



Queensland

# Parliamentary Service Act 1988

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## Queensland

# Parliamentary Service Act 1988

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# Parliamentary Service Act 1988

**An Act to establish a parliamentary service and for other purposes**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Parliamentary Service Act 1988*.

### 4 Definitions

In this Act—

***appointed day*** means the day appointed by proclamation for the commencement of the provisions of this Act other than sections 1 and 2.

*Editor's note —*

The appointed day is 19 November 1988 (proc pubd gaz 17 November 1988 p 1227).

***Clerk*** means the Clerk of the Parliament.

***criminal history***, for part 5A, see section 45.

***criminal history report***, for part 5A, see section 45.

***employee***, in relation to the parliamentary service, means a person employed therein whether on the permanent staff (including a person employed on probation) or temporarily or as a wage worker but does not include an officer of the parliamentary service.

***engage***, for part 5A, see section 45.

***function*** includes power.

***industrial instrument*** see the *Industrial Relations Act 2016*, schedule 5.

***misconduct*** means—

- (a) disgraceful or improper conduct that shows unfitness to be or continue as an officer of or employee in the parliamentary service; or
- (b) behaviour that does not satisfy a standard of behaviour generally expected of officers of or employees in the parliamentary service.

***office*** means a position within the parliamentary service ordinarily held by an officer.

***officer***, in relation to the parliamentary service, means a person appointed pursuant to section 27 to an office, but does not include a person employed on probation.

***parliamentary precinct*** means—

- (a) all land and improvements within the land reserved for House of Parliament in the county of Stanley, parish of North Brisbane, city of Brisbane described as lot 414 on plan SL8740 and lots 437 and 704 on SP289469 registered in the department in which the *Land Act 1994* is administered; or
- (b) any land or premises declared by the Governor in Council by gazette notice to be part of the parliamentary precinct for a stated period.

***parliamentary service*** means the parliamentary service established by section 23.

***relevant duties***, for part 5A, see section 46.

***termination***, in relation to a contract of employment of an officer, includes a failure to renew the contract or to make a fresh contract.



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## **Part 2                      Administrative functions of the Speaker**

### **5                      Administration under Speaker's control**

The Speaker has the control of—

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

### **6                      Speaker's role for parliamentary service**

The general role of the Speaker in relation to the parliamentary service is to—

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

### **7                      Speaker's powers for administrative functions**

- (1) This section declares the powers and legal capacity of the Speaker in performing the administrative functions of the Speaker's office, including the Speaker's role in relation to the parliamentary service.
- (2) The powers include all the powers, and the legal capacity, that an individual has in a private capacity.
- (3) The powers may be exercised at any place.
- (4) The powers are exercised for the Legislative Assembly.

- (5) This section does not limit the Speaker's powers.

*Example—*

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

## **8 Delegation by Speaker**

The Speaker may delegate the Speaker's functions under this Act to the Deputy Speaker, the Clerk or a parliamentary service officer or employee.

## **9 Advisory committee to Speaker**

- (1) The Speaker may establish a committee of members of the Legislative Assembly (the *advisory committee*) to advise the Speaker on issues arising under this Act referred to it by the Speaker.
- (2) The advisory committee consists of the members appointed by the Speaker.
- (3) This section is subject to the standing rules and orders.

## **10 Speaker's annual report**

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

# **Part 3 The Clerk of the Parliament**

## **18 The Clerk of the Parliament**

- (1) There shall from time to time be appointed an officer of the Legislative Assembly to be known as the Clerk of the Parliament.

- (2) The Clerk shall be appointed by the Governor by commission on the recommendation of the Minister after consultation with the Speaker.

**19 Functions of the Clerk of the Parliament other than as chief executive of parliamentary service**

The Clerk of the Parliament shall be responsible for—

- (a) the noting of all proceedings of the Legislative Assembly;
- (b) the carrying out of such duties and the exercising of such powers as may be conferred on the Clerk by law or by the standing rules and orders, customs and practices of the Legislative Assembly.

**20 Functions of the Clerk of the Parliament as chief executive of parliamentary service**

- (1) Subject to this Act, to the control and direction of the Speaker and to policies (if any) from time to time determined by the Speaker, the Clerk, as the chief executive of the parliamentary service, shall be responsible to the Speaker for the efficient and economical management of the parliamentary service.
- (2) The Clerk may make recommendations to the Speaker with respect to any matter for consideration by the Speaker and shall take such steps as are necessary to implement those policies and decisions of the Speaker that require action to be taken by the parliamentary service.
- (3) The Clerk is to be the employing authority, for the Legislative Assembly, of parliamentary service officers and employees.

**21 Tenure of office of the Clerk of the Parliament**

- (1) Subject to subsections (2) to (4), the Clerk of the Parliament shall hold office during good behaviour.

- (2) The Clerk may at any time resign by writing addressed to the Speaker or to the Governor if there is no Speaker or if the Speaker is absent from Queensland.
- (3) The Clerk may at any time be removed or suspended from office by the Governor upon an address from the Legislative Assembly for disability, bankruptcy or misconduct.
- (4) At any time when the Legislative Assembly is not in session, the Clerk may be suspended from office by the Governor for disability, bankruptcy or misconduct proved to the satisfaction of the Governor, but the suspension shall not continue in force beyond 2 months after the beginning of the next ensuing session of the Legislative Assembly.

## **22 Performance of functions of the Clerk of the Parliament in the Clerk's absence**

- (1) On the occurrence from any cause of a vacancy in the office of the Clerk (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Clerk (from whatever cause arising), and so long as that vacancy or absence continues—
  - (a) the functions of the Clerk at the table of the Legislative Assembly shall be performed and exercised by the next most senior of the officers required to sit at the table who is present;
  - (b) a function of the Clerk as the chief executive of the parliamentary service shall be exercised and performed—
    - (i) if the Clerk is temporarily absent—by a parliamentary service officer or employee to whom the function has been delegated under section 25; or
    - (ii) otherwise—by an officer appointed for the time being by the Speaker.

- (2) The fact that a person exercises a function of the Clerk shall, in the absence of proof to the contrary, be conclusive evidence of the authority of the person to do so.

## **Part 4 Parliamentary service**

### **23 Parliamentary service**

- (1) There is hereby established a parliamentary service.
- (2) The parliamentary service is not an instrument of the Executive Government.
- (3) The parliamentary service shall consist of—
- (a) officers of the Legislative Assembly being—
    - (i) the Clerk who shall be the chief executive of the parliamentary service; and
    - (ii) other officers required to sit at the table of the House; and
    - (iii) the parliamentary librarian; and
    - (iv) the chief reporter; and
  - (b) other officers of and employees in the parliamentary service.

### **24 Functions of parliamentary service**

- (1) The functions of the parliamentary service are to provide administrative and support services to the Legislative Assembly and to members and committees thereof which may include—
- (a) the provision of sufficient clerical staff, attendants and other staff to enable the Legislative Assembly and committees thereof to operate efficiently; and
  - (b) the provision of advice on parliamentary procedures and the functions of Parliament generally; and

- (c) an accurate and efficient reporting of proceedings of the Legislative Assembly and of meetings of committees thereof as required; and
  - (d) the provision of adequate library and research facilities and services for members of the Legislative Assembly; and
  - (e) the provision of dining facilities; and
  - (f) the care of the parliamentary gardens and grounds; and
  - (g) the provision of ceremonial and security services; and
  - (h) the maintenance of parliamentary buildings.
- (2) The parliamentary service shall have such other functions as are conferred or imposed upon it by or under this Act or any other enactment or as are determined by the Speaker from time to time.

## **Part 5                      Management of parliamentary service**

### **25            Delegation by Clerk as chief executive of parliamentary service**

The Clerk may delegate the Clerk's functions as chief executive of the parliamentary service to a parliamentary service officer or employee.

### **26            Appointment of parliamentary service officers and employees**

- (1) The Clerk may appoint appropriately qualified and competent persons as—
- (a) officers or officers on probation of the parliamentary service; or
  - (b) employees in the parliamentary service.

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- (2) The Speaker may appoint appropriately qualified and competent persons as—
- (a) officers or officers on probation of the parliamentary service in the Office of the Speaker; or
  - (b) employees in the parliamentary service in the Office of the Speaker.

### **26AA Electorate office staff**

- (1) On the recommendation of a member, the Clerk may appoint a person under section 26(1) as an officer in the member's electorate office to help the member to effectively discharge the member's duties.
- (2) In this section—

*member* means a member of the Legislative Assembly.

*officer* means an officer or officer on probation of the parliamentary service.

### **26A Officers and employees employed under this Act**

Officers and employees of the parliamentary service are to be employed under this Act, and not under the *Public Sector Act 2022*.

### **27 Bases of employment of officers in parliamentary service**

- (1) Appointment to an office within the parliamentary service, including by way of promotion—
- (a) shall be made on the basis of full-time employment, if the office is not one or one of a class of office referred to in paragraph (b); or
  - (b) may be made on the basis of part-time employment, if the office is one or one of a class of office approved by the Clerk to be open to appointment on that basis.

- (2) Appointment to an office within the parliamentary service, including by way of promotion, shall be made as follows—
  - (a) if the office is one declared pursuant to subsection (3)—the appointment shall be made for a limited duration of tenure;
  - (b) if the office is one not declared pursuant to subsection (3)—the appointment shall be upon a tenure that is not limited by time.
- (3) The Speaker may declare any office or class of office, other than that of the Clerk, to be an office or class of office to which appointment shall be made upon a contract basis.
- (4) While such a declaration subsists, appointment to the office so declared or to an office of a class so declared shall be made upon a contract basis.

## **28 Conditions of employment on contract**

- (1) Where appointment to an office within the parliamentary service is duly made under this Act upon a contract basis, the conditions of employment in that office—
  - (a) shall be as approved from time to time by the Clerk and accepted by the person who is or is to be the holder of the office; and
  - (b) is to be governed by the contract of employment between the Clerk and the officer concerned; and
  - (c) shall not be subject to any industrial instrument or any determination or rule of an industrial tribunal.
- (2) Where there has been made to any person an offer of a contract of employment with respect to the person's employment in an office that under this Act is one to which appointment shall be made upon a contract basis it shall be deemed—
  - (a) where the offer is made before the person's appointment to the office—that upon accepting appointment to the office; or



- (b) where the offer is made after the person's appointment to the office—that, upon agreeing to being engaged under a contract of employment in the office;

the person has made with the Clerk a contract of employment upon the conditions approved by the Clerk in relation to the office and conveyed to the person.

- (3) If at any time an appointment to an office purporting to have been made under this Act upon a contract basis is not duly so made, the appointment shall be deemed to have been made upon a tenure that is not limited by time and upon conditions of employment provided for by any relevant industrial instrument and the appointee shall hold the office accordingly.
- (4) Where the contract of employment made or deemed to have been made with the Clerk by an officer of the parliamentary service who holds an office upon a contract basis is terminated otherwise than by way of disciplinary action pursuant to this Act the officer is entitled to elect to continue to be employed as an officer, though not upon a contract basis, at a level of salary determined by the Clerk but not less than the level of salary at which the officer was employed at the time immediately before the officer first accepted employment upon a contract basis, adjusted to accord with movements in relation to salaries since that time and, if he or she does so elect, the officer shall renounce all entitlements secured to the officer by the contract of employment in the event of its termination in the circumstances in which the termination has occurred.
- (5) Every such election—
  - (a) shall be made in writing signed by the officer and given to the Clerk no later than 14 days after notice of termination of the contract has been given to the officer; and
  - (b) upon being duly made, shall have the effect that the elector's services as an officer shall be deemed not to have been terminated by the termination of the contract of employment but to have continued in accordance with the terms of election prescribed by subsection (4).

- (6) Subsections (4) and (5) apply only in relation to—
  - (a) an office of a prescribed class; and
  - (b) an officer who at the time the officer was first appointed to an office upon a contract basis held an office within the parliamentary service upon a tenure unlimited by time, and whose service in the lastmentioned office and in any office or offices subsequently held by the officer until the termination of the contract in question has been continuous.

## **29 Salaries and conditions of employment**

- (1) The Clerk, officers of and employees in the parliamentary service shall be paid such remuneration and allowances and shall be employed on such terms and conditions of service as may from time to time subject to any applicable industrial instrument be decided—
  - (a) for the Clerk—by the Speaker; or
  - (b) for parliamentary service officers and employees—by the Clerk.
- (2) The Speaker must ensure the remuneration, conditions of employment and other benefits given to the Clerk are comparable to those of State officers and employees who have similar duties.
- (3) The Clerk must ensure the remuneration, conditions of employment and other benefits given to parliamentary service officers and employees are comparable to those of State officers and employees who have similar duties.
- (4) Officers of and employees in the parliamentary service are not officers of the public service.

## **30 Superannuation**

- (2) Where a person—
  - (a) immediately prior to the appointed day is an officer within the meaning of a superannuation Act; and

- (b) under the transitional provision is deemed to be appointed or seconded to perform the duties of an officer of or employee in the parliamentary service;

for as long as the person continues to perform full-time the duties of an officer of or employee in the parliamentary service (whether as an officer of the public service or as an officer of or employee in the parliamentary service) in a permanent capacity—

- (c) all entitlements (if any) which at the appointed day have accrued or are accruing in respect of the person under that Act shall be retained; and
- (d) the person shall be deemed to continue to be an officer within the meaning of that Act and the provisions of that Act shall apply accordingly.

- (3) In subsection (2)—

***superannuation Act*** means—

- (a) the *Public Service Superannuation Act 1958*;
- (b) the *State Service Superannuation Act 1972*.

***transitional provision*** means section 46 of this Act as in force immediately before this Act was amended by the *Parliamentary Committees Act 1995*, section 35.

- (4) Nothing in this section shall be construed to prevent the Speaker or any person from participating in any superannuation scheme pursuant to any other Act.

## 31 Contributions by Clerk

- (1) The Clerk must pay the amounts that, under the *Superannuation (State Public Sector) Act 1990*, are payable by a unit of the State public sector for the officers and employees in the parliamentary service.
- (2) Contributions required by law to be paid by the Clerk in respect of any superannuation scheme shall be paid by the Clerk.

## **32 Vacancies to be advertised**

- (1) A person shall not be appointed to fill a vacancy in an office within the parliamentary service unless the vacancy has been notified in the gazette.
- (2) Subsection (1) does not apply if the office in which the vacancy exists—
  - (a) is of a temporary nature; or
  - (b) is an office of a class of office prescribed by rules made by the Speaker to be a class of office in respect of which a vacancy need not be advertised.
- (3) The reclassification of an office creates a vacancy in that office for the purposes of subsection (1).

## **33 Publication of appointments**

Notification of every appointment of a person as an officer of the parliamentary service shall be published in the gazette.

## **34 Engagement of staff other than officers**

- (1) The Clerk may engage the services of a person if—
  - (a) the position in which that person's services are to be employed is of a kind ordinarily held by a person who is not an officer of the parliamentary service; or
  - (b) the position being of a kind ordinarily held by an officer of the parliamentary service, the engagement is required to meet temporary circumstances or is upon a basis not permissible for the engagement of such an officer.
- (1A) The appointment of a person whose services are engaged under subsection (1) shall be made in writing signed by the Clerk.
- (2) An engagement of a person under subsection (1) may be on such basis, for such duration of tenure and on such terms and conditions as are agreed between that person and the Clerk, subject to any applicable industrial instrument.

- (3) A person appointed pursuant to this section shall not thereby become an officer of the parliamentary service.

### **35 Appointment on probation**

- (1) This section does not apply in relation to an appointment of the Clerk or to an office within the parliamentary service made on a contract basis.
- (2) A person who is not already an officer of the parliamentary service and who is appointed to an office shall be so appointed on probation for a period not less than 12 months.
- (3) A person who is already an officer of the parliamentary service and who is appointed by way of promotion to an office shall be so appointed on probation for a period not less than 6 months.
- (4) Where a person has been appointed on probation in compliance with subsection (2) or (3)—
- (a) if immediately before appointment the person was not an officer of the parliamentary service—the Clerk may—
    - (i) at any time during a period of probation, terminate the employment in the parliamentary service of the person;
    - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation, or rescind the appointment and thereby terminate the employment in the parliamentary service of the person; or
  - (b) if immediately before appointment the person was an officer of the parliamentary service—the Clerk may—
    - (i) at any time during a period of probation, rescind the appointment;
    - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation or rescind the appointment.

- (5) Where an appointment is rescinded pursuant to subsection (4)(b) the services of the officer shall be retained at a salary not less than the level of salary of the person immediately before the person was so appointed, until he or she is appointed to an office in the parliamentary service or is otherwise duly dealt with in accordance with this Act.
- (6) If a person who has been appointed on probation in compliance with subsection (2) or (3) is still serving a period of probation upon the expiry of 18 months after the date of appointment on probation, then, if within 1 month after that expiry the appointment has been neither confirmed nor rescinded, the person's appointment shall be deemed to have been confirmed upon that expiry.

### **36 Resignation from parliamentary service**

- (1) An officer of the parliamentary service whose conditions of employment are governed by a contract of employment that provides for resignation and the manner thereof may resign employment in accordance with the contract of employment.
- (2) An officer of or employee in the parliamentary service other than one referred to in subsection (1) may at any time resign employment.

### **37 Retirement from parliamentary service**

- (1) An officer of, or an employee in, the parliamentary service may elect to retire from the parliamentary service on or after turning 55.
- (2) If the Clerk suspects on reasonable grounds that a person, being an officer of or employee in the parliamentary service, by reason of mental or physical infirmity has not the capacity or is unfit—
  - (a) to discharge efficiently his or her duties; and
  - (b) to discharge efficiently any other duties that the Clerk might reasonably direct the officer or employee to discharge;

the Clerk shall obtain medical opinion on that person's condition and to that end may appoint any medical practitioner or medical practitioners to examine that person and report to whomsoever the Clerk directs upon that person's mental or physical condition or both and may direct that person to submit himself or herself to such examination.

- (3) If the Clerk believes on reasonable grounds that a person, being an officer of or employee in the parliamentary service by reason of mental or physical infirmity has not the capacity or is unfit as prescribed by subsection (2), the Clerk may call upon that person to retire from the parliamentary service within a time specified by the Clerk.
- (4) If a person called upon pursuant to subsection (3) to retire does not retire within the time specified, the Clerk may dismiss the person from the parliamentary service.

### **38 Mode of resignation or retirement**

The resignation or retirement of an officer of or employee in the parliamentary service shall be effected by signed notice given to the Clerk and shall be given and take effect as prescribed by rules from time to time made by the Speaker.

### **39 Retrenchment**

- (1) Where the Clerk is satisfied that the services of a person, being an officer of or employee in the parliamentary service, can no longer be gainfully utilised in the position held by the person because the position has become redundant, and the Clerk is satisfied that—
  - (a) it is not practicable to retrain or redeploy that person; and
  - (b) the redundancy arrangements approved by the Clerk have been complied with in relation to that person;

the Clerk may terminate the services of that person by way of retrenchment in accordance with those redundancy arrangements.

- (2) Redundancy arrangements for the time being approved by the Clerk for the purposes of subsection (1) shall be comparable to the redundancy arrangements for the time being approved—
  - (a) in the case of officers—under a directive made under the *Public Sector Act 2022* in relation to officers of the public service who have similar duties and responsibilities;
  - (b) in the case of employees—under the *Industrial Relations Act 2016* in relation to employees of the Crown who have similar duties and responsibilities.

## **40 Discipline**

- (1) An officer of or employee in the parliamentary service is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the Clerk to exist, namely—
  - (a) incompetence or inefficiency in the discharge of his or her duties;
  - (b) negligence, carelessness or indolence in the discharge of his or her duties;
  - (c) misconduct;
  - (d) absence from duty except—
    - (i) upon leave duly granted as prescribed; or
    - (ii) with reasonable cause;
  - (e) wilful failure to comply with a lawful direction issued to the officer or employee by any person having authority over him or her;
  - (f) wilful failure to comply with any provision of a code of conduct approved by the Clerk for officers of and employees in the parliamentary service.
- (2) Where action against a person is contemplated on a ground referred to in subsection (1)(d) the Clerk may appoint any medical practitioner or medical practitioners to examine that



person and to report to the Clerk or as the Clerk directs upon that person's mental or physical condition or both, and may direct that person to submit himself or herself to such examination.

- (3) If the Clerk is satisfied that a person should be disciplined pursuant to subsection (1), the Clerk may order that the person be disciplined in a manner that appears to the Clerk to be warranted, having regard to any relevant guidelines that may have been issued in relation to the exercise of discipline under this Act.
- (4) Without limiting the range of disciplines that may be imposed pursuant to subsection (3), such disciplines may consist of 1 or more of the following—
  - (a) dismissal;
  - (c) reprimand;
  - (d) forfeiture or deferment of a salary increment or increase;
  - (e) reduction in the person's level of salary;
  - (f) a deduction from the person's salary or wages of an amount not exceeding 2 penalty units.

## **41 Suspension**

- (1) Where it appears on reasonable grounds to the Clerk that a parliamentary service officer or employee is liable to disciplinary action under section 40 or is suspected of involvement in circumstances such that the efficient and proper management of parliamentary service might be prejudiced if the officer's or employee's services are continued, the officer or employee may be suspended from duty by the Clerk.
- (3) A suspension imposed on a person under subsection (1) may be lifted at any time by the Clerk.
- (4) A person suspended from duty shall not be entitled to receive salary or wages for any period during which the person does

not perform his or her duties, unless the Clerk otherwise determines.

- (5) A person suspended from duty who is not entitled to salary or wages for the period of suspension, if the person resumes duty as an officer of or employee in the parliamentary service upon the lifting of the suspension, shall be entitled to receive a sum equivalent to the amount of salary or wages the person would have received had the person not been suspended diminished by the amount of salary, wages or fees (if any) to which he or she became entitled from any source during the period of suspension, unless the Clerk otherwise determines.

## **42 Mode of dismissal or suspension**

- (1) Dismissal or suspension of an officer of or employee in the parliamentary service shall be effected in accordance with this Act, any relevant guidelines that may have been issued in relation thereto under this Act and the principles of natural justice.
- (2) Dismissal or suspension of an officer or employee must be effected by writing signed by the Clerk and given to the officer or employee.

## **43 Appeals against promotional appointments and disciplinary action**

- (1) An appeal on the merits lies to the Speaker in accordance with this section, and not otherwise, in respect of—
  - (a) all disciplinary action taken pursuant to this Act; and
  - (b) every appointment to an office that involves the appointee's promotion except—
    - (i) an office or one of a class of office declared by or pursuant to this Act to be an office or class of office to which appointment shall be made upon a contract basis; and
    - (ii) an office or one of a class of office declared by rules made by the Speaker to be an office or a class

of office in respect of appointment to which no appeal lies.

- (2) An officer or employee in the parliamentary service who may exercise the right of appeal is—
  - (a) in the case of an appeal in respect of disciplinary action—an officer or employee who is aggrieved by the decision that has resulted in disciplinary action against him or her;
  - (b) in the case of an appeal against an appointment—an officer who satisfies the requirements of the rules made from time to time by the Speaker and published in the gazette in respect of appeals of the class of appeal in question.
- (3) An appeal in respect of disciplinary action may relate to the decision that has resulted in the action being taken or to the nature of the punishment or to both.
- (4) Jurisdiction is hereby conferred on the Speaker to hear and make determinations with respect to—
  - (a) all matters relevant to an appeal duly instituted in relation to disciplinary action; and
  - (b) all matters relevant to an appeal duly instituted in relation to an appointment.
- (4A) The institution and conduct of an appeal provided for by this section shall be as prescribed by the rules made from time to time by the Speaker or, in so far as the rules do not so prescribe, as the Speaker determines from time to time, having regard to any guidelines issued pursuant to this Act in relation to the matter and to the principles—
  - (a) that legal representation shall not be permitted to a party to an appeal; and
  - (b) that the proceedings upon an appeal shall be informal and simple.
- (5) No appeal lies from a finding or determination made by the Speaker upon an appeal to it.

- (6) The determinations of the Speaker upon an appeal shall be furnished to the Clerk who shall act upon those determinations.

#### **44 Reinstatement following dismissal**

Where a person dismissed from the parliamentary service is reinstated in a position within the parliamentary service consequent upon an exercise of jurisdiction by the Speaker, the person shall not suffer loss of salary or wages or any other benefits accruing under any Act in respect of being an officer or employee in the parliamentary service in respect of the period during which the person was not an officer or employee except to the extent that the Speaker directs to the contrary.

## **Part 5A Assessing suitability to be an officer or employee**

### **Division 1 Preliminary**

#### **45 Definitions for part**

In this part—

***criminal history*** see the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

***criminal history report*** means a report given under section 47B.

***engage***, a person, includes—

- (a) allow a person employed by or within another entity to perform work or duties within the parliamentary service, under an arrangement with the other entity; and
- (b) start training a person in the parliamentary service as an apprentice or trainee, within the meaning of the *Further Education and Training Act 2014*.

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*relevant duties* see section 46.

#### **46 Meaning of *relevant duties***

Duties to be performed in the carrying out of the functions of the parliamentary service are *relevant duties* if the Clerk considers it may be necessary, because of the nature of the particular duties, to have regard to the criminal history of a person who is or will be performing the duties.

### **Division 2 Obtaining criminal histories**

#### **47 Clerk may ask for consent to obtain criminal history**

- (1) If the Clerk or Speaker proposes to appoint or engage a person to perform relevant duties, the Clerk may ask the person for written consent for the Clerk to obtain the person's criminal history.
- (2) Subsection (1) applies even if the person is an officer or employee of the parliamentary service when the Clerk proposes to appoint or engage the person to perform the relevant duties.

#### **47A Refusing consent**

- (1) This section applies if the person does not consent, or withdraws the person's consent, to the Clerk obtaining the person's criminal history.
- (2) If the person is not an officer or employee of the parliamentary service, the Clerk may decide not to consider the person for appointment or engagement as an officer or employee to perform the relevant duties.
- (3) If the person is an officer or employee of the parliamentary service who is performing relevant duties, the Clerk may prevent the person from performing any further relevant duties.

#### **47B Obtaining criminal history with consent**

- (1) This section applies if the person gives the Clerk written consent to the Clerk obtaining the person's criminal history.
- (2) The Clerk may ask the police commissioner or another entity for—
  - (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) The request may include the following—
  - (a) the person's name and any other name the Clerk believes the person may use or may have used;
  - (b) the person's date and place of birth, gender and address.
- (4) The police commissioner must comply with a request made to the police commissioner under this section.
- (5) However, the duty to comply under subsection (4) applies only to information in the police commissioner's possession or to which the police commissioner has access.

#### **47C Criminal history no longer required to be obtained**

- (1) This section applies if—
  - (a) the Clerk has, under section 47B, asked the police commissioner to give the Clerk a written report about a person's criminal history; and
  - (b) the Clerk decides the criminal history is no longer required.
- (2) The Clerk must, by written notice, tell the police commissioner that the requested report is no longer required.
- (3) If the police commissioner is notified as mentioned in subsection (2) before the police commissioner has given the requested report to the Clerk, the police commissioner must not give it to the Clerk.

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**47D Police commissioner must not use information given under this part**

- (1) Information given to the police commissioner by the Clerk under section 47B(3) must not be accessed, disclosed or used for any purposes, other than a purpose under this part or any other purpose relevant to law enforcement.
- (2) However, subsection (1) does not apply to information obtained by the police commissioner before the Clerk gave the information under section 47B(3).

**Division 3 Use of criminal histories**

**47E Assessment of suitability**

If the Clerk obtains a person's criminal history under this part, the Clerk must consider the criminal history in making an assessment about the person's suitability for appointment or engagement to perform relevant duties.

**47F Destruction of reports and notices**

- (1) This section applies if—
  - (a) a criminal history report about a person is no longer required to be kept for the purpose for which it was requested under this part; or
  - (b) a notice given to the Clerk under section 47G is no longer required to be kept for deciding whether a person is suitable to perform relevant duties.
- (2) The Clerk must destroy the report, the notice and any other document containing information contained in the report or notice.

## Division 4                      Other matters

### **47G     Prosecuting authority to notify Clerk about committal, conviction etc.**

- (1) This section applies if the police commissioner or the director of public prosecutions (each a *prosecuting authority*) is aware that a person is an officer or employee of the parliamentary service and, after the commencement of this section, the person is charged with a relevant offence.
- (2) If the person is committed by a court for trial for the relevant offence, the prosecuting authority must, within 7 days after the committal, give notice to the Clerk of the following—
  - (a) the person's name;
  - (b) the court;
  - (c) particulars of the offence;
  - (d) the date of the committal;
  - (e) the court to which the person was committed.
- (3) If the person is convicted before a court of the relevant offence, the prosecuting authority must, within 7 days after the conviction, give notice to the Clerk of the following—
  - (a) the person's name;
  - (b) the court;
  - (c) particulars of the offence;
  - (d) the date of the conviction;
  - (e) the sentence imposed by the court.
- (4) If the person has appealed against the conviction mentioned in subsection (3) and the appeal is finally decided or has otherwise ended, the prosecuting authority must, within 7 days after the decision or the day the appeal otherwise ends, give notice to the Clerk of the following—
  - (a) the person's name;
  - (b) particulars of the offence;



- (c) the date of the decision or other ending of the appeal;
  - (d) if the appeal was decided—
    - (i) the court in which it was decided; and
    - (ii) particulars of the decision.
- (5) If the prosecution process for the relevant offence ends without the person being convicted of the offence, the prosecuting authority must, within 7 days after the prosecution process ends, give notice to the Clerk of the following—
- (a) the person's name;
  - (b) if relevant, the court in which the prosecution process ended;
  - (c) particulars of the offence;
  - (d) the date the prosecution process ended.
- (6) For subsection (5), the prosecution process ends if—
- (a) an indictment was presented against the person but a nolle prosequi is entered on the indictment or the person is acquitted; or
  - (b) the prosecution process otherwise ends.
- (7) In this section—

***disqualifying offence*** see the *Working with Children (Risk Management and Screening) Act 2000*, section 16.

***relevant offence*** means—

- (a) an indictable offence; or
- (b) a disqualifying offence that is not an indictable offence.

## **47H False or misleading statements in consent**

A person must not give the Clerk a consent mentioned in section 47, or another document for this part, that the person knows contains information that is false or misleading in a material particular.

Maximum penalty—100 penalty units.

## **47I Confidentiality**

- (1) If a person obtains criminal history information in carrying out functions or performing duties as the Speaker, the Clerk, a member of the Legislative Assembly or an officer or employee of the parliamentary service, the person must not disclose the criminal history information to any other person unless the disclosure is permitted under subsection (2).

Maximum penalty—100 penalty units.

- (2) The person is permitted to disclose criminal history information about an individual—
- (a) to the Speaker, the Clerk, or an officer or employee of the parliamentary service, for the purpose of assessing the individual's suitability to perform relevant duties; or
  - (b) to a member of the Legislative Assembly for the purpose of assessing the individual's suitability—
    - (i) to perform relevant duties in the member's electorate office under section 26AA; or
    - (ii) for otherwise providing administrative and support services to the member; or
  - (c) with the person's consent; or
  - (d) if the disclosure is otherwise required or permitted under an Act.

- (3) In this section—

***criminal history information*** means information contained in the following—

- (a) a criminal history report;
- (b) a notice given to the Clerk under section 47G.

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## Part 6 Miscellaneous

### 48 Service with parliamentary service and public service

- (1) If an officer of the public service becomes an officer of the parliamentary service, the officer is entitled to retain all existing and accruing rights as if the service as an officer of the parliamentary service were a continuation of the service as an officer of the public service.
- (2) Where a person ceases to be an officer of the parliamentary service and becomes an officer of the public service, the service as an officer of the parliamentary service shall be regarded as service of a like nature in the public service for the purpose of determining the person's rights as an officer of the public service.

### 49 Clerk and parliamentary service officers and employees are employees in industrial law

- (1) Each parliamentary service officer or employee who receives salary or wages (other than on a contract basis) is an employee and the Clerk is his or her employer within the meaning of the *Industrial Relations Act 2016* and that Act applies to them accordingly.
- (2) The Clerk is an employee and the Speaker is the Clerk's employer within the meaning of the *Industrial Relations Act 2016* and that Act applies to them accordingly.

### 50 Behaviour in parliamentary precinct at discretion of Speaker

- (1) All persons entering or upon the parliamentary precinct shall comply with the directions of the Speaker as to the behaviour, demeanour and conduct of such persons.
- (2) Directions of the Speaker may take the form of by-laws prescribing behaviour and conduct made from time to time by the Speaker.

- (2A) The by-laws may prescribe differing penalties for failure to comply with specified directions as to the behaviour, demeanour and conduct of persons entering or upon the parliamentary precinct but such that no prescribed penalty shall exceed 10 penalty units.
- (2B) A by-law is subordinate legislation.
- (3) Directions in the form of by-laws made pursuant to subsection (2) shall be deemed to have been directed to every person who thereafter enters or is upon the parliamentary precinct.
- (4) Directions made under this section may be directed towards a specified person or a person of a specified class or the holder or holders for the time being of a specified office or of specified classes of office.
- (5) The Speaker may authorise the Clerk or a parliamentary service officer or employee to give directions (not inconsistent with any directions given by the Speaker) under this section for the Speaker.
- (7) Directions given under this section do not apply to members of the Legislative Assembly in the conduct of their parliamentary business.
- (8) For so long as a person (the *offender*) fails to comply with a direction directed to the offender under this section, the offender shall not be entitled to enter or be upon the parliamentary precinct.
- (8A) If, in the opinion of the Clerk or other person authorised in that regard by the Clerk (the *authorised person*) a person is an offender, the Clerk or authorised person may order the offender to leave the parliamentary precinct and the offender shall forthwith so leave.
- (8B) The Clerk, authorised persons and all persons acting in aid of the Clerk or an authorised person, using such force as is necessary, may—
  - (a) remove from the parliamentary precinct a person to whom an order is given pursuant to subsection (8A); and

- (b) prevent that person's return to or on the parliamentary precinct;

unless that person demonstrates to the satisfaction of the Clerk or an authorised person that the person will comply with all current directions made under this section.

- (9) A person who fails to comply with a direction made under this section and directed to the person commits an offence against this Act.

Maximum penalty—

- (a) where the by-laws prescribe a penalty for a failure to comply with that direction—that penalty;
- (b) in any other case—10 penalty units.

## **51 Proceeding for offence against s 50**

- (1) A prosecution for an offence against section 50 shall be by way of summary proceedings under the *Justices Act 1886* upon the complaint of the Clerk.
- (2) In any proceeding for an offence against section 50—
  - (a) an allegation in a complaint that a direction had been given by a person at the direction of the Speaker shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the allegation;
  - (b) it shall not be necessary to prove the appointment of the Clerk or that a person is an authorised person (within the meaning of section 50) in the absence of evidence that challenges that appointment or authorisation;
  - (c) an averment in a complaint that any act, matter or thing was done or omitted within the parliamentary precinct shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that averment;
  - (d) despite the *Parliament of Queensland Act 2001*, section 8, evidence may be given of a direction made or

purportedly made by the Speaker or a person authorised under section 50(5) during proceedings in the Assembly.

- (3) All penalties and expenses recovered pursuant to a proceeding for an offence against section 50 shall be paid into and form part of the funds of the Legislative Assembly.

- (4) In this section—

*proceedings in the Assembly* see the *Parliament of Queensland Act 2001*, section 9.

## **52 Protection from liability**

- (1) In this section—

*protected person* means—

- (a) the Speaker; or
  - (b) the Clerk; or
  - (c) an authorised person under section 50; or
  - (d) a person acting in aid of the Clerk or an authorised person.
- (2) A protected person does not incur civil liability for an act done, or omission made, honestly and without negligence under section 50.
- (3) If subsection (2) prevents civil liability attaching to a protected person, the liability attaches instead to the Legislative Assembly.

## **53 Mode of service**

Any notice or other writing required or permitted by this Act to be given to any person may be given to the person—

- (a) by delivering it to him or her personally; or
- (b) by leaving it for the person at his or her place of work or place of residence last known to the person giving the notice or writing; or

- (c) by post addressed to the person at his or her place of work or place of residence last known to the person giving the notice or writing.

## **55 Rules**

- (1) The Speaker may make rules under this Act.
- (2) A rule may make provision about the parliamentary service and, in particular—
  - (a) the entitlements, responsibilities, authorities, obligations and liabilities of parliamentary service officers and employees; and
  - (b) appeals about promotional appointments and disciplinary action within the parliamentary service.
- (3) A rule is subordinate legislation.

## **55A Explanatory notes and human rights certificates for by-laws and rules to be prepared by Speaker**

In relation to a by-law or rule made by the Speaker under this Act—

- (a) the *Legislative Standards Act 1992*, section 22(2) applies as if the reference to the responsible Minister were a reference to the Speaker; and
- (b) the *Human Rights Act 2019*, section 41(1) applies as if the reference to the responsible Minister for subordinate legislation were a reference to the Speaker; and
- (c) the *Human Rights Act 2019*, section 41(2) applies as if the reference to the Minister preparing the certificate were a reference to the Speaker.

## **56 Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Part 7                      Transitional provisions**

### **Division 1                      Transitional provision for Act No. 38 of 1995**

#### **57              Parliamentary service commission references**

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

#### **58              Clerk of the Legislative Assembly references**

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

### **Division 3                      Transitional provisions for Parliamentary Service and Other Acts Amendment Act 2011**

#### **60              Definitions for div 3**

In this division—

***commencement*** means the commencement of the provision in which the term is used.

***former***, in relation to a provision, means as in force before the amendment or repeal of the provision by the *Parliamentary Service and Other Acts Amendment Act 2011*.

#### **61              Annual reports**

- (1) Former section 10 applies to the Speaker in relation to the last financial year ending before the commencement if an annual



report for that financial year was not prepared and tabled under that section before the commencement.

- (2) Also, if the commencement happens during a financial year other than on 1 July—
  - (a) former section 10 applies to the Speaker in relation to the part of the financial year before the commencement; and
  - (b) section 10 applies to the CLA for the part of the financial year from the commencement.
- (3) A single report may be given under subsections (1) and (2)(a).

## **62 Parliamentary service officers and employees**

- (1) This section applies to a person who, immediately before the commencement, was employed by the Speaker as an officer or officer on probation of the parliamentary service or an employee in the parliamentary service.
- (2) The employment continues under this Act as employment by the Clerk.

## **63 Approval of office open to part-time employment**

- (1) This section applies to an approval in force under former section 27(1)(b) immediately before the commencement.
- (2) The approval continues in force as if it had been given by the Clerk under section 27(1)(b).

## **64 Declaration of office open to appointment on contract**

- (1) This section applies to a declaration in force under former section 27(3) immediately before the commencement.
- (2) The declaration continues in force as if it had been made by the CLA under section 27(3).

## **65 Conditions of employment on contract**

- (1) An approval that was in force under former section 28(1)(a) immediately before the commencement continues in force as if it had been given by the Clerk under section 28(1)(a).
- (2) A contract of employment between the Speaker and a person that was in force under former section 28(1)(b) or (2) immediately before the commencement continues in force as a contract between the Clerk and the person.

## **66 Approval of code of conduct**

- (1) This section applies to an approval in force under former section 40(1)(f) immediately before the commencement.
- (2) The approval continues in force as if it had been given by the Clerk under section 40(1)(f).

## **67 Suspension from duty**

- (1) This section applies to a suspension from duty in force under former section 41 immediately before the commencement.
- (2) The suspension continues in force as if it had been made by the Clerk under section 41(1).

## **68 Rules**

- (1) This section applies to a rule in force under former section 55 immediately before the commencement.
- (2) The rule continues in force as if it had been made by the CLA under section 55.
- (3) For the purpose of applying the *Statutory Instruments Act 1992*, part 7, subsection (2) does not affect the day on which the rule was made.

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## **Division 4                      Transitional provisions for Parliament of Queensland and Other Acts Amendment Act 2015**

### **69        Definitions for div 4**

In this division—

*CLA* means the Committee of the Legislative Assembly under the *Parliament of Queensland Act 2001*.

*former*, in relation to a provision, means as in force before the amendment of the provision by the *Parliament of Queensland and Other Acts Amendment Act 2015*.

### **70        Annual reports**

- (1) Former section 10 applies to the CLA in relation to the last financial year ending before the commencement if an annual report for that financial year was not prepared and tabled under that section before the commencement.
- (2) Also, if the commencement happens during a financial year other than on 1 July—
  - (a) former section 10 applies to the CLA in relation to the part of the financial year before the commencement; and
  - (b) section 10 applies to the Speaker for the part of the financial year from the commencement.
- (3) If subsections (1) and (2)(a) apply, the CLA may prepare a single report under those subsections.
- (4) If subsection (2) applies, the CLA and the Speaker may prepare a single report under subsection (2)(a) and (b).

### **71        Appeals against promotional appointments and disciplinary action**

- (1) This section applies in relation to an appeal made to the CLA under former section 43 before the commencement that,

immediately before the commencement, had not been finally dealt with.

- (2) The appeal is taken to have been made to the Speaker under section 43.
- (3) For the purposes of the appeal, anything done before the commencement by or in relation to the CLA under former section 43 has effect as if it had been done by or in relation to the Speaker under section 43.

## **72 Rules**

- (1) This section applies to a rule in force under former section 55 immediately before the commencement.
- (2) The rule continues in force as if it had been made by the Speaker under section 55.
- (3) For the purpose of applying the *Statutory Instruments Act 1992*, part 7, subsection (2) does not affect the day on which the rule was made.