



Queensland

Crime and Corruption and Other Legislation Amendment Act 2018

Act No. 29 of 2018

An Act to amend the Ambulance Service Act 1991, the Crime and Corruption Act 2001, the Director of Public Prosecutions Act 1984, the Fire and Emergency Services Act 1990, the Ombudsman Act 2001, the Police Service Administration Act 1990, the Public Service Act 2008 and the Public Service Regulation 2018 for particular purposes

[Assented to 9 November 2018]



Queensland

Crime and Corruption and Other Legislation Amendment Act 2018

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Crime and Corruption and Other Legislation Amendment Act 2018*.

2 Commencement

Sections 5, 6 and 44 commence on a day to be fixed by proclamation.

Part 2 Amendment of Crime and Corruption Act 2001

3 Act amended

This part amends the *Crime and Corruption Act 2001*.

4 Amendment of s 13 (Purpose of div 2)

Section 13, note, ‘section 33(b)’—

omit, insert—

section 33(1)(b)

5 Amendment of s 15 (Meaning of *corrupt conduct*)

(1) Section 15(1)(c)—

omit.

(2) Section 15(1)(d)—

[s 5]

renumber as section 15(1)(c).

(3) Section 15(2)—

omit, insert—

(2) **Corrupt conduct** also means conduct of a person, regardless of whether the person holds or held an appointment, that—

(a) impairs, or could impair, public confidence in public administration; and

(b) involves, or could involve, any of the following—

(i) collusive tendering;

(ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—

(A) protecting health or safety of persons;

(B) protecting the environment;

(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;

(iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;

(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;

(v) fraudulently obtaining or retaining an appointment; and

(c) would, if proved, be—

(i) a criminal offence; or

- (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

6 Amendment of s 16 (Conduct happening over time, or at any time, may be corrupt conduct)

- (1) Section 16(1)(a) and (b), 'commencement of this Act'—

omit, insert—

relevant commencement

- (2) Section 16—

insert—

- (3) In this section—

relevant commencement means—

- (a) generally—the commencement of this Act; and
- (b) for corrupt conduct under section 15(2)—the commencement of that subsection.

7 Amendment of s 33 (Commission's corruption functions)

Section 33—

insert—

- (2) The commission's ***corruption functions*** also include—

(a) investigating and otherwise dealing with—

- (i) conduct liable to allow, encourage or cause corrupt conduct; and
- (ii) conduct connected with corrupt conduct; and

(b) investigating whether corrupt conduct or conduct mentioned in paragraph (a)(i) or (ii)

[s 8]

may have happened, may be happening or may happen.

8 Amendment of s 35 (How commission performs its corruption functions)

(1) Section 35(1)(f), from ‘initiative’—

omit, insert—

initiative—

- (i) the incidence, or particular cases, of corruption throughout the State; or
- (ii) the matters mentioned in section 33(2);

(2) Section 35(3), ‘section 33(b)’—

omit, insert—

section 33(1)(b)

9 Insertion of new s 40A

Chapter 2, part 3, division 3—

insert—

40A Record of alleged corrupt conduct not notified

- (1) This section applies if a public official decides that a complaint, or information or matter, about alleged corrupt conduct is not required to be notified to the commission under section 38.
- (2) The public official must make a record of the decision.
- (3) The record must include—
 - (a) the details of the complaint or information or matter; and
 - (b) the evidence on which the public official relied in making the decision; and
 - (c) any other reasons for the decision.

-
- (4) The commission may ask a public official to give the commission access to a record made under this section in a stated way and by a stated time.
 - (5) A public official must comply with a request made of the official under subsection (4).

10 Amendment of ch 2, pt 3, div 4, hdg (Dealing with complaints)

Chapter 2, part 3, division 4, heading, after ‘complaints’—
insert—

and other matters

11 Insertion of new s 46A

After section 46—

insert—

46A Dealing with matters mentioned in s 33(2)

- (1) This section applies to a matter mentioned in section 33(2).
- (2) The commission deals with the matter by—
 - (a) assessing the matter; and
 - (b) if the commission considers it appropriate, investigating the matter; and
 - (c) taking the action the commission considers most appropriate in the circumstances having regard to the public interest principle set out in section 34(d).
- (3) For dealing with the matter, the commission may require a public official to provide stated information about the matter in the way and at the times the commission directs.
- (4) A public official must comply with a requirement made under subsection (3).

[s 12]

12 Amendment of s 49 (Reports about complaints dealt with by the commission)

(1) Section 49(2)(a)—

omit, insert—

(a) a prosecuting authority, for the purposes of any prosecution proceedings the authority considers warranted;

(2) Section 49(5)—

omit, insert—

(5) In this section—

prosecuting authority does not include the director of public prosecutions.

13 Amendment of s 50 (Commission may prosecute corrupt conduct)

(1) Section 50(3)—

omit.

(2) Section 50(4), definition *prescribed appointment*—

omit.

(3) Section 50(4), definition *prescribed person*, paragraph (b)(i) and (ii)—

omit, insert—

(i) who holds an appointment in a unit of public administration; or

(ii) who held an appointment in a unit of public administration that ended after the corrupt conduct happened, regardless of whether the appointment ended before or after the start of a disciplinary proceeding for the conduct.

(4) Section 50(4)—

renumber as section 50(3).

14 Replacement of s 55 (Sharing of intelligence information)

Section 55—

omit, insert—

55 Access to intelligence information held by police service

The commissioner of police must give the chairperson access to intelligence information held by the police service as required by the chairperson as soon as possible after receiving the request.

15 Replacement of s 60 (Commission may give evidence or information to other entities)

Section 60—

omit, insert—

60 Use and disclosure of information, document or thing

- (1) The commission may use any information, document or thing in the commission's possession in performing the commission's functions.
- (2) The commission may give intelligence information or other information to any entity the commission considers appropriate, including, for example—
 - (a) a unit of public administration; and
 - (b) a law enforcement agency; and
 - (c) the auditor-general; and
 - (d) a commissioner under the *Electoral Act 1992*; and
 - (e) the ombudsman.

[s 16]

Note—

See section 213 in relation to making a record of, or wilfully disclosing, information given to a person under this section on the understanding, express or implied, that the information is confidential.

16 Omission of s 62 (Restriction on access)

Section 62—

omit.

17 Insertion of new s 71A

Chapter 2, part 6, division 5—

insert—

71A Report containing adverse comment

- (1) This section applies if the commission proposes to make an adverse comment about a person in a report to be tabled in the Legislative Assembly, or published to the public, under this Act.
- (2) The commission must not make the proposed adverse comment unless, before the report is prepared, the commission gives the person an opportunity to make submissions about the proposed adverse comment.
- (3) If the person makes submissions and the commission still proposes to make the adverse comment, the commission must ensure the person's submissions are fairly stated in the report.

18 Amendment of s 197 (Restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion)

Section 197—

insert—

- (7) Subsection (2) does not prevent any information, document or other thing obtained as a direct or indirect consequence of the individual giving or producing the answer, document, thing or statement from being admissible in evidence against the individual in a civil, criminal or administrative proceeding.

19 Amendment of s 219BA (Meaning of *reviewable decision*)

- (1) Section 219BA(2), definition *disciplinary declaration*—

insert—

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

(d) the *Fire and Emergency Services Act 1990*, section 30H.

- (2) Section 219BA(2), definition *prescribed person*, ‘section 50(4)’—

omit, insert—

section 50(3)

- (3) Section 219BA(2), definition *prescribed person*, paragraph (b), ‘an appeal’—

omit, insert—

a proceeding for a reviewable decision

- (4) Section 219BA(2), definition *prescribed person*, paragraph (b)(ii), ‘appeal’—

omit, insert—

review

20 Amendment of s 219DA (QCAT hearing in relation to prescribed person whose employment or appointment has ended)

Section 219DA, ‘section 50(4)’—

[s 21]

omit, insert—

section 50(3)

21 Amendment of s 219G (Proceedings relating to reviewable decisions)

Section 219G(2), ‘14 days’—

omit, insert—

28 days

22 Amendment of s 219I (Powers for corrupt conduct)

Section 219I(1AA), ‘section 50(4)’—

omit, insert—

section 50(3)

23 Amendment of s 219IA (QCAT powers for prescribed persons whose employment or appointment ends)

Section 219IA(1), ‘section 50(4)’—

omit, insert—

section 50(3)

24 Amendment of s 219J (Additional power for reviewable decisions)

(1) Section 219J—

insert—

(2A) Subject to subsection (4), if the reviewable decision involved the making of, or failure to make, a disciplinary declaration, the discipline that QCAT may impose under subsection (2) includes making a disciplinary declaration.

(2) Section 219J(6), definitions *decision* and *discipline*—

omit.

- (3) Section 219J(6), definition *disciplinary declaration*, paragraph (a)—

omit, insert—

- (a) for a reviewable decision, a disciplinary declaration as defined under section 219BA(2); or

- (4) Section 219J(6), definition *disciplinary declaration*, paragraph (b), ‘on appeal’—

omit, insert—

by QCAT on review

- (5) Section 219J(2A) to (6)—

renumber as section 219J(3) to (7).

25 Amendment of s 269 (Delegation—commission)

Section 269(6), entries for sections 60 and 62—

omit.

26 Insertion of new ch 6, pt 1, div 9, sdiv 1, hdg

Chapter 6, part 1, division 9—

insert—

Subdivision 1 Preliminary

27 Amendment of s 273A (Definitions for div 9)

Section 273A—

insert—

prescribed employee means a prescribed employee under the *Public Service Act 2008*, section 186A, other than a relevant commission officer.

[s 28]

relevant employee means—

- (a) a public service employee; or
- (b) a prescribed employee.

28 Insertion of new s 273AA and ch 6, pt 1, div 9, sdiv 2, hdg

After section 273A—

insert—

273AA References to relevant employees

- (1) This section provides for the meaning of particular terms used in this division relating to a person who is or was a relevant employee.
- (2) A reference to the person's current or previous chief executive is a reference to—
 - (a) for a person who is or was a public service employee—the chief executive of the department in which the person is or was employed as a public service employee; or
 - (b) for a person who is or was a prescribed employee—the person's current or previous chief executive under the *Public Service Act 2008*, section 186B(2).
- (3) A reference to a relevant disciplinary law for the person is a reference to any of the following—
 - (a) the *Public Service Act 2008*, chapter 6;
 - (b) a law that is a relevant disciplinary law for the person under the *Public Service Act 2008*, section 186B(3).

Note—

The laws mentioned in this subsection also provide for disciplinary action against a person who was, but is no longer, a relevant employee.

- (4) In subdivision 3—

-
- (a) a reference to a relevant disciplinary ground for the person is a reference to a disciplinary ground under a relevant disciplinary law for the person; and
 - (b) a reference to a disciplinary finding in relation to a relevant disciplinary ground for the person is a reference to a finding that a relevant disciplinary ground for the person exists.

Subdivision 2 Grounds and disciplinary action generally

29 Amendment of s 273C (Disciplinary action that may be taken against a relevant commission officer)

Section 273C, heading, after 'officer'—

insert—

generally

30 Insertion of new ch 6, pt 1, div 9, sdiv 3 and ch 6, pt 1, div 9, sdiv 4, hdg

After section 273C—

insert—

Subdivision 3 Disciplinary action against a relevant commission officer who was a relevant employee

273CA Application of subdivision

- (1) This subdivision applies if—

[s 30]

- (a) a person is a relevant employee and a relevant disciplinary ground arises in relation to the person; and
 - (b) after the relevant disciplinary ground arises, the person stops being employed as a relevant employee and starts employment as a relevant commission officer.
- (2) 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 law, in relation to the relevant disciplinary ground.

273CB Action previous chief executive may take

- (1) The person's previous chief executive may make a disciplinary finding about the relevant disciplinary ground for this subdivision.
- (2) The previous chief executive may take disciplinary action about the relevant disciplinary ground as provided under section 273CC(2).
- (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 chief executive officer the authority under subsection (1) to make a disciplinary finding about the person.
- (4) The previous chief executive may give to the chief executive officer any information about a person or a relevant disciplinary ground relating to the person to help the chief executive officer to perform a function under section 273CC(2) or (4) in relation to the person.

273CC Action chief executive officer may take

- (1) Subsection (2) applies if—
 - (a) the previous chief executive makes a disciplinary finding about the relevant disciplinary ground; and
 - (b) the previous chief executive and the chief executive officer agree that disciplinary action against the person is reasonable in the circumstances.
- (2) The chief executive officer may take disciplinary action against the person under section 273C as if a disciplinary ground under section 273B exists.
- (3) Subsection (4) applies if—
 - (a) the previous chief executive delegates to the chief executive officer the authority under section 273CB(1) to make a disciplinary finding about the person; and
 - (b) the chief executive officer makes a disciplinary finding about the person.
- (4) The chief executive officer may take disciplinary action against the person under section 273C without the agreement of the previous chief executive.

Subdivision 4 Disciplinary action against a former relevant commission officer

31 Amendment of s 273D (Disciplinary action that may be taken against a former relevant commission officer)

- (1) Section 273D—

insert—

- (1A) However, this section does not apply in relation to

[s 32]

a person who is a former relevant commission officer if the chief executive officer is aware—

- (a) the person is a relevant employee; and
- (b) the person's current or previous chief executive has taken, is taking, or intends to take disciplinary action against the person, under a relevant disciplinary law, in relation to the disciplinary ground.

- (2) Section 273D(4), 'subsections (2) and (3)'—

omit, insert—

subsections (3) and (4)

- (3) Section 273D(1A) to (7)—

renumber as section 273D(2) to (8).

32 Insertion of new ch 6, pt 1, div 9, sdiv 5 and ch 6, pt 1, div 9, sdiv 6, hdg

After section 273D—

insert—

Subdivision 5 Information about disciplinary action

273DA Information about disciplinary action to be given by chief executive officer

- (1) This section applies if—
- (a) a relevant official asks the chief executive officer for disciplinary information that the chief executive officer has about a person who is or was a relevant commission officer; and
 - (b) the information is reasonably necessary for the relevant official to make a decision about—

-
- (i) an appointment or continued appointment, or employment or continued employment, of the person by the official; or
 - (ii) a disciplinary finding, disciplinary action or disciplinary declaration the official is considering in relation to the person under a relevant disciplinary law.
- (2) The chief executive officer must give the disciplinary information to the relevant official unless the chief executive officer 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, about a person, means information about the following made or taken against the person under this Act by the chief executive officer—

- (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 official means—

- (a) the chief executive of a department; or
- (b) the chief executive (however described) of an entity whose employees are prescribed employees; or
- (c) the commissioner of police.

273DB Information about disciplinary action to be given to chief executive officer

- (1) This section applies if—
 - (a) the chief executive officer asks a relevant official for disciplinary information that the official has about a person who is or was a relevant employee; and
 - (b) the information is reasonably necessary for the chief executive officer to make a decision about—
 - (i) the employment or continued employment of the person as a relevant commission officer; or
 - (ii) a disciplinary finding, disciplinary action or disciplinary declaration the chief executive officer is considering in relation to the person under this Act.
- (2) The relevant official must give the disciplinary information to the chief executive officer unless the official 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, about a person, means information about the following made or taken against the person under a public sector disciplinary law by a relevant official 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.

public sector disciplinary law means—

- (a) a public sector disciplinary law under the *Public Service Act 2008*; or
- (b) another law under which a prescribed employee may be disciplined.

relevant employee includes a police officer.

relevant official means—

- (a) the chief executive of a department; or
- (b) the chief executive (however described) of an entity whose employees are prescribed employees; or
- (c) the commissioner of police.

Subdivision 6 Other provisions about disciplinary action

33 Amendment of ch 6, pt 1, div 10, hdg (Additional provision about senior officers and commission staff and agents)

Chapter 6, part 1, division 10, heading, ‘Additional provision’—

omit, insert—

Other provisions

34 Insertion of new s 273H

Chapter 6, part 1, division 10—

insert—

273H Relevant prosecuting authority to notify chief executive officer of prosecution proceeding

- (1) This section applies if—
 - (a) the commissioner of police or the director of public prosecutions (a *relevant prosecuting authority*) is aware a person charged with a relevant offence is a relevant commission officer; and
 - (b) a relevant event happens in relation to the person.
- (2) The relevant prosecuting authority must, within the relevant period for the relevant event, give the chief executive officer a notice stating each of the following matters—
 - (a) the person's name;
 - (b) the date the relevant event happened;
 - (c) particulars of the relevant offence to which the relevant event relates;
 - (d) if the relevant event is that the person is committed by a court for trial for a relevant offence—
 - (i) the court that committed the person for trial; and
 - (ii) the court to which the person was committed;
 - (e) if the relevant event is that the person is convicted by a court of a relevant offence—
 - (i) the court that convicted the person; and
 - (ii) the sentence imposed by the court;
 - (f) if the relevant event is that an appeal against a conviction of the person for a relevant offence has been decided—

- (i) the court in which the appeal was decided; and
 - (ii) the particulars of the decision;
 - (g) if the relevant event is that the prosecution of the person for a relevant offence has ended in a court, without the person being convicted of the offence—the court in which the prosecution of the person ended.
- (3) In this section—
- relevant event***, for a person charged with a relevant offence, means—
- (a) the person is committed by a court for trial for a relevant offence; or
 - (b) the person is convicted by a court of a relevant offence; or
 - (c) if the person is convicted as mentioned in paragraph (b) and the person appealed against the conviction—the appeal is finally decided or has otherwise ended; or
 - (d) the prosecution of the person for the relevant offence ends without the person being convicted of a relevant offence because—
 - (i) a nolle prosequi is entered on the indictment presented against the person for the offence; or
 - (ii) the person is acquitted of the offence; or
 - (iii) the prosecution of the person otherwise ends.

relevant offence means—

- (a) an indictable offence; or

[s 35]

- (b) a disqualifying offence within the meaning of the *Working with Children (Risk Management and Screening) Act 2000*, section 168, that is not an indictable offence.

relevant period, for a relevant event, means—

- (a) generally—7 days after the event happens;
or
- (b) if the relevant event is the conviction of a person for a relevant offence—7 days after the court imposes a sentence for the offence.

35 Amendment of s 278 (Membership of reference committee)

Section 278(1)(a) and (b)—

omit, insert—

- (a) the chairperson of the commission, who is the chairperson of the reference committee;
- (b) the senior executive officer (crime);

36 Insertion of new s 279A

After section 279—

insert—

279A Delegation of functions of committee chairperson

- (1) The chairperson of the commission may delegate his or her functions as chairperson of the reference committee to the senior executive officer (crime).
- (2) If the chairperson of the commission delegates functions as mentioned in subsection (1), the senior executive officer (crime) is taken to be the chairperson of the reference committee.
- (3) This section applies even if the chairperson has

appointed a deputy under section 279(1).

(4) In this section—

functions includes powers.

37 Amendment of s 285 (Times and places of meetings)

Section 285, ‘senior executive officer (crime)’—

omit, insert—

chairperson of the reference committee

38 Replacement of s 287 (Presiding at meetings)

Section 287—

omit, insert—

287 Presiding at meetings

- (1) The chairperson of the reference committee is to preside at all meetings at which the chairperson is present.
- (2) If the chairperson of the reference committee is absent from a meeting, the following person is to preside at the meeting—
 - (a) if the chairperson of the reference committee is the chairperson of the commission and the senior executive officer (crime) is present at the meeting—the senior executive officer (crime);
 - (b) if the chairperson of the reference committee is the senior executive officer (crime) and the chairperson of the commission is present at the meeting—the chairperson of the commission;
 - (c) otherwise—the committee member chosen by the committee members.

[s 39]

39 Amendment of s 294 (Directions by parliamentary committee to undertake investigation)

Section 294(1), ‘involving corruption’—

omit, insert—

falling within the commission’s corruption functions

40 Amendment of s 332 (Judicial review of commission’s activities in relation to corrupt conduct)

Section 332(9)—

insert—

commission investigation into corrupt conduct includes an investigation of a matter mentioned in section 33(2).

41 Replacement of s 335 (Protecting officials and others from liability)

Section 335—

omit, insert—

335 Protection of officials and others from liability

- (1) This section applies to each of the following entities (each a *protected entity*)—
- (a) the commission;
 - (b) a person who is—
 - (i) a commission officer; or
 - (ii) a person acting under the direction of a commission officer;
 - (c) a person who was a person of a type mentioned in paragraph (b) at the time the person engaged in conduct in an official capacity.

-
- (2) A protected entity does not incur civil liability for engaging, or for the result of engaging, in conduct in an official capacity.
 - (3) If subsection (2) prevents liability attaching to a protected entity, the liability attaches instead to the State.
 - (4) If liability attaches to the State under subsection (3), the State may recover contribution from the protected entity but only if the conduct was engaged in—
 - (a) other than in good faith; and
 - (b) with gross negligence.
 - (5) In a proceeding under subsection (4) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.
 - (6) In a proceeding for defamation, there is a defence of absolute privilege for a publication to or by the commission or a commission officer made for the purpose of performing the commission's functions.
 - (7) In this section—

civil liability, of a protected entity for engaging, or for the result of engaging, in conduct in an official capacity, means liability of any type for the payment of an amount by the entity because of—

 - (a) a claim based in tort, contract or another form of action in relation to the conduct or result, including, for example, breach of statutory duty or defamation and, for a fatal injury, includes a claim for the deceased's dependants or estate; or
 - (b) a complaint made under a law that provides a person may complain about the conduct or

[s 42]

result to an entity established under the law, other than a complaint to start criminal proceedings, including, for example, a complaint under the *Justices Act 1886*; or

- (c) an order of a court to pay costs relating to a proceeding for an offence against a law in relation to the conduct or result, unless the proceeding was for an offence by the protected entity.

Examples of types of liability—

- a liability because of an agreement or an order under the *Anti-Discrimination Act 1991* or the *Australian Human Rights Commission Act 1986* (Cwlth) requiring payment of an amount to a complainant (however described) under the Act
- a liability because of an obligation under an agreement to settle a proceeding, or an order of a court or tribunal, to do something that involves paying an amount, including an obligation to rectify damage to a building or to publish an apology in a newspaper

conduct means an act or an omission to perform an act.

engage in conduct in an official capacity means engage in conduct as part of, or otherwise in connection with, an entity's function or role as a protected entity, including, for example, engaging in conduct under or purportedly under this Act.

42 Amendment of s 346B (Declarations etc. relating to inquiry public records)

Section 346B(2)(a), 'sections 62 and'—

omit, insert—

section

43 Insertion of new ch 8, pt 15

Chapter 8—

insert—

**Part 15 Crime and Corruption
and Other Legislation
Amendment Act 2018**

**Division 1 Amendments commencing
on assent**

441 Corruption functions

- (1) The commission may perform its corruption functions under section 33(2) in relation to conduct that happened, or that is suspected to have happened, before the commencement.
- (2) This Act as in force from the commencement applies to a corruption investigation—
 - (a) started but not finished before the commencement; or
 - (b) started after the commencement in relation to conduct that happened, or that is suspected to have happened, before the commencement.

442 Reports to prosecuting authorities

- (1) This section applies if, before the commencement, the commission reported on an investigation of a complaint about, or information or matter involving, corruption to the director of public prosecutions under section 49(2)(a) as in force before the commencement.
- (2) Section 49(5) as in force immediately before the

[s 43]

commencement continues to apply in relation to the matters the subject of the report.

443 QCAT orders about corrupt conduct

QCAT may make an order under section 219I against a prescribed person, as defined under section 50(3), in relation to corrupt conduct whether or not the person was a prescribed person under section 50 as in force when the conduct happened.

444 Period for starting proceedings relating to reviewable decisions

- (1) Section 219G(2) as in force before the commencement continues to apply to a reviewable decision made before the commencement.
- (2) Section 219G(2) as in force from the commencement applies in relation to a reviewable decision made after the commencement even if the decision relates to conduct that happened before the commencement.

445 Disciplinary action against a relevant commission officer who was a relevant employee

- (1) This section applies to a person who is a relevant commission officer and was a relevant employee.
- (2) The person may be disciplined under chapter 6, part 1, division 9, subdivision 3 only in relation to a relevant disciplinary ground arising on or after 3 February 2017.

Note—

Particular provisions of the *Public Service Act 2008* about disciplinary action have applied to the

commission, as a public service office under that Act, since 3 February 2017.

- (3) However, if the relevant disciplinary ground arising on or after 3 February 2017 relates to conduct that is a part of a course of conduct that also includes conduct giving rise to a relevant disciplinary ground arising before 3 February 2017, the person may be disciplined under chapter 6, part 1, division 9, subdivision 3 in relation to all of the grounds as if they all arose on or after 3 February 2017.
- (4) Subsection (3) does not apply in relation to a relevant disciplinary ground arising before 3 February 2017 if disciplinary action has been, or is being, taken in relation to the ground under this Act or a relevant disciplinary law for the person within the meaning of section 273AA(3).
- (5) If, at the commencement, the chairperson is taking disciplinary action under the *Public Service Act 2008*, section 187A or 188AB in relation to a person to whom this section applies—
 - (a) the chairperson must stop taking the disciplinary action under the *Public Service Act 2008*; and
 - (b) the disciplinary action may be continued under chapter 6, part 1, division 9, subdivision 3; and
 - (c) anything done under the *Public Service Act 2008* in relation to the disciplinary action by the chairperson is taken to have been done under chapter 6, part 1, division 9, subdivision 3 by the chief executive officer.
- (6) In this section—

relevant commission officer see section 273A.

relevant employee see section 273A.

[s 43]

446 Sharing disciplinary information

- (1) Sections 273DA and 273DB apply only in relation to a request for information made after the commencement.
- (2) However, a request mentioned in column 1 made but not complied with before the commencement is taken to be a request mentioned in column 2 made after the commencement—

Column 1

request under the *Public Service Act 2008*, section 188B to the chairperson in relation to a person who is or was a relevant commission officer

request under the *Public Service Act 2008*, section 188B by the chairperson in relation to a person who is or was a relevant employee

Column 2

request under section 273DA to the chief executive officer

request under section 273DB by the chief executive officer

447 Notification of prosecution proceedings by relevant prosecuting authorities

- (1) Section 273H applies only in relation to a person charged with a relevant offence on or after 3 February 2017.

Note—

The *Public Service Act 2008*, section 170 has applied to the commission, as a public service office under that Act, in relation to all of the commission's employees since 3 February 2017.

- (2) A written notice given to the chairperson under the *Public Service Act 2008*, section 170—
 - (a) is, from the commencement, taken to have been given to the chief executive officer under section 273H; and

- (b) may be dealt with by the chief executive officer under this Act.

448 Liability of officials and others

- (1) Current section 335 does not apply to conduct, or the result of conduct, engaged in by a protected entity before the commencement.
- (2) Previous section 335 continues to apply to an act done, or omission made, by an official before the commencement.
- (3) Also, the *Public Service Act 2008*, section 26C continues to apply to conduct engaged in by a commission officer before the commencement.
- (4) However, if a protected entity engages in conduct to which current section 335 applies after the commencement and the conduct is a part of a course of conduct that also includes conduct engaged in before the commencement, current section 335 applies to all of the conduct as if it was all engaged in after the commencement.
- (5) A term used in this section in relation to current section 335 or previous section 335 has the meaning it has under that section.
- (6) In this section—

current section 335 means section 335 as in force from the commencement.

previous section 335 means section 335 as in force before the commencement.

44 Insertion of new ch 8, pt 15, div 2

Chapter 8, part 15, as inserted by this Act—

insert—

Division 2 Amendments commencing by proclamation

449 Existing complaints about corrupt conduct

- (1) This section applies to the following—
 - (a) a complaint about corrupt conduct made or referred to the commission, but not finally dealt with, before the commencement;
 - (b) a complaint that a public official reasonably suspects involves, or may involve, corrupt conduct that was made or referred to the public official, but not notified, before the commencement.
- (2) The complaint must be dealt with and, for a complaint mentioned in subsection (1)(b), notified in the context of corrupt conduct within the meaning of section 15 as in force on the commencement.
- (3) In this section—

complaint, about corrupt conduct, includes information or a matter involving corrupt conduct.

dealt with means dealt with under this Act.

notified means notified to the commission under chapter 2, part 3, division 3.

450 Existing disciplinary proceedings about corrupt conduct

- (1) This section applies to a disciplinary proceeding about corrupt conduct started, but not finished, before the commencement.
- (2) QCAT must hear and decide the disciplinary proceeding under this Act in the context of

corrupt conduct within the meaning of section 15 as in force before the commencement.

(3) In this section—

disciplinary proceeding means disciplinary proceeding within the meaning of section 219B as in force before the commencement.

45 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *prescribed person*, ‘and (4)’—

omit.

(2) Schedule 2—

insert—

prescribed employee, for chapter 6, part 1, division 9, see section 273A.

relevant employee, for chapter 6, part 1, division 9, see section 273A.

Part 3 Amendment of Ambulance Service Act 1991

46 Act amended

This part amends the *Ambulance Service Act 1991*.

47 Amendment of s 2 (Definitions)

Section 2, ‘the schedule’—

omit, insert—

schedule 1

[s 48]

48 Insertion of new pt 2, div 4, sdiv 1A

Part 2, division 4, before subdivision 1—

insert—

Subdivision 1A Interpretation

18AA Definitions for division

In this division—

prescribed employee means a prescribed employee under the *Public Service Act 2008*, section 186A, other than a service officer.

relevant employee means—

- (a) a public service employee; or
- (b) a prescribed employee.

18AB References to relevant employees

- (1) This section provides for the meaning of particular terms used in this division relating to a person who is or was a relevant employee.
- (2) A reference to the person's current or previous chief executive is a reference to—
 - (a) for a person who is or was a public service employee—the chief executive of the department in which the person is or was employed as a public service employee; or
 - (b) for a person who is or was a prescribed employee—the person's current or previous chief executive under the *Public Service Act 2008*, section 186B(2).
- (3) A reference to a relevant disciplinary law for the person is a reference to any of the following—
 - (a) the *Public Service Act 2008*, chapter 6;

-
- (b) a law that is a relevant disciplinary law for the person under the *Public Service Act 2008*, section 186B(3).

Note—

The laws mentioned in this subsection also provide for disciplinary action against a person who was, but is no longer, a relevant employee.

- (4) In subdivision 2—
- (a) a reference to a relevant disciplinary ground for the person is a reference to a disciplinary ground under a relevant disciplinary law for the person; and
- (b) a reference to a disciplinary finding in relation to a relevant disciplinary ground for the person is a reference to a finding that a relevant disciplinary ground for the person exists.

49 Amendment of pt 2, div 4, sdiv 2, hdg (Disciplinary action against a service officer who was a public service employee or fire service officer)

Part 2, division 4, subdivision 2, heading—

omit, insert—

Subdivision 2 Disciplinary action against a service officer who was a relevant employee

50 Amendment of s 18C (Application of sdiv 2)

- (1) Section 18C(1) and (2)—

omit, insert—

- (1) This subdivision applies if—

[s 51]

- (a) a person is a relevant employee 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 relevant employee to employment under section 13.
- (2) Section 18C(3), from ‘under’, including note—
omit, insert—
under a relevant disciplinary law in relation to the relevant disciplinary ground.
- (3) Section 18C(4), from ‘a department’ to ‘officer,’—
omit, insert—
employment as a relevant employee
- (4) Section 18C(4)(a), from ‘in the department’ to ‘officer’—
omit, insert—
as a relevant employee
- (5) Section 18C(4)(b), from ‘commissioner’ to ‘the person’—
omit, insert—
person’s transfer or redeployment
- (6) Section 18C(4), note—
omit.
- (7) Section 18C(3) and (4)—
renumber as section 18C(2) and (3).

51 Omission of s 18D (Definitions for sdiv 2)

Section 18D—
omit.

52 Amendment of s 18E (Action previous chief executive may take)

(1) Section 18E(1) and (2)—

omit, insert—

(1) The person's previous chief executive may make a disciplinary finding about the relevant disciplinary ground for this subdivision.

(2) The previous chief executive may take disciplinary action about the relevant disciplinary ground as provided under section 18F(1).

(2) Section 18E(3), 'employing'—

omit, insert—

person's current

(3) Section 18E(4), 'employing'—

omit, insert—

current

53 Amendment of s 18F (Action employing chief executive may take)

(1) Section 18F, heading, 'employing'—

omit, insert—

current

(2) Section 18F(1)(a) and (2)(a), before 'previous'—

insert—

person's

(3) Section 18F(1)(b) and (2)(a), 'employing'—

omit, insert—

person's current

(4) Section 18F(1) and (2), 'employing chief executive may'—

omit, insert—

[s 54]

current chief executive may

(5) Section 18F(2)(b), ‘employing’—

omit, insert—

current

54 Amendment of s 18G (Declaration if same chief executive is the previous chief executive and employing chief executive)

Section 18G, ‘employing’—

omit, insert—

current

55 Amendment of s 18H (Application of sdiv 3)

Section 18H(2)—

omit, insert—

- (2) However, this subdivision does not apply in relation to a person who is a former service officer if the chief executive is aware—
- (a) the person is a relevant employee; and
 - (b) the person’s current or previous chief executive has taken, is taking, or intends to take disciplinary action against the person, under a relevant disciplinary law, in relation to the disciplinary ground.

56 Amendment of s 18J (Information about disciplinary action to be given by chief executive)

(1) Section 18J(1)(a), from ‘the chief executive of’ to ‘asks’—

omit, insert—

a relevant official asks

(2) Section 18J(1)(b), ‘other chief executive to’—

omit, insert—

relevant official to

- (3) Section 18J(1)(b)(i), ‘other chief executive’—

omit, insert—

official

- (4) Section 18J(1)(b)(ii), from ‘other’—

omit, insert—

official is considering in relation to the person
under a relevant disciplinary law.

- (5) Section 18J(2), ‘other chief executive’—

omit, insert—

relevant official

- (6) Section 18J(3), definition *disciplinary information*, from ‘in
relation’ to ‘a person’—

omit, insert—

about a person

- (7) Section 18J(3), definition *relevant Act*—

omit.

- (8) Section 18J(3)—

insert—

relevant official means—

- (a) the chief executive of a department; or
- (b) the chief executive (however described) of
an entity whose employees are prescribed
employees.

**57 Amendment of s 18K (Information about disciplinary
action to be given to chief executive)**

- (1) Section 18K(1)(a)—

[s 58]

omit, insert—

- (a) the chief executive (the ***ambulance chief executive***) asks a relevant official for disciplinary information the official has about a person who is or was a relevant employee; and

- (2) Section 18K(2), ‘other chief executive must’—

omit, insert—

relevant official must

- (3) Section 18K(2), ‘other chief executive is’—

omit, insert—

official is

- (4) Section 18K(3), definition *disciplinary information*, from ‘in relation’ to ‘entity’—

omit, insert—

about a person, means information about the following made or taken against the person under a public sector disciplinary law by a relevant official or another entity

- (5) Section 18K(3)—

insert—

relevant official means—

- (a) the chief executive of a department; or
(b) the chief executive (however described) of an entity whose employees are prescribed employees.

58 Amendment of s 18L (Use of particular information about disciplinary action obtained by chief executive in another capacity)

- (1) Section 18L(1)(a)—

omit, insert—

- (a) under the *Public Service Act 2008*, the chief executive has or has access to disciplinary information about a person who is or was a public service employee; and
- (2) Section 18L(3), definition *relevant Act—*
omit.

59 Insertion of new pt 8, div 8

Part 8—

insert—

Division 8 Transitional provisions for Crime and Corruption and Other Legislation Amendment Act 2018

101 Disciplinary action against a service officer who was a relevant commission officer

- (1) This section applies to a person who is a service officer and was a relevant commission officer.
- (2) The person may be disciplined under part 2, division 4, subdivision 2 in relation to a relevant disciplinary ground arising when the person was a relevant commission officer only if the ground arose after the commencement.
- (3) However, if the relevant disciplinary ground arising after the commencement relates to conduct that is a part of a course of conduct that also includes conduct giving rise to a relevant disciplinary ground arising before the commencement, the person may be disciplined under part 2, division 4, subdivision 2 in relation to all of the grounds as if they all arose after the

[s 60]

commencement.

- (4) Subsection (3) does not apply in relation to a relevant disciplinary ground arising before the commencement if disciplinary action has been, or is being, taken in relation to the ground under this Act or a relevant disciplinary law for the person within the meaning of section 18AB(3).
- (5) In this section—
relevant commission officer see the *Crime and Corruption Act 2001*, section 273A.

102 Sharing disciplinary information

Sections 18J and 18K apply in relation to a request for information made by or to the chief executive officer under the *Crime and Corruption Act 2001* only if the request is made after the commencement.

60 Amendment and numbering of schedule (Dictionary)

- (1) Schedule, definitions *disciplinary finding*, *employing chief executive*, *fire service chief executive*, *fire service officer*, *previous chief executive*, *relevant disciplinary ground*, *relevant disciplinary law* and *relevant disciplinary provision*—
omit.
- (2) Schedule—
insert—

disciplinary finding means a finding that a disciplinary ground exists.

disciplinary law means—

- (a) this Act or a disciplinary provision of a code of practice (including a code of practice as

[s 62]

62 Amendment of s 13 (Assistance for director)

(1) Section 13(2)—

insert—

(c) the chief executive officer under the *Crime and Corruption Act 2001* for the assistance of a commission officer under that Act.

(2) Section 13(4)—

omit, insert—

(4) A person of whom a request is made under subsection (2) must, as far as possible, comply with the request.

**Part 5 Amendment of Fire and
Emergency Services Act 1990**

63 Act amended

This part amends the *Fire and Emergency Services Act 1990*.

64 Insertion of new ch 3, pt 4, div 3, sdiv 1A

Chapter 3, part 4, division 3, before subdivision 1—

insert—

Subdivision 1A Interpretation

29C Definitions for division

In this division—

prescribed employee means a prescribed employee under the *Public Service Act 2008*, section 186A, other than a fire service officer.

relevant employee means—

- (a) a public service employee; or
- (b) a prescribed employee.

29D References to relevant employees

- (1) This section provides for the meaning of particular terms used in this division relating to a person who is or was a relevant employee.
- (2) A reference to the person's current or previous chief executive is a reference to—
 - (a) for a person who is or was a public service employee—the chief executive of the department in which the person is or was employed as a public service employee; or
 - (b) for a person who is or was a prescribed employee—the person's current or previous chief executive under the *Public Service Act 2008*, section 186B(2).
- (3) A reference to a relevant disciplinary law for the person is a reference to any of the following—
 - (a) the *Public Service Act 2008*, chapter 6;
 - (b) a law that is a relevant disciplinary law for the person under the *Public Service Act 2008*, section 186B(3).

Note—

The laws mentioned in this subsection also provide for disciplinary action against a person who was, but is no longer, a relevant employee.

- (4) In subdivision 2—
 - (a) a reference to a relevant disciplinary ground for the person is a reference to a disciplinary ground under a relevant disciplinary law for the person; and
 - (b) a reference to a disciplinary finding in relation to a relevant disciplinary ground for

[s 65]

the person is a reference to a finding that a relevant disciplinary ground for the person exists.

65 Amendment of ch 3, pt 4, div 3, sdiv 2, hdg (Disciplinary action against a fire service officer who was a public service employee or ambulance service officer)

Chapter 3, part 4, division 3, subdivision 2, heading, from ‘public’—

omit, insert—

relevant employee

66 Amendment of s 30B (Application of sdiv 2)

(1) Section 30B(1) and (2)—

omit, insert—

(1) This subdivision applies if—

- (a) a person is a relevant employee 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 relevant employee to employment under section 25.

(2) Section 30B(3), from ‘under’, including note—

omit, insert—

under a relevant disciplinary law in relation to the relevant disciplinary ground.

(3) Section 30B(4), from ‘a department’ to ‘officer’—

omit, insert—

employment as a relevant employee

(4) Section 30B(4)(a), from ‘in the department’ to ‘officer’—

omit, insert—

as a relevant employee

- (5) Section 30B(4)(b), from ‘commissioner’ to ‘from’—

omit, insert—

person’s transfer, redeployment or secondment
from

- (6) Section 30B(4), notes—

omit.

- (7) Section 30B(3) and (4)—

renumber as section 30B(2) and (3).

67 Omission of s 30C (Definitions for sdiv 2)

Section 30C—

omit.

68 Amendment of s 30D (Action previous chief executive may take)

Section 30D(1) and (2)—

omit, insert—

- (1) The person’s previous chief executive may make a disciplinary finding about the relevant disciplinary ground for this subdivision.
- (2) The previous chief executive may take disciplinary action about the relevant disciplinary ground as provided under section 30E(1).

69 Amendment of s 30E (Action commissioner may take)

Section 30E(1)(a) and (2)(a), before ‘previous’—

insert—

person’s

[s 70]

70 Amendment of s 30G (Application of sdiv 3)

Section 30G(2) and (3)—

omit, insert—

- (2) However, this subdivision does not apply in relation to a person who is a former fire service officer if the commissioner is aware—
 - (a) the person is a relevant employee; and
 - (b) the person's current or previous chief executive has taken, is taking, or intends to take disciplinary action against the person, under a relevant disciplinary law, in relation to the disciplinary ground.

71 Amendment of s 30I (Information about disciplinary action to be given by commissioner)

- (1) Section 30I(1)(a), from 'the chief executive' to 'asks'—

omit, insert—

a relevant official asks

- (2) Section 30I(1)(b), 'other chief executive to'—

omit, insert—

relevant official to

- (3) Section 30I(1)(b)(i), 'other chief executive'—

omit, insert—

official

- (4) Section 30I(1)(b)(ii), from 'other'—

omit, insert—

official is considering in relation to the person under a relevant disciplinary law.

- (5) Section 30I(2), 'other chief executive'—

omit, insert—

relevant official

- (6) Section 30I(3), definition *disciplinary information*, from ‘in relation’ to ‘a person’—

omit, insert—

about a person

- (7) Section 30I(3), definition *relevant Act*—

omit.

- (8) Section 30I(3)—

insert—

relevant official means—

- (a) the chief executive of a department; or
- (b) the chief executive (however described) of an entity whose employees are prescribed employees.

72 Amendment of s 30J (Information about disciplinary action to be given to commissioner)

- (1) Section 30J(1)(a)—

omit, insert—

- (a) the commissioner asks a relevant official for disciplinary information the official has about a person who is or was a relevant employee; and

- (2) Section 30J(2), ‘other chief executive must’—

omit, insert—

relevant official must

- (3) Section 30J(2), ‘other chief executive is’—

omit, insert—

official is

[s 73]

- (4) Section 30J(3), definition *disciplinary information*, from ‘in relation’ to ‘entity’—

omit, insert—

, about a person, means information about the following made or taken against the person under a public sector disciplinary law by a relevant official or another entity

- (5) Section 30J(3)—

insert—

relevant official means—

- (a) the chief executive of a department; or
- (b) the chief executive (however described) of an entity whose employees are prescribed employees.

73 Amendment of s 30K (Use of particular information about disciplinary action obtained by commissioner in another capacity)

- (1) Section 30K(1)(a)—

omit, insert—

- (a) under the *Public Service Act 2008*, the commissioner has or has access to disciplinary information about a person who is or was a public service employee; and

- (2) Section 30K(3), definition *relevant Act*—

omit.

74 Insertion of new ch 5, pt 5, div 8

Chapter 5, part 5—

insert—

Division 8 Transitional provisions for Crime and Corruption and Other Legislation Amendment Act 2018

205 Disciplinary action against a fire service officer who was a relevant commission officer

- (1) This section applies to a person who is a fire service officer and was a relevant commission officer.
- (2) The person may be disciplined under chapter 3, part 4, division 3, subdivision 2 in relation to a relevant disciplinary ground arising when the person was a relevant commission officer only if the ground arose after the commencement.
- (3) However, if the relevant disciplinary ground arising after the commencement relates to conduct that is a part of a course of conduct that also includes conduct giving rise to a relevant disciplinary ground arising before the commencement, the person may be disciplined under chapter 3, part 4, division 3, subdivision 2 in relation to all of the grounds as if they all arose after the commencement.
- (4) Subsection (3) does not apply in relation to a relevant disciplinary ground arising before the commencement if disciplinary action has been, or is being, taken in relation to the ground under this Act or a relevant disciplinary law for the person within the meaning of section 29D(3).
- (5) In this section—
relevant commission officer see the *Crime and Corruption Act 2001*, section 273A.

[s 75]

206 Sharing disciplinary information

Sections 30I and 30J apply in relation to a request for information made by or to the chief executive officer under the *Crime and Corruption Act 2001* only if the request is made after the commencement.

75 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *ambulance service officer*, *disciplinary finding*, *previous chief executive*, *relevant disciplinary ground*, *relevant disciplinary law* and *relevant disciplinary provision*—

omit.

- (2) Schedule 6—

insert—

disciplinary finding means a finding that a disciplinary ground exists.

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.

prescribed employee, for chapter 3, part 4, division 3, see section 29C.

relevant employee, for chapter 3, part 4, division 3, see section 29C.

- (3) Schedule 6, definition *disciplinary declaration*, paragraph (a)(i)—

[s 78]

(3) In this section—

agency includes each of the following—

- (a) an agency of the Commonwealth;
- (b) the ombudsman under the *Ombudsman Act 1976* (Cwlth);
- (c) an ombudsman under the law of another State.

officer of the ombudsman includes the ombudsman.

78 Amendment of s 92 (Secrecy)

Section 92(2)—

omit, insert—

- (2) Subsection (1) does not apply to the disclosure of information under section 91A.

79 Amendment of sch 3 (Dictionary)

Schedule 3, definition *complaints entity*—

omit, insert—

complaints entity means—

- (a) an entity other than the ombudsman that, under an Act, has responsibility for the investigation or review of matters that may include administrative actions of agencies; or

Examples of entities for paragraph (a)—

- the Crime and Corruption Commission
- the Anti-Discrimination Commissioner under the *Anti-Discrimination Act 1991*
- the health ombudsman under the *Health Ombudsman Act 2013*

[s 81]

protected person, the liability attaches instead to the State.

- (4) If liability attaches to the State under subsection (3), the State may recover contribution from the protected person but only if the conduct was engaged in—
 - (a) other than in good faith; and
 - (b) with gross negligence.
- (5) In a proceeding under subsection (4) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.
- (6) In this section—

civil liability, of a protected person for engaging, or for the result of engaging, in conduct in an official capacity, means liability of any type for the payment of an amount by the protected person because of—

 - (a) a claim based in tort, contract or another form of action in relation to the conduct or result, including, for example, breach of statutory duty or defamation and, for a fatal injury, includes a claim for the deceased's dependants or estate; or
 - (b) a complaint made under a law that provides a person may complain about the conduct or result to an entity established under the law, other than a complaint to start criminal proceedings, including, for example, a complaint under the *Justices Act 1886*; or
 - (c) an order of a court to pay costs relating to a proceeding for an offence against a law in relation to the conduct or result, unless the proceeding was for an offence by the protected person.

Examples of types of liability—

- a liability because of an agreement or an order under the *Anti-Discrimination Act 1991* or the *Australian Human Rights Commission Act 1986* (Cwlth) requiring payment of an amount to a complainant (however described) under the Act
- a liability because of an obligation under an agreement to settle a proceeding, or an order of a court or tribunal, to do something that involves paying an amount, including an obligation to rectify damage to a building or to publish an apology in a newspaper

conduct means an act or an omission to perform an act.

engage in conduct in an official capacity means engage in conduct as part of, or otherwise in connection with, a person's role as a protected person, including, for example, engaging in conduct under or purportedly under this Act.

82 Insertion of new pt 11, div 9

Part 11—

insert—

Division 9 Transitional provision for Crime and Corruption and Other Legislation Amendment Act 2018

11.17 Liability of commissioners for police service reviews

- (1) Current section 9.7 does not apply to conduct, or the result of conduct, engaged in by a protected person before the commencement.
- (2) Previous section 9.7 continues to apply to an act done or omitted to be done by a protected person

[s 83]

before the commencement.

- (3) Also, the *Public Service Act 2008*, section 26C continues to apply to conduct engaged in by a commissioner for police reviews before the commencement.
- (4) However, if a protected person engages in conduct to which current section 9.7 applies after the commencement and the conduct is a part of a course of conduct that also includes conduct engaged in before the commencement, current section 9.7 applies to all of the conduct as if it was all engaged in after the commencement.
- (5) A term used in this section in relation to current section 9.7 or previous section 9.7 has the meaning it has under that section.
- (6) In this section—
current section 9.7 means section 9.7 as in force from the commencement.
previous section 9.7 means section 9.7 as in force before the commencement.

Part 8 Amendment of Public Service Act 2008

83 Act amended

This part amends the *Public Service Act 2008*.

84 Amendment of s 186A (Definitions for ch 6)

- (1) Section 186A, definition *employing chief executive*—
omit.
- (2) Section 186A—
insert—

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

current chief executive, of a public service employee, means the chief executive of the department in which the employee is employed after changing employment from another department.

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

prescribed employee means—

- (a) an ambulance service officer; or
- (b) a fire service officer; or
- (c) a relevant commission officer.

relevant commission officer see the *Crime and Corruption Act 2001*, section 273A.

85 Insertion of new s 186B

Chapter 6, part 1—

insert—

186B References to prescribed employees

- (1) This section provides for the meaning of particular terms used in this chapter relating to a person who is or was a prescribed employee.
- (2) A reference to the person's current or previous chief executive is a reference to—
 - (a) for a person who is or was an ambulance service officer—the chief executive of the department in which the *Ambulance Service Act 1991* is administered; or

[s 86]

- (b) for a person who is or was a fire service officer—the commissioner under the *Fire and Emergency Services Act 1990*; or
 - (c) for a person who is or was a relevant commission officer—the chief executive officer under the *Crime and Corruption Act 2001*.
- (3) A reference to a relevant disciplinary law for the person is a reference to any of the following—
- (a) the *Ambulance Service Act 1991*, part 2, division 4;
 - (b) the *Fire and Emergency Services Act 1990*, chapter 3, part 4, division 3;
 - (c) the *Crime and Corruption Act 2001*, chapter 6, part 1, division 9.

Note—

The laws mentioned in this subsection also provide for disciplinary action against a person who was, but is no longer, a prescribed employee.

- (4) In part 2, division 3—
- (a) a reference to a relevant disciplinary ground for the person is a reference to a disciplinary ground under a relevant disciplinary law for the person; and
 - (b) a reference to a disciplinary finding in relation to a relevant disciplinary ground for the person is a reference to a finding that a relevant disciplinary ground for the person exists.

86 Insertion of new ch 6, pt 2, div 1, hdg

Chapter 6, part 2, before section 187—

insert—

Division 1 **Grounds for discipline and
disciplinary action
generally**

87 **Amendment of s 187A (How disciplinary action may be
taken against a public service employee after the
employee changes employment)**

Section 187A(4) to (7), ‘employing’—

omit, insert—

current

88 **Amendment of s 188 (Disciplinary action that may be
taken against a public service employee)**

Section 188(2), ‘employing’—

omit, insert—

current

89 **Insertion of new ch 6, pt 2, div 2, hdg**

Chapter 6, part 2, after section 188—

insert—

Division 2 **Disciplinary action against
former public service
employee**

90 **Amendment of s 188A (Disciplinary action that may be
taken against a former public service employee)**

(1) Section 188A(2)—

omit, insert—

(2) However, this section does not apply in relation to
a person who is a former public service employee

[s 91]

if the person's previous chief executive is aware—

- (a) the person is a prescribed employee; and
- (b) the previous chief executive or the person's current chief executive has taken, is taking, or intends to take disciplinary action against the person, under a relevant disciplinary law, in relation to the disciplinary ground.

- (2) Section 188A(3), (7) and (8), before 'previous'—
insert—

former public service employee's

91 Replacement of s 188AB (Disciplinary action that may be taken against a former ambulance service officer or former fire service officer)

Section 188AB—

omit, insert—

Division 3 Disciplinary action against a public service employee who was a prescribed employee

188AB Application of division

- (1) This division applies if—
- (a) a person is a prescribed employee and a relevant disciplinary ground arises in relation to the person; and
 - (b) after the relevant disciplinary ground arises, the person stops being employed as a prescribed employee and starts employment as a public service employee.
- (2) However, this division 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 law, in relation to the relevant disciplinary ground.

188AC Action previous chief executive may take

- (1) The person's previous chief executive may make a disciplinary finding about the relevant disciplinary ground for this division.
- (2) The previous chief executive may take disciplinary action about the relevant disciplinary ground as provided under section 188AD(2).
- (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 person's current chief executive the authority under subsection (1) to make a disciplinary finding about the person.
- (4) The previous chief executive may give to the current chief executive any information about a person or a relevant disciplinary ground relating to the person to help the current chief executive to perform a function under section 188AD(2) or (4) in relation to the person.

188AD Action current chief executive may take

- (1) Subsection (2) applies if—
 - (a) the person's previous chief executive makes a disciplinary finding about the relevant disciplinary ground; and
 - (b) the previous chief executive and the person's current chief executive agree that disciplinary action against the person is reasonable in the circumstances.

[s 91]

- (2) The current chief executive may take disciplinary action against the person under section 188 as if a disciplinary ground exists.
- (3) Subsection (4) applies if—
 - (a) the person's previous chief executive delegates to the person's current chief executive the authority under section 188AC(1) to make a disciplinary finding about the person; and
 - (b) the current chief executive makes a disciplinary finding about the person.
- (4) The current chief executive may take disciplinary action against the person under section 188 without the agreement of the previous chief executive.

188AE Application of division if the current and previous chief executive are the same person

- (1) This section applies if the current chief executive and previous chief executive for a person who was a prescribed employee is the same person.

Example of when this section may apply—

A person who was an ambulance service officer becomes a public service employee in the department in which the *Ambulance Service Act 1991* is administered.

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

Division 4 Other provisions about disciplinary action

92 Insertion of new ch 9, pt 13

Chapter 9—

insert—

**Part 13 Transitional provision
for Crime and
Corruption and Other
Legislation
Amendment Act 2018**

**291 Disciplinary action against a public service
employee who was a relevant commission
officer**

- (1) This section applies to a person who is a public service employee and was a relevant commission officer.
- (2) The person may be disciplined under chapter 6, part 2, division 3 in relation to a relevant disciplinary ground arising when the person was a relevant commission officer only if the ground arose on or after 3 February 2017.

Note—

Particular provisions of this Act about disciplinary action have applied to the Crime and Corruption Commission, as a public service office under this Act, since 3 February 2017.

- (3) However, if the relevant disciplinary ground arising on or after 3 February 2017 relates to conduct that is a part of a course of conduct that also includes conduct giving rise to a relevant disciplinary ground arising before 3 February 2017, the person may be disciplined under chapter 6, part 2, division 3 in relation to all of the grounds as if they all arose on or after 3 February 2017.
- (4) Subsection (3) does not apply in relation to a

[s 92]

relevant disciplinary ground arising before 3 February 2017 if disciplinary action has been, or is being, taken in relation to the ground under this Act or a relevant disciplinary law for the person within the meaning of section 186B(3).

- (5) If, at the commencement, the CCC chairperson is taking disciplinary action under section 187A in relation to a person to whom this section applies—
- (a) the chairperson must stop taking the disciplinary action under section 187A; and
 - (b) the disciplinary action may be continued under chapter 6, part 2, division 3; and
 - (c) anything done under section 187A in relation to the disciplinary action by the CCC chairperson is taken to have been done under chapter 6, part 2, division 3 by the CCC chief executive officer.
- (6) Subsection (5) does not prevent the CCC chief executive officer taking disciplinary action under the *Crime and Corruption Act 2001*, section 273D instead of continuing disciplinary action under chapter 6, part 2, division 3.
- (7) In this section—

CCC chairperson means the chairperson of the Crime and Corruption Commission.

CCC chief executive officer means the chief executive officer under the *Crime and Corruption Act 2001*.

relevant commission officer see section 186A.

93 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *ambulance service chief executive*, *ambulance service officer*, *employing chief executive*, *fire service chief executive* and *fire service officer*—

omit.

- (2) Schedule 4—

insert—

ambulance service officer, for chapter 6, see section 186A.

current chief executive, of a public service employee, for chapter 6, see section 186A.

fire service officer, for chapter 6, see section 186A.

prescribed employee, for chapter 6, see section 186A.

relevant commission officer, for chapter 6, see section 186A.

- (3) Schedule 4, definition *disciplinary declaration*, paragraph (a)(i)—

insert—

(D) the *Crime and Corruption Act 2001*, section 273D; or

- (4) Schedule 4, definition *previous chief executive*, before ‘for’—

insert—

for a public service employee,

