

# Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025

## Explanatory Notes

### Short title

The short title of the Bill is the Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025 (the Bill).

### Policy objectives and the reasons for them

The Bill delivers on the Government's election commitment to restore the Crime and Corruption Commission's (CCC) powers to report on corruption risks in Queensland.

The High Court in *Carne v Crime and Corruption Commission* (2023) 97 ALJR 737 (the High Court decision) found that the *Crime and Corruption Act 2001* (CC Act) did not empower the CCC to make a public report about a particular corruption investigation or complaint, other than to report to a relevant entity under section 49 of the CC Act for the purpose of that entity giving consideration to prosecution or disciplinary action. The immediate impact of the High Court decision was that past reports about the CCC's corruption investigations were invalid.

Under section 7 of the CC Act, the CCC has primary responsibility for the achievement of the purposes of the CC Act. Section 4 provides that one of the main purposes of the CC Act is to continuously improve the integrity of, and reduce the incidence of corruption in, the public sector. Under section 33 of the CC Act, the CCC has the following specific corruption functions:

- to raise standards of integrity and conduct in units of public administration; and
- to ensure a complaint about, or information or matter involving, corruption is dealt with in an appropriate way, having regard to the principles set out in section 34.

The CCC performs its corruption functions in a number of ways, including, under section 46 of the CC Act, dealing with a complaint about, or information or matter, involving corruption via assessment of the complaint and taking appropriate action.

The CCC and its predecessors also operated on the basis that in performing its corruption functions there was a general power to report publicly in the performance of its functions under section 64 of the CC Act.

The objectives of the Bill are to:

- restore the power to report publicly about corruption investigations, as it was considered to exist before the High Court decision, and to ensure that the CCC may also make public statements about these matters;
- safeguard against the release of information to the public about corruption matters in circumstances where the risks or harms outweigh any benefits to be derived from releasing the information; and
- ensure that any residual legal risk that might be attributable to the CCC and its officers in respect of the preparation and publication of past reports and statements is removed.

Corruption poses a serious threat to the stability and security of societies and can undermine the institutions and values of democracy, ethical values and justice, and jeopardise sustainable development of the rule of law.<sup>1</sup>

As a result, there is a strong public interest in ensuring that the CCC can publicly release commission reports and make public statements about corruption. Releasing information about corruption and corruption risks enhances accountability and transparency in government and the public sector. It also promotes confidence in the integrity of the public sector by assuring the public and public sector that corruption, if it does occur, is appropriately dealt with and assists in the prevention of corruption.

The Bill includes other unrelated miscellaneous amendments to help improve the CCC's efficiency.

## **Achievement of policy objectives**

To achieve its objectives, the Bill makes a range of amendments to the CC Act.

### **New powers to make public reports and statements**

The Bill provides new powers for the CCC to report and make public statements at any time about corruption matters. This will provide the CCC with the powers found to be lacking by the High Court decision.

A **corruption matter** is defined by the Bill to mean a complaint about, or information or matter (also a *complaint*) involving, corruption made or notified to the CCC, or otherwise coming to its attention, whether or not the complaint has been assessed or any action has been taken in relation to the complaint under section 46 of the CC Act; or a corruption investigation, whether or not the investigation is complete.

The matters to be included in a public report align with existing section 64 of the CC Act. This will allow the CCC to continue to include recommendations with an objective summary of all the matters that support, oppose or are otherwise relevant to its recommendations (including any comments it may have on these matters).

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<sup>1</sup> *United Nations Convention Against Corruption*, opened for signature 31 October 2003, 2349 UNTS 41 (entered into force 14 December 2005), preamble.

The Bill also makes it clear that a public statement cannot include the recommendations of the CCC, other than a recommendation that is included in a commission report (section 48B(2)). Section 64 provides that if the CCC wishes to include recommendations in a report it must also include an objective summary of all matters supporting or otherwise relevant to its recommendations. The form of a public statement as commonly understood is not conducive to including lengthy objective factual summaries and, therefore, the Bill provides that only recommendations which were included in a CCC report that has been tabled may be included in a public statement.

### **Matters relevant to reporting and making public statements**

The Bill is designed to establish a framework for reporting and making public statements that provides clear guidance to the CCC and the public about the factors which should influence when public reporting about corruption matters will be appropriate. To this end, the Bill's reporting and public statement powers are subject to a new safeguard in the form of a set of criteria which the CCC must consider before releasing information in either a report or public statement.

The Bill enumerates the following, non-exhaustive matters which must be considered in making a decision to publicly report or make a public statement on a corruption matter:

- the need for accountability and transparency in government and the public sector;
- whether the report or statement will be for the public benefit;
- whether the commission has finalised its assessment of the corruption matter, and any action taken in relation to it, under section 46 of the CC Act;
- the seriousness of the corruption matter;
- whether the report or statement may prejudice any proceeding that the CCC is aware of or any reasonably foreseeable future proceeding in relation to the corruption matter, or an investigation by the CCC or other law enforcement agency; and
- for a statement, whether the statement is the most appropriate and suitable means of releasing information about the corruption matter to the public.

Where a person's identity is readily apparent, or can be reasonably ascertained, from the report or statement, the following further matters must be considered:

- whether the standing and status of the person warrants greater public scrutiny;
- whether the report or statement may unreasonably damage the person's health, safety or wellbeing;
- the seriousness of the person's conduct;
- whether the person consents to being identified; and
- whether the report or statement may unreasonably interfere with the person's privacy or reputation.

The CCC is also required to consider any other relevant matter.

These matters will guide the CCC as it prepares content for a report or public statement, as well as its ultimate decision to report or make the public statement.

Some of the criteria operate as factors in favour of releasing information, such as the need for accountability and transparency in government and the public sector and the seriousness of the matter. Other criteria may weigh positively or negatively depending on the circumstances of the matter.

These criteria give context to, and are to operate in conjunction with, the overriding responsibility of the CCC to ‘act independently, impartially and fairly, having regard to the purposes of this Act and the importance of protecting the public interest’ (section 57 of the CC Act). The criteria will also apply alongside the CCC’s obligations under section 58 of the *Human Rights Act 2019* (HR Act) to act and make decisions in a way that is compatible with human rights, and to properly consider human rights when making decisions.

### **Enhanced procedural fairness**

Section 71A of the CC Act provides that, where the CCC proposes to make adverse comment about a person in a report to be tabled in the Legislative Assembly, or published to the public under the CC Act, the CCC must not make the proposed adverse comment unless, before the report is prepared, the CCC gives the person an opportunity to make submissions about the proposed adverse comment and where the person makes submissions, fairly states these in the report.

Clause 19 of the Bill enhances and clarifies the scope of the procedural fairness requirements under the CC Act to ensure that a person must be given the opportunity to respond to the evidence (or the substance or significant part of that evidence) which the CCC considers justifies an adverse comment.

Within 14 days of receiving the invitation to make a submission, a person may apply to the CCC for an extension of time. If the CCC refuses the application, the person has 14 days from receiving the refusal to apply to the Supreme Court for an extension of time.

The new provisions contain an upper limit of 60 days for any extension granted by the CCC or the Supreme Court (for those cases where the CCC does not grant the extension of time) unless there are exceptional circumstances.

### **Tabling of reports**

Prior to the High Court decision, the CCC relied upon the process of requesting the Parliamentary Crime and Corruption Committee (PCCC) to issue a direction calling for a report in order to table a report in the Legislative Assembly.

The Bill enhances the independence of the CCC by ensuring that the CCC must give a report directly to the Speaker for tabling (at the same time as providing the report to the Attorney-General and the chairperson of the PCCC).

### **Validation of past reports and statements**

The Bill retrospectively validates past reports which were prepared or made, tabled or published and public statements which were prepared and made, ensuring these are taken to have always been lawful and valid.

### **Miscellaneous amendments**

The Bill amends the operation of section 256 of the CC Act which allows the CCC to engage suitably qualified persons as agents to provide it with services, information or advice in order to meet temporary circumstances.

The CCC has advised that the ‘meeting temporary circumstances’ requirement imposes an unnecessary temporal limitation on the engagement of agents by the CCC. In practice, the CCC is required to use agents irregularly or intermittently but often over an extended period. The Bill will address this issue by removing the temporary circumstances requirement.

The Bill also amends section 85AA of the CC Act which applies certain requirements to notices issued electronically.

The CCC has advised that the requirements represent an impractical administrative burden for the CCC, particularly in relation to notices addressed to financial institutions. Noting the primary intention of the requirements is to protect individuals who are the subject of notices, the proposed amendments will refine the requirements for emailing notices.

### **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

### **Estimated cost for government implementation**

Any financial impacts are to be met from within existing resources.

### **Consistency with fundamental legislative principles**

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

**Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review – *Legislative Standards Act 1992*, section 4(3)(a)**

#### Clauses 14 and 15

The Bill makes rights and liberties dependent upon administrative power by giving the CCC the power to determine when and how to release information publicly about

corruption matters. It does this by empowering the CCC to report on a corruption matter (clause 14 – insertion of new section 64A) and to make a statement to the public on a corruption matter (clause 15 – insertion of new section 65A). Information that may be released under these powers could have significant impacts on an individual’s privacy and reputation.

Any burden on rights or liberties imposed by these measures is justifiable on grounds that the proposed amendments clearly set out the extent of the administrative power, by including several criteria that must be considered in making a decision to exercise the power. These criteria include considerations relevant to the impact of releasing the information, and the content of the information released, on a person’s rights.

Further, clause 7 of the Bill inserts new section 48B (Limitation on commission’s findings, recommendations and statements) which serves to clarify that there is nothing in the scope of the powers conferred by the new provisions that would expand the CCC’s functions for corruption to include making findings of corrupt conduct or related findings, statements or recommendations. Including these limitations as express legislative prohibitions in new section 48B provides an additional safeguard for the rights and liberties of persons subject to these administrative powers.

In addition, a person who is the subject of an adverse comment is entitled to enhanced procedural fairness (clause 19). Procedural fairness ensures that the person has an opportunity to be heard in relation to adverse comments made about them.

As a further safeguard, the exercise of the proposed new powers for commission reports and public statements will be subject to review, as applicable, under the *Judicial Review Act 1991*.

Any impacts on the rights and liberties of individuals are considered justified having regard to the relevant safeguards and limitations that apply and the significant public benefit that is derived from transparent and independent reporting about corruption matters.

**Legislation should not reverse the onus of proof in criminal proceedings without adequate justification – *Legislative Standards Act 1992*, section 4(3)(d)**

Clause 24

Clause 24 will expand the existing criminal offence in section 214 of the CC Act (Unauthorised publication of commission reports) to cover new conduct to ensure the confidentiality of certain restricted information. Restricted information includes draft commission reports or public statements or any evidence and other information or material relating to a draft report or statement. The offence is proposed to carry a maximum penalty of 85 penalty units or 1 year’s imprisonment.

The offence will not apply where the person has a reasonable excuse. For example, where the restricted information is given by the person to their legal representative for the purpose of obtaining legal advice. Reversing the onus of proof is reasonable because the existence of an excuse is likely to be a matter that will be entirely within the person’s knowledge.

**Legislation should not adversely affects rights and liberties, or imposes obligations, retrospectively – *Legislative Standards Act 1992*, section 4(3)(g)**

Clause 30

The Bill may adversely affect rights and liberties retrospectively by validating the past preparation, publication and tabling of reports and the past making of public statements. The adverse impact on rights arises from the fact that reports or statements may contain damaging content that impacts a person's rights and, in some circumstances, may give rise to a cause of action, for example an action in damages for defamation.

New sections 471 (Validation of past reports) and 472 (Validation of past public statements) provide that past reports and statements, and any related action taken or not taken, or decisions made or not made, by the CCC, are taken to be, and to have always been, valid and lawful. These validation provisions provide certainty and legal protection to the CCC and its officers. This is important as the validation of the past reports and public statements will provide legal certainty and allow continued public access to and awareness of information relating to past corruption issues that was previously publicly available.

However, any impact on rights must also be considered in context of the passage of time since the reports or statements in question were made. The extent of ongoing impacts on a person's rights, and the likelihood of a successful cause of action still being available, are likely to be significantly diminished. Any adverse impacts on individual rights arising from the proposed validation provisions are therefore considered reasonable having regard to the nature of these impacts. The benefit of ensuring transparency in relation to past reports and public statements and the desirability of giving certainty to the actions of the CCC and its officers that were considered to be lawful at the time justifies any departures from this fundamental legislative principle.

## **Consultation**

The CCC was consulted on the broad policy proposals and feedback was sought on a draft of the Bill. No other stakeholders were consulted.

## **Consistency with legislation of other jurisdictions**

The framework proposed by the Bill is unique to the Queensland context. Some form of public reporting exists across all Australian anti-corruption bodies, while some expressly provide for powers to make public statements. Regard has been had to the models in other jurisdictions in developing the amendments.

# Notes on provisions

## Part 1 Preliminary

*Clause 1* states that the Bill, if passed, may be cited as the *Crime and Corruption (Restoring Reporting Powers) Amendment Act 2025*.

## Part 2 Amendment of Crime and Corruption Act 2001

*Clause 2* provides that this part amends the *Crime and Corruption Act 2001*.

*Clause 3* amends the heading of Chapter 2 from ‘Commission functions, investigations and reporting’, to ‘Commission functions, investigations, reporting and statements’.

*Clause 4* amends section 35 (How commission performs its corruption functions) to insert new sections 35(1)(k) to (m), providing for additional ways in which the commission may carry out its corruption functions. These are by:

- providing information generally about how it performs its corruption functions by reporting and making statements to the public;
- reporting on investigations to appropriate authorities and entities if it decides that prosecution proceedings or disciplinary action should be considered; and
- providing information to the public and to appropriate authorities and entities, by reporting and making public statements, about particular complaints or particular investigations if the commission considers it appropriate and necessary in the circumstances to do so to:
  - provide transparency about how it performs its corruption functions;
  - assure the public and other authorities and entities that allegations of corruption are appropriately dealt with; or
  - continuously improve the integrity of, and reduce the incidence of corruption in, the public sector.

*Clause 5* amends section 46 (Dealing with complaints—commission) by inserting a note after section 46(5). Section 46(5) requires the commission to give a person who has made a corruption complaint a response setting out the action taken or not taken by the commission on the complaint. The amendment includes a note to clarify that new section 48B (Limitation on commission’s findings, recommendations and statements) is also relevant to a response under section 46(5).

*Clause 6* amends the heading of Chapter 2, part 3, division 4, subdivision 4 from ‘Miscellaneous provision’ to ‘Miscellaneous provisions’.

*Clause 7* inserts new section 48B. New section 48B (Limitation on commission’s findings, recommendations and statements) provides, despite any other law, the commission must not:

- make any finding or statement that a person has or has not engaged in, or is or is not engaging in or about to engage in, corruption;

- make any finding, recommendation or statement that a person should be prosecuted for a criminal offence or be the subject of disciplinary action, or that prosecution proceedings or disciplinary action should be considered in relation to a person; or
- make any finding or statement that there is evidence, or insufficient evidence, supporting the start of a proceeding against a person.

New section 48B includes an important exception, to ensure that the commission may include certain statements, findings or recommendations in relation to prosecution proceedings or disciplinary action in a report under chapter 2, part 3, division 5 or a proceeding relating to the report, or in any information or document that the commission is required to provide to the parliamentary committee or parliamentary commissioner (section 48B(2)).

To remove any doubt, new section 48B(3) declares that the commission is not prevented from making a factual statement about a matter or thing that is already in the public domain or to indicate that the commission has reported on a corruption investigation under chapter 2, part 3, division 5.

*Clause 8* amends the heading of section 50 from ‘Commission may prosecute corrupt conduct’ to ‘Commission may apply to QCAT about corrupt conduct’. This clarifies that the commission does not charge, nor prosecute (criminal offences) in its own power or authority. This amendment is currently included in section 9 of the *Crime and Corruption and Other Legislation Amendment Act 2024* (COLA Act) but has not yet commenced.

Further, *Clause 8* omits and replaces section 50(1) with a revised section 50(1) to better reflect the nature of the report that is made by the commission under section 49. The revised section 50(1) provides that the section applies if the commission reports to the chief executive officer of a unit of public administration under section 49(2)(f) and considers there is evidence supporting the start of a disciplinary proceeding against a prescribed person in the unit of public administration in relation to a complaint about, or information or matter involving, corruption.

*Clause 9* amends the heading of Chapter 2, part 6 from ‘Reporting’ to ‘Reporting and Statements’.

*Clause 10* amends the heading of Chapter 2, part 6, division 1 from ‘Application’ to ‘Preliminary’.

*Clause 11* amends the heading of section 63 (Application of pt 6) to replace ‘pt’ with ‘part’ in accordance with modern drafting practices. Further, *Clause 11* omits the words ‘performance of crime functions’ in section 63 and replaces these with the words ‘commission’s performance of its crime function’.

*Clause 12* inserts new section 63A. New section 63A (Definitions for part) provides a definition of the terms ‘action’ and ‘corruption matter’ for part 6. An ‘action’ includes a decision to take no action or discontinue action. A ‘corruption matter’ means a complaint about, or information or matter (also a *complaint*) involving, corruption made or notified to the commission, or otherwise coming to its attention, whether or not the complaint has been assessed or any action has been taken in relation to the

complaint under section 46; or a corruption investigation, whether or not the investigation is complete. The definition of corruption matter is broad. For example, it could capture a complaint made to the commission about corruption which is subsequently assessed by the commission to not fall within the commission's functions.

*Clause 13* amends the heading of section 64 (Commission's reports—general) to replace 'Commission's' with 'Commission'. The clause also inserts a note following section 64(2) referring to new section 48B in relation to limitations on the commission's findings, recommendations and statements. It further inserts new sections 64(4A) and 64(4B).

To remove any doubt, new section 64(4A) declares that, subject to section 63, the commission may report simultaneously in the performance of one or more of its functions. New section 64(4B) provides that section 64 does not apply to a report under Chapter 2, part 3, division 5. The clause also renumbers sections 64(4A) to (5) as sections 64(5) to (7).

*Clause 14* inserts new section 64A. New section 64A (Commission reports—particular corruption matters) states that without limiting section 64, the commission may report on a corruption matter under section 64(1) (section 64A(1)) and outlines the matters the commission must consider in making a decision about reporting on a corruption matter under section 64(1), including the preparation of prescribed content and the inclusion of comments under section 64(4) in the report (section 64A(2)).

Under new section 64A(2)(a) to (e), the matters the commission must consider are:

- the need for accountability and transparency in government and the public sector;
- whether the report will be for the public benefit;
- whether the commission has finalised its assessment of the corruption matter, and any action taken in relation to the corruption matter, under section 46;
- the seriousness of the corruption matter;
- whether the report may prejudice any proceeding that the commission is aware of, or any reasonably foreseeable future proceeding, in relation to the corruption matter, or an investigation by the commission or other law enforcement agency.

Where a person's identity is readily apparent, or can reasonably be ascertained, from the report, the commission must also consider the following further criteria under new section 64A(2)(f)—

- whether the standing and status of the person warrants greater public scrutiny;
- whether the report may unreasonably damage the person's health, safety or wellbeing;
- the seriousness of the person's conduct;
- whether the person consents to being identified; and
- whether the report may unreasonably interfere with the person's privacy or reputation.

New section 64A(2)(g) provides that the commission must also take into account any other relevant matter.

The proposed criteria under new section 64A(2)(f) are expected to apply to each individual person who may be identified in a report, including situations where a report concerns multiple persons. In applying the criteria to multiple persons the commission may be required to have regard to competing considerations. For example, it may be important to identify a particular person in a report having regard to the senior position they hold in the public service and the seriousness of the conduct involved. However, identifying this person may mean that other persons who were also the subject of the investigation will be identified even though their conduct may not meet the same standard of seriousness. In this case, the CCC would be required to weigh all relevant considerations, including balancing any competing considerations as they concern particular individuals, to determine whether and how it should appropriately report in relation to each individual under new section 64A.

New section 64A(3) states that section 64A(2) does not limit or otherwise affect the operation of section 57 (Commission to act independently etc.) or the application of any other law to the commission's decision. Section 58 of the HR Act is included as an example of another law that may apply to the commission's decision.

Under section 58 of the HR Act the commission, in exercising any discretion, has an obligation to give proper consideration to relevant human rights. The criteria contained in new section 64A may overlap with some human rights under the HR Act, for example the requirement under section 64A(2)(f) to consider whether the report may unreasonably damage the person's health, safety or wellbeing, or under section 64A(2)(g) to consider whether the report may unreasonably interfere with the person's privacy or reputation. Effectively, this will mean that the CCC is under two separate and distinct obligations to consider related matters. Failure to consider a mandatory relevant consideration under section 64A(2) will be amenable to judicial review under the *Judicial Review Act 1991*.

To remove any doubt, new section 64A(4) declares that the commission may report on a corruption matter under section 64A(1) regardless of whether the commission has reported on the matter under section 49.

New section 64A(5) defines, for the purposes of the section, the term 'prescribed content', for a report, to mean an objective summary of matters that must be included in the report under section 64(2)(b) or a fair statement of a person's submission that must be included in the report under section 69B(5) or 69D(4).

*Clause 15* inserts new Chapter 2, part 6, division 2A. New division 2A is headed 'Public statements about particular corruption matters' and contains new section 65A.

New section 65A (Public statements) states the commission may make a statement to the public about a corruption matter (a *public statement*) (section 65A(1)) in the way the commission considers appropriate (section 65A(2)).

It further provides that a public statement must not include any recommendations in relation to a corruption matter other than a recommendation included in a commission report on the corruption matter that has been tabled in the Legislative Assembly, or published, under section 69 (section 65A(3)); and outlines the matters the commission

must consider in making a decision about making a public statement about a corruption matter under section 65A(1), including the information to be included in the statement (section 65A(4)).

Under new section 65A(4)(a) to (f), the matters the commission must consider are:

- the need for accountability and transparency in government and the public sector;
- whether the statement will be for the public benefit;
- whether the commission has finalised its assessment of the corruption matter, and any action taken in relation to the corruption matter, under section 46;
- the seriousness of the corruption matter;
- whether the statement may prejudice any proceeding that the commission is aware of, or any reasonably foreseeable future proceeding, in relation to the corruption matter, or an investigation by the commission or other law enforcement agency; and
- whether the statement is the most appropriate and suitable means of releasing information about the corruption matter to the public.

Where a person's identity is readily apparent, or can reasonably be ascertained, from the statement, the commission must also consider the following further criteria under new section 65A(4)(g)—

- whether the standing and status of the person warrants greater public scrutiny;
- whether the statement may unreasonably damage the person's health, safety or wellbeing;
- the seriousness of the person's conduct;
- whether the person consents to being identified; and
- whether the statement may unreasonably interfere with the person's privacy or reputation.

See discussion above for new section 64A (*Clause 14*) with respect to the intended operation of the provision as it pertains to multiple individuals.

New section 65A(4)(h) provides that the commission must also take into account any other relevant matter.

New section 65A(5) states that section 65A(4) does not limit or otherwise affect the operation of section 57 (Commission to act independently etc.) or the application of any other law to the commission's decision. Section 58 of the HR Act is included as an example of another law that may apply to the commission's decision. See above discussion for new section 64A (*Clause 14*) in relation to the overlap between the criteria in new section 65A and human rights under the HR Act.

New section 65A(6) states that section 65A does not limit section 174 (Commission's powers generally), other than to the extent mentioned in section 174(3).

New section 65A(7) defines, for the purposes of the section, the term 'information', for a statement, to include any comments and other material that may be included in the statement, and a fair statement of the person's submission that must be included in the statement under section 69B(5) or 69D(4).

*Clause 16* amends section 66 (Maintaining confidentiality of information) to expand the scope of sections 66(1) and 66(2) to include statements in addition to reports. It further clarifies that a document mentioned in section 66(2)(a) or 66(2)(b) is not a commission report for section 69 (Commission reports to be tabled) and defines the terms ‘report’ and ‘statement’ for the purposes of the section.

*Clause 17* amends section 68 (Giving of reasons) by inserting the word ‘commission’ before ‘report’ in section 68(b).

*Clause 18* amends section 69 (Commission reports to be tabled) by omitting section 69(1) and 69(2), and omitting and replacing section 69(8) to provide that section 69 does not apply to a commission report to which section 65 (Commission reports – court procedures) applies. It further replaces the reference ‘subsection (6)’ with ‘subsection 4’ in section 69(7), and renumbers sections 69(3) to (8) as sections 69(1) to (6).

*Clause 19* inserts new Chapter 2, part 6, division 4A. New division 4A is headed ‘Procedural provisions’ and contains new sections 69A to 69D.

New section 69A (Definitions for division) defines the terms ‘adverse comment’, ‘related evidence’, ‘related evidence summary’ and ‘relevant person’ for the purposes of the division.

An ‘adverse comment’, about a person, means adverse comment, whether true or not, by any person, including the commission, about a person whose identity is readily apparent or can reasonably be ascertained, regardless of whether the person is identified by name.

‘Related evidence’, in relation to adverse comment about a person, means evidence and other information or material in the possession of the commission on which the adverse comment about the person is based.

‘Related evidence summary’ is defined in section 69B(2)(b) as a summary of the substance or significant part of any related evidence

‘Relevant person’, in relation to a commission report, means the chairperson of the parliamentary committee, the Speaker or the Minister.

New section 69B (Adverse comment) applies if the commission proposes to make an adverse comment about a person in a commission report required to be tabled in the Legislative Assembly or published under section 69, or a public statement (section 69B(1)).

Under new section 69B(2), without limiting the commission’s obligation to provide procedural fairness to the person, before the commission gives the commission report to a relevant person or makes or makes the public statement, the commission must:

- in relation to a commission report, give the person a copy of the report in draft form (the *draft report*) or an extract from the draft report containing the adverse comment;

- in relation to a public statement, give the person a copy of the statement in draft form (the *draft statement*) or, if the draft statement applies to more than one person, the part of the draft statement that applies to the person;
- give the person a copy of any related evidence, or a *related evidence summary*, that is not contained in the draft report or extract from the draft report, or the draft statement or part of the draft statement; and
- give the person a written notice inviting the person to make a submission to the commission on the draft report or extract from the draft report, or the draft statement or part of the draft statement, and the related evidence or related evidence summary, and stating the day, not earlier than 30 days after the notice is given, by which the submission must be made to the commission.

New section 69B(3) enables the person, within 14 days after receiving the notice, to apply to the commission for an extension of time, of no more than 60 days unless there are exceptional circumstances, in which to make a submission.

New section 69B(4) specifies that the commission must consider any submission received from the person by the day stated in the notice or within any extended time for making a submission granted by the commission or by the Supreme Court under section 69C.

If after considering a submission under section 69B(4) the commission still proposes to include adverse comment about the person in the commission report or public statement, the commission must ensure the person's submission is also fairly stated in the report or statement (section 69B(5)).

New sections 69B(2) to (5) apply to any further adverse comments about the person the commission proposes to include in the commission report or public statement (section 69B(6)).

New section 69B(2) does not apply in relation to a public statement if the statement only provides a factual and objective summary of a commission report and the commission has complied with section 69B in relation to the report (section 69B(7)).

To remove any doubt, new section 69B(8) declares that section 69B(2)(b) does not require the commission to give a person a copy of evidence and other information or material in its possession if the commission considers the confidentiality of the evidence, information or material should be strictly maintained.

New section 69C (Application to court for extension of time to make submission) applies if a person applies for an extension of time under section 69B(3) (the *extension application*) and the commission decides to refuse the extension application (section 69C(1)). New section 69C requires the commission to give the person an information notice for its decision (section 69C(2)) and provides that within 14 days after receiving the information notice, the person may apply to the Supreme Court to decide the extension application (section 69C(3)).

The commission must not give the commission report to a relevant person, or make the public statement, before the end of the period in which a person may apply to the

Supreme Court under section 69C(3) or, if an application is made under section 69C(3), before the application is decided or withdrawn (section 69C(4)).

New sections 69C(5) to (7) outline procedural requirements applying to the hearing of the application by the Supreme Court. These are that the Supreme Court must deal with an application under section 69C(3) expeditiously; the application may be held in closed court; and the Supreme Court may hear the application in any way it considers appropriate, including, for example, by hearing the matter afresh.

On hearing the application the Supreme Court may affirm the commission's decision, or set aside the commission's decision and grant an extension of time, of no more than 60 days unless there are exceptional circumstances, within which the person may make a submission to the commission on the draft report or extract from the draft report, or the draft statement or part of the draft statement, and the related evidence or related evidence summary (section 69C(8)).

The Supreme Court must give reasons for their decision, which may be given orally (section 69C(9)).

New section 69C(10) defines the term 'information notice' for the purposes of the section. An 'information notice', for a decision, means a written notice stating particular information in relation to the decision of the commission and how a person may apply to the Supreme Court.

New section 69D (Other identifying information) applies if the commission proposes to include identifying information about a person in a commission report required to be tabled in the Legislative Assembly or published under section 69, or a public statement, and section 69B does not apply (section 69D(1)).

Under new section 69D(2), before the commission report is given to a relevant person or the public statement is made, the commission may:

- in relation to a commission report, give the person a copy of the report in draft form (the *draft report*) or an extract from the draft report containing the identifying information;
- in relation to a public statement, give the person a copy of the statement in draft form (the *draft statement*) or, if the draft statement applies to more than one person, the part of the draft statement that applies to the person; and
- give the person a written notice inviting the person to make a submission to the commission on the draft report or extract from the draft report, or the draft statement or part of the draft statement, and stating the day, not earlier than 30 days after the notice is given, by which the submission must be made to the commission.

New section 69D(3) specifies that the commission must consider any submission received from the person by the day stated in the notice. If the person makes a submission to the commission in response to the notice and the commission still proposes to include the identifying information in the commission report or public statement, the commission must ensure the person's submission is also fairly stated in the report or statement (section 69D(4)).

New section 69D(5) defines the term ‘identifying information’ for the purposes of the section to mean any comment, information, opinion or other material that identifies a person or from which a person can reasonably be identified.

*Clause 20* amends section 71 (Giving other information to parliamentary committee) to replace the words ‘a report’ with the words ‘a commission report given to the chairperson of the committee’ to clarify the intended application of the section.

*Clause 21* omits section 71A (Report containing adverse comment).

*Clause 22* amends section 85AA (Giving notices by email) by inserting into section 85AA(3), after ‘However,’ the words ‘if the person is an individual,’.

*Clause 23* amends section 174 (Commissioner’s powers generally) by inserting into section 174(1), after the word ‘functions’, the words ‘, including, for example, the power to make a statement to the public’.

Clause 23 also inserts new section 174(2A). New section 174(2A) states the commission’s power under section 174(1) in relation to the performance of its corruption functions, and its prevention function to the extent it relates to corruption, does not include power to make a statement to the public about a particular complaint about, or information or matter involving, corruption, or about a particular corruption investigation. Further, the clause renumbers sections 174(2A) and (3) as sections 174(3) and (4).

The amendments clarify that the commission’s powers under section 174 include a power to make public statements in the performance of its functions but do not include the power to make statements about particular corruption complaints or investigations, where such statements are made in the performance of its corruption functions or its prevention function as it relates to corruption. The commission’s powers to make statements of this kind are provided for under chapter 2, part 6, division 2A, new section 65A.

*Clause 24* amends section 214 (Unauthorised publication of commission reports) by inserting into the heading, after ‘reports’, the words ‘and other restricted information’; and inserting new sections 214(2) and 214(3).

New section 214(2) states that a person who is given restricted information by the commission under Chapter 2, part 6, division 4A must not disclose the information to anyone else unless the person has a reasonable excuse. The maximum penalty for breaching this provision is 85 penalty units or 1 year’s imprisonment.

New section 214(3) defines, for the purposes of the section, the term ‘commission report’ to include an extract from a commission report; the term ‘disclose’ to include publish and give access to; the term ‘information’ to include a document; the term ‘public statement’ to include part of a public statement; and the term ‘restricted information’ to mean a copy of a commission report, or a public statement, in draft form (paragraph (a)), or any evidence or other information or material relating to a report or statement mentioned in paragraph (a) (paragraph (b)). The amendment clarifies that this may be related evidence under section 69A.

*Clause 25* amends section 256 (Engagement of agents) by omitting the words ‘To meet temporary circumstances, the’ in section 256(1) and replacing them with the word ‘The’.

*Clause 26* amends section 269 (Delegation—commission) by omitting ‘Commission may prosecute corrupt conduct’ from the table in section 269(6) and replacing it with ‘(Commission may apply to QCAT about corrupt conduct)’.

*Clause 27* amends section 331 (Effect of pending proceedings) by inserting into section 331(1)(b), after the words ‘a report’, the words ‘, under chapter 2, part 3, division 5 or part 6,’.

*Clause 28* omits and replaces section 341 (Personnel changes do not affect commission’s power to make findings or report) with a revised section 341 titled ‘Changes in commission’s constitution’.

The revised section 341 states the commission may perform a function, or exercise a power, under this or another Act on the basis of all evidence presented to it, regardless of any change in the constitution of the commission. The amendment is consequential to new section 48B (Limitation on commission’s findings, recommendations and statements).

*Clause 29* amends the heading of Chapter 8 (Repeals and transitional, declaratory, and savings provisions) by inserting the word ‘validation’ after ‘declaratory,’.

*Clause 30* inserts new Chapter 8, part 21. New part 21 is headed ‘Crime and Corruption (Restoring Reporting Powers) Amendment Act 2025’ and contains new sections 470 to 474.

New section 470 (Definitions for part) defines, for the purposes of the part, the term ‘former’, for a provision of this Act, to mean the provision as in force from time to time before the commencement; and the term ‘new’, for a provision of this Act, to mean the provision as in force from the commencement.

New section 471 (Validation of past reports) applies to a report on a particular complaint about, or information or matter involving, corruption or a particular corruption investigation that was, before 13 September 2023, purportedly prepared or made under former section 64; and before the introduction day, tabled in the Legislative Assembly or purportedly published under former section 69 (section 471(1)).

New section 471(2) states that the report and any accompanying document, and any action taken or decision made by the commission in relation to the report, including publication of the report to another person, is taken to be, and to have always been, as valid and lawful as it would be or would have been if the report were prepared or made under new section 64A; the commission had complied with this Act and any other law applying in relation to the preparation and making of the report; the report were signed by the chairperson under new section 69; and the report and accompanying document were given, and tabled or published, under new section 69.

New section 471(3) states that for section 471(2)(a), new section 64A(2) is taken not to have applied to the report or the commission's decisions in relation to the report.

New section 471(4) defines 'action', 'decision', 'introduction day' and 'report'.

New section 471 makes it clear that past reports of the commission that fall under this section do not need to be compliant with new section 64A in order to be valid but will be treated as if they were prepared and made under the new section.

New section 472 (Validation of past public statements) applies to a statement prepared and made to the public, before 13 September 2023, by the commission about a particular complaint about, or information or matter involving, corruption; or a particular corruption investigation (section 472(1)).

New section 472(2) states that the statement, and any action taken by the commission in relation to the statement, is taken to be, and to have always been, as valid and lawful as it would be or would have been if the statement were prepared and made under new section 65A.

New section 472(3) states that for section 472(2), new section 65A(3) and (4) is taken not to have applied to the statement or the commission's decisions in relation to the statement.

New section 472 makes it clear that past statements of the commission that fall under this section do not need to be compliant with new section 65A in order to be valid but will be treated as if they were prepared and made under the new section.

New section 473 (Application of new provisions in relation to complaints and investigations) states that subject to sections 471 and 472, the new provisions of this Act apply to a complaint about, or information or matter (also a *complaint*) involving, corruption or a corruption investigation—

- whether the complaint was made or notified to the commission before, or is made or notified to the commission after, the commencement; and
- whether the investigation was completed before, or is started before and completed after, the commencement; and
- whether the complaint or investigation relates to conduct that happened, or is suspected to have happened, before the commencement.

*Clause 31* amends Schedule 2 (Dictionary) by inserting definitions of the terms 'action', 'adverse comment', 'corruption matter', 'public statement', 'related evidence' and 'related evidence summary'. It also amends the Schedule 2 definition 'commission report' by inserting, after the words 'part 6', the words 'and includes the report's foreword and appendixes'; and the Schedule 2 definition 'relevant person' by inserting a new paragraph, '(e) in relation to a commission report, for chapter 2, part 6, division 4A, see section 69A.'

### **Part 3 Amendment of Crime and Corruption and Other Legislation Amendment Act 2024**

*Clause 32* states that this part amends the *Crime and Corruption and Other Legislation Amendment Act 2024*.

*Clause 33* omits section 9 (Amendment of s 50 (Commission may prosecute corrupt conduct)).

*Clause 34* omits section 11 (Amendment of s 69 (Commission reports to be tabled)).