended

'Section 126 as in force before the commencement continues to apply in relation to a public service officer appointed on probation before the commencement and whose probationary period has not ended at the commencement.

'271 Application of s 127 to appointments made before the commencement

'The amendment of section 127 by the *Integrity Reform (Miscellaneous Provisions) Amendment Act 2010* does not affect the appointment of a public service officer appointed before the commencement.

'272 Review of status of general employees employed on a temporary basis before the commencement

'(1) This section applies to a person who is a temporary general employee employed in a department at the commencement.

'(2) Section 149, as in force after the commencement, applies in relation to the person, subject to subsections (3) to (5).

'(3) If the person has been continuously employed by the department as a temporary general employee for more than 2 years but less than 3 years—

(a) the period for making the initial review decision for the person is the period that ends when the transition period ends; and

(b) the period for making a subsequent review decision for the person is the period provided for in a section 149 directive worked out by reference to the 1 year anniversary of the day the initial review decision is made for the person.

‘(4) If the person has been continuously employed by the department as a temporary general employee for 3 years or more and the chief executive of the department has, under a section 149 directive, previously reviewed the person's employment to decide whether the person is to continue as a temporary general employee—

(a) the decision of the chief executive on the previous review is taken to be the initial review decision for the person; and

(b) the period for making a subsequent review decision for the person is—

(i) the period that ends when the transition period ends; or

(ii) if a section 149 directive provides for a longer period, the longer period.

‘(5) If the person has been continuously employed by the department as a temporary general employee for 3 years or more and subsection (4) does not apply—

(a) the period for making the initial review decision for the person is the period that ends when the transition period ends; and

(b) the period for making a subsequent review decision for the person is the period provided for in a section 149 directive worked out by reference to the 1 year anniversary of the day the initial review decision is made for the person.

‘(6) In this section—

temporary general employee means a person who is a general employee—

(a) employed on a temporary basis; and

(b) not employed on a casual basis.

‘273 Review of status of temporary employees employed more than 2 years at the commencement

‘(1) This section applies in relation to a person who is a temporary employee employed in a department at the commencement if the person has been continuously employed in the department as a temporary employee for more than 2 years.

‘(2) If the person has been continuously employed in the department as a temporary employee for less than 3 years—

(a) the period for making the initial review decision for the person is the period that ends when the transition period ends; and

(b) the period for making a subsequent review decision for the person is the period provided for in a section 149 directive worked out by reference to the 1 year anniversary of the day the initial review decision is made for the person.

‘(3) If the person has been continuously employed in the department as a temporary employee for 3 years or more—

(a) the period for making the first subsequent review decision for the person is—

(i) the period that ends when the transition period ends; or

(ii) if a section 149 directive provides for a longer period, the longer period; and

(b) the period for making any other subsequent review decision for the person is the period provided for in a section 149 directive worked out by reference to the 1 year anniversary of the day the first subsequent review decision is made for the person.

‘(4) In this section—

temporary employee does not include a temporary employee who is a employed on a casual basis.

‘274 Disciplinary action against general and temporary employees

‘(1) A general or temporary employee may be disciplined under chapter 6 only in relation to a disciplinary ground that arises after the commencement.

‘(2) Without limiting subsection (1), section 187A only applies to a general or temporary employee who changes from a department to another department after the commencement.

‘(3) Subsection (4) applies if—

(a) at the commencement, there is, in relation to a general or temporary employee, 1 or more disciplinary grounds for which the employee has not been disciplined under any other law, code of conduct or other procedure; and

(b) another disciplinary ground in relation to the employee arises after the commencement; and

(c) the employee’s chief executive when the grounds mentioned in paragraph (a) arose is the employee’s chief executive when the ground mentioned in paragraph (b) arose.

‘(4) The employee’s chief executive when the ground mentioned in subsection (3)(b) arose may discipline the employee under chapter 6 in relation to all of the grounds as if all of the grounds arose after the commencement.

‘275 Disciplinary action against former general and temporary employees

‘(1) A person who was a general or temporary employee may be disciplined under chapter 6 only in relation to a disciplinary ground that arises after the commencement.

‘(2) To remove any doubt, it is declared that, for section 188A, a person who was a general or temporary employee is a former public service employee only if the person’s employment as a general or temporary employee ends after the commencement.

'276 Appeals not started at commencement

'(1) This section applies if, immediately before the commencement, a person could have but has not appealed against a decision under chapter 7, part 1.

'(2) The person may appeal against the decision under this Act as in force before the commencement.

'(3) Without limiting subsection (2)—

(a) the appeal must be made within the period within which the period was required to be made under this Act as in force before the commencement; and

(b) the appeal must be heard and decided by the commission chief executive under this Act as in force before the commencement.

'(4) For subsections (2) and (3), this Act as in force before the commencement continues to apply in relation to starting the appeal and the appeal.

'(5) However, section 210 as in force before the commencement does not apply in relation to the commission chief executive's decision on the appeal.

'277 Appeals started at commencement

'(1) This section applies to an appeal against a decision under chapter 7, part 1 that has been started but not decided at the commencement.

'(2) The commission chief executive must hear and decide the appeal, or continue to hear and decide the appeal, under this Act as in force before the commencement.

'(3) For subsection (2), this Act as in force before the commencement continues to apply in relation to the appeal.

'(4) However, section 210 as in force before the commencement does not apply in relation to the commission chief executive's decision on the appeal.

‘278 Reopening decisions made before the commencement

‘(1) Subsection (2) applies in relation to an appeal under chapter 7, part 1 that has been reopened under section 210 as in force before the commencement.

‘(2) The commission chief executive must continue to hear and decide the reopened appeal under this Act as in force before the commencement.

‘(3) Subsection (4) applies in relation to an appeal under chapter 7, part 1 that has been decided before the commencement but has not been reopened under section 210 as in force before the commencement.

‘(4) A party to the appeal may apply to the commission chief executive to reopen the appeal under section 210 as in force before the commencement within 21 days after the commencement.

‘(5) For subsections (2) and (4), this Act as in force before the commencement continues to apply in relation to the reopened appeal or the reopening of the appeal.

‘279 Amendment of Public Service Regulation 2008

‘The amendment of the *Public Service Regulation 2008* by the *Integrity Reform (Miscellaneous Provisions) Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

170 Omission of sch 2 (Statutory office holders who are not term appointees)

Schedule 2—

omit.

171 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *former public service officer*, *statutory office* and *term appointee*—

omit.

(2) Schedule 4—

insert—

‘***ambulance service chief executive*** means the chief executive under the *Ambulance Service Act 1991*.

ambulance service officer means a person employed under the *Ambulance Service Act 1991*, section 13.

appeals officer see section 88A(1).

changes employment, for chapter 6, see section 186A.

commencement, for chapter 9, part 7, see section 268.

employing chief executive, for chapter 6, see section 186A.

fire service chief executive means the chief executive under the *Fire and Rescue Service Act 1990*.

fire service officer means a person employed under the *Fire and Rescue Service Act 1990*, section 25.

former public service employee, for chapter 6 or 7, see section 186A.

initial review decision, for chapter 9, part 7, see section 268.

section 149 directive, for chapter 9, part 7, see section 268.

statutory office means an office established under an Act to which a person may be appointed only by the Governor in Council or a Minister.

subsequent review decision, for chapter 9, part 7, see section 268.

temporary employment decision see section 194(1)(e).

transition period, for chapter 9, part 7, see section 268.’.

(3) Schedule 4, definition *disciplinary declaration*, ‘188A(6)’—

omit, insert—

‘188A(7)’.

Part 12 Amendment of Public Service Regulation 2008

172 Regulation amended

This part amends the *Public Service Regulation 2008*.

173 Amendment of s 7 (Application of appeal provisions)

Section 7—

insert—

‘(4) For applying chapter 7 of the Act to a column 1 entity or an employee of a column 1 entity—

(a) the reference in section 194(1)(b) of the Act to a disciplinary law is taken to include a reference to a law, other than the Act, under which employees of the column 1 entity are disciplined (***prescribed disciplinary law***); and

(b) the reference in section 194(1)(b)(ii) to a disciplinary declaration made under section 188A is taken to include a reference to a declaration made under the prescribed disciplinary law that states the disciplinary action that would have been taken against the employee if the employee’s employment had not ended.’.

Part 13 Amendment of Right to Information Act 2009

174 Act amended

This part amends the *Right to Information Act 2009*.

175 Insertion of new ss 140A and 140B

After section 140—

insert—

'140A Declaration of interests

'(1) This section applies to the information commissioner on appointment.

Note—

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, section 36, definition *appoint*.

'(2) The information commissioner must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—

(a) the interests of the information commissioner; and

(b) the interests of each person who is a related person in relation to the information commissioner.

'(3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the information commissioner were a member of the Legislative Assembly.

'(4) Subsections (5) and (6) apply if, after the giving of the statement—

(a) there is a change in the interests mentioned in subsection (2); and

(b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the information commissioner were a member of the Legislative Assembly.

'(5) The information commissioner must give the Speaker a revised statement.

'(6) The revised statement must—

(a) be given as soon as possible after the relevant facts about the change come to the information commissioner's knowledge; and

(b) comply with subsection (3).

'(7) The Speaker must, if asked, give a copy of the latest statement to—

(a) the Minister; or

(b) the leader of a political party represented in the Legislative Assembly; or

(c) the Crime and Misconduct Commission; or

(d) a member of the parliamentary committee; or

(e) the integrity commissioner.

'(8) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the information commissioner to another member of the Legislative Assembly.

'(9) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the information commissioner has not complied with the requirements of this section.

'(10) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

'(11) In this section—

integrity commissioner means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

related person, in relation to the information commissioner, means—

(a) the information commissioner's spouse; or

(b) a person who is totally or substantially dependent on the information commissioner and—

(i) the person is the information commissioner's child; or

(ii) the person's affairs are so closely connected with the affairs of the information commissioner that a benefit derived by the person, or a substantial part of it, could pass to the information commissioner.

'140B Conflicts of interest

'(1) If the information commissioner has an interest that conflicts or may conflict with the discharge of the information commissioner's responsibilities, the information commissioner—

(a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as practicable after the relevant facts come to the information commissioner's knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.

'(2) If the conflict or possible conflict between an interest of the information commissioner and the information commissioner's responsibilities is resolved, the information commissioner must give to the Speaker and parliamentary committee a statement advising of the action the information commissioner took to resolve the conflict or possible conflict.

'(3) A reference in this section to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.'.

176 Insertion of new ch 7, pt 4

Chapter 7, after section 206—

insert—

‘Part 4 Transitional provision for Integrity Reform (Miscellaneous Amendments) Act 2010

‘206A Declaration of interests by information commissioner

‘(1) This section applies to the person who, immediately before the commencement of this section, was the information commissioner.

‘(2) The person must comply with section 140A(2) within 1 month after the commencement of this section.’.

Part 14 Minor and consequential amendments

177 Acts amended in schedule

(1) The schedule amends the Acts it mentions.

(2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

Schedule Acts amended

sections 70 and 177

Corrective Services Act 2006

1 Section 272(3)(b), examples, second dot point, from ‘a code’ to ‘department’—

omit, insert—

‘the approved code of conduct for public service agencies, and any approved standard of practice for the department, under the *Public Sector Ethics Act 1994*’.

Education (General Provisions) Act 2006

1 Section 107(4)—

omit.

2 Section 107(5)—

renumber as section 107(4).

Parliament of Queensland Act 2001

1 Sections 65(2), 71(1), 103(1)(a) and 112(3)(a), editor’s note, ‘*Editor’s note*’—

omit, insert—

‘*Note*’.

2 Section 68(1), note 1, ‘making the oath or’—

omit, insert—

‘taking the oath or making the’.

3 Section 72(1)(a), note, ‘making the oath or’—

omit, insert—

‘taking the oath or making the’.

4 Section 79, definition *community service obligation*, ‘section 121’—

omit, insert—

‘section 112’.

5 Section 79, definition *community service obligation*, editor’s note—

omit.

6 Section 92(2)(a) and (b), ‘obligations’—

omit, insert—

‘values’.

7 Section 121(1)(a), at the end—

insert—

‘or’.

8 Sections 162, 163 and 164, heading, all words after ‘provision’—

omit.

Transport Operations (Passenger Transport) Act 1994

1 Section 113I(4)(a), from ‘obligations’ to ‘imposed on’—

omit, insert—

‘values under the *Public Sector Ethics Act 1994*, part 3 apply to’.