



Victims' Commissioner and Sexual Violence Review Board Act 2024

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Queensland

Victims' Commissioner and Sexual Violence Review Board Act 2024

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Victims' Commissioner and Sexual Violence Review Board Act 2024

An Act to establish the Victims' Commissioner and the Sexual Violence Review Board and to declare and implement a charter of rights for affected victims

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Victims' Commissioner and Sexual Violence Review Board Act 2024*.

2 Commencement

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

3 Main purposes of Act

The main purposes of this Act are—

- (a) to establish the Victims' Commissioner to promote and protect victims' rights; and
- (b) to declare a charter of rights for affected victims; and
- (c) to establish the Sexual Violence Review Board to identify and review systemic issues in relation to the reporting, investigation and prosecution of sexual offences.

4 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

Part 2 Interpretation

5 Definitions

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

6 Meaning of *victim* and *harm*

- (1) A *victim* is a person who suffers harm—
 - (a) because a criminal offence is committed against the person; or
 - (b) because the person is a family member or dependant of another person who suffers harm because a criminal offence is committed against the other person; or
 - (c) as a direct result of intervening to help another person who suffers harm or dies because a criminal offence is committed against the other person; or
 - (d) because the person is a witness of a criminal offence committed against another person.
- (2) A person who is a family member or dependant of another person is a *victim* if the other person dies because a criminal offence is committed against the other person.
- (3) Subsection (4) applies if a victim mentioned in subsection (1)(a) is pregnant when the criminal offence is committed and, as a result of the commission of the criminal offence—

- (a) the person sustains a bodily injury that results in the destruction of the life of the person's unborn child; or
 - (b) the person dies, resulting in the destruction of the life of the person's unborn child.
- (4) A *victim* includes a person who has suffered harm because the person would, if the unborn child had been born alive, have been a family member of the child.
- (5) Also, a *victim* includes a person not mentioned in subsection (1), (2) or (4) who suffers harm—
- (a) because domestic violence is committed against the person; or
 - (b) because the person is a family member or dependant of a person mentioned in paragraph (a); or
 - (c) as a direct result of intervening to help a person mentioned in paragraph (a).
- (6) A person who commits a criminal offence or domestic violence against a person as mentioned in subsection (1)(a) or (5)(a) is not a victim under subsection (1)(b), (c) or (d), (2), (4) or (5)(b) or (c).
- (7) For this section, a person suffers *harm* if, because of a criminal offence or domestic violence committed against the person—
- (a) the person suffers physical, psychological or emotional harm; or
Examples for paragraph (a)—
bodily injury, grief, distress or trauma
 - (b) the person's property is taken, destroyed or damaged; or
 - (c) the person suffers financial or economic loss.

Chapter 2 **Victims' Commissioner**

Part 1 **Establishment and appointment**

Division 1 **Establishment**

7 **Victims' Commissioner**

There is to be a Victims' Commissioner.

8 **Commissioner represents the State**

- (1) The commissioner represents the State.
- (2) Without limiting subsection (1), the commissioner has the status, privileges and immunities of the State.

9 **Functions**

The functions of the commissioner are—

- (a) to identify and review systemic issues relating to victims; and
- (b) to conduct research into matters affecting victims, including particular cohorts of victims; and
- (c) to consult in relation to matters relating to victims, including a person's experience as a victim and their experience in the criminal justice system; and
- (d) to deal with complaints about alleged contraventions of the victims charter; and
- (e) to publish information in relation to the criminal justice system; and

- (f) to promote the victims charter and rights of victims and to advocate on behalf of victims by making recommendations and providing advice, training, information or other help to government and non-government entities; and
- (g) to provide advice to the Minister on issues affecting victims and the promotion of victims' rights, including making recommendations about improvements to government policy, practices, procedures and systems to support the rights of victims; and
- (h) to monitor the implementation of recommendations made by the commissioner under this Act; and
- (i) to perform any other function given to the commissioner under this Act or another Act.

10 Powers

- (1) The commissioner has the power to do all things necessary or convenient to be done in performing the commissioner's functions under this Act or another Act.
- (2) Without limiting subsection (1), the commissioner may engage appropriately qualified persons to give advice to the commissioner relevant to the commissioner's functions.

11 Commissioner to act independently and in the public interest

- (1) In performing the commissioner's functions, the commissioner must act independently and in the public interest, having regard to all of the following—
 - (a) the vulnerability of victims of sexual violence or domestic violence;
 - (b) the vulnerability of Aboriginal and Torres Strait Islander victims;

- (c) victims who have characteristics that may make them particularly vulnerable to harm.

Examples of victims who may be particularly vulnerable to harm—

- women
- children
- victims from a culturally or linguistically diverse background
- victims with disability
- victims who are lesbian, gay, bisexual, transgender or intersex
- elderly victims

- (2) Without limiting subsection (1), the commissioner is not subject to direction by any person, including the Minister, about the way in which the commissioner's functions are to be performed.

- (3) In this section—

sexual violence means an act or omission constituting a sexual offence.

12 Relationship to functions under other particular laws

The commissioner must ensure that the commissioner's functions are performed in a way that does not duplicate the performance of a function of an entity under this Act or any of the following Acts—

- (a) the *Coroners Act 2003*;
- (b) the *Corrective Services Act 2006*;
- (c) the *Crime and Corruption Act 2001*;
- (d) the *Director of Public Prosecutions Act 1984*;
- (e) the *Family and Child Commission Act 2014*;
- (f) the *Guardianship and Administration Act 2000*;
- (g) the *Human Rights Act 2019*;

- (h) the *Inspector of Detention Services Act 2022*;
- (i) the *Mental Health Act 2016*;
- (j) the *Ombudsman Act 2001*;
- (k) the *Penalties and Sentences Act 1992*;
- (l) the *Police Service Administration Act 1990*;
- (m) the *Public Guardian Act 2014*;
- (n) the *Victims of Crime Assistance Act 2009*.

Example of ensuring functions are performed in a way mentioned in this section—

To avoid duplication, the commissioner may coordinate the conduct of a review under section 9(a) with a person performing a function under another Act mentioned in this section.

13 Commissioner not a statutory body for particular Acts

It is declared that the commissioner is not a statutory body for the *Financial Accountability Act 2009* or the *Statutory Bodies Financial Arrangements Act 1982*.

Division 2 Appointment

14 Appointment of commissioner

- (1) The commissioner is appointed by the Governor in Council on the recommendation of the Minister.
- (2) The Minister may recommend a person for appointment as commissioner only if the Minister is satisfied—
 - (a) the person is eligible for appointment; and
 - (b) the person is appropriately qualified to work with victims and to perform the commissioner's functions under this Act effectively and efficiently.

- (3) A person is not eligible for appointment as commissioner if the person is disqualified from becoming the commissioner under section 15.

15 Disqualification from appointment

A person is disqualified from becoming or continuing as the commissioner if—

- (a) the person has a conviction, other than a spent conviction, for an indictable offence; or
- (b) the person is an insolvent under administration; or
- (c) the person is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) the person does not consent to the Minister requesting a report about the person's criminal history under section 23.

16 Term of appointment

- (1) The commissioner holds office for the term stated in the commissioner's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The commissioner may be reappointed.

17 Conditions of appointment

- (1) The commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The commissioner holds office on the terms and conditions, not provided for by this Act, decided by the Governor in Council.
- (3) The commissioner is appointed under this Act and not under the *Public Sector Act 2022*.

18 Preservation of rights of commissioner

- (1) This section applies if a person who is a public service officer is appointed as commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as commissioner, the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

19 Vacancy in office

The office of the commissioner becomes vacant if the commissioner—

- (a) completes a term of office and is not reappointed; or
- (b) is disqualified from continuing in office under section 15; or
- (c) resigns by notice under section 20; or
- (d) is removed from office under section 21.

20 Resignation

- (1) The commissioner may resign the commissioner's office by giving the Minister a signed letter of resignation.
- (2) The resignation takes effect when the Minister receives the resignation or, if a later day is stated in the letter, the later day.

21 Removal

- (1) The Governor in Council may remove the commissioner from office on the recommendation of the Minister.
- (2) The Minister may recommend the commissioner's removal only if the Minister is satisfied the commissioner—

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- (a) is guilty of misconduct of a type that could warrant dismissal from the public service if the commissioner were an officer of the public service; or
 - (b) is incapable of performing the functions of the commissioner because of a physical or mental incapacity or for some other reason; or
 - (c) has neglected, or incompetently performed, the duties of the commissioner.
- (3) This section does not otherwise limit the *Acts Interpretation Act 1954*, section 25.

22 Acting commissioner

- (1) The Minister may appoint a person to act in the office of commissioner during—
- (a) a vacancy in the office of commissioner; or
 - (b) a period when the commissioner is absent from duty or can not, for another reason, perform the functions of the office.
- (2) A person can not be appointed to act as commissioner unless, at the time of the appointment, the person is eligible for appointment under section 14.

Division 3 Criminal history

23 Criminal history reports

- (1) To decide if a person is disqualified from becoming or continuing as the commissioner, or becoming the acting commissioner, the Minister may ask the police commissioner for—
- (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history.

- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The police commissioner must comply with the request in relation to information in the police commissioner's possession or to which the police commissioner has access.
- (4) Before using information obtained under this section, the Minister must—
 - (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the Minister about the information.

24 Changes in criminal history must be disclosed

- (1) This section applies if a person who is the commissioner is charged with or convicted of an indictable offence.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the charge or conviction to the Minister under this section.

Maximum penalty—100 penalty units.

- (3) The notice must include—
 - (a) the existence of the charge or conviction; and
 - (b) for a charge—
 - (i) details adequate to identify the alleged offence; and
 - (ii) when the offence was alleged to have been committed; and
 - (c) for a conviction—
 - (i) when the offence was committed; and
 - (ii) details adequate to identify the offence; and
 - (iii) the sentence imposed on the person.

consult with, employ, and remunerate a person who provides medical, legal, accounting or other professional services.

Part 3 Access to information

29 Information must be given to the commissioner

- (1) This section applies if the commissioner considers a prescribed entity has information necessary for identifying and reviewing systemic issues under section 9(a).
- (2) The commissioner may, by notice, ask the entity to give to the commissioner information mentioned in subsection (1), including confidential information, held by the entity or to which the entity has access.
- (3) The notice must state—
 - (a) the information required by the commissioner; and
 - (b) the reasons why the information is required; and
 - (c) the purpose for which the information will be used; and
 - (d) a reasonable period for the entity to comply with the notice.
- (4) The entity must comply with the notice, unless the entity has a reasonable excuse.

Maximum penalty—100 penalty units.

Note—

See section 99 for protection from liability for persons complying with an information request.

- (5) Without limiting subsection (4), it is a reasonable excuse for a prescribed entity to fail to comply with the notice because complying with the notice—
 - (a) would require the entity to disclose information that is the subject of legal professional privilege; or

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- (b) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (c) would prejudice a prosecution or another matter before a court or tribunal; or
 - (d) would endanger a person's life or physical safety; or
 - (e) may lead to the identification of an informant or a person who is a notifier under the *Child Protection Act 1999*, section 186.
- (6) However, if the prescribed entity is an individual, it is not a reasonable excuse for the individual to fail to comply with the notice on the basis that complying with the notice might tend to incriminate the individual or expose the individual to a penalty.

Note—

See section 100 for evidential immunity for individuals complying with an information request.

- (7) If a prescribed entity does not comply with the notice, the entity must, as soon as practicable, give the commissioner a notice stating the reasons for not complying with the notice.

30 Obtaining evidentiary material

- (1) This section applies if, under section 29, the commissioner asks the director of public prosecutions or the police commissioner for information that relates to a person who has been charged with or convicted of an offence.
- (2) The director of public prosecutions or the police commissioner is authorised to give the commissioner a copy or a summary of evidentiary material about the offence despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.
- (3) Without limiting subsection (2), this section applies despite—

- (a) the *Director of Public Prosecutions Act 1984*, section 24A; and
- (b) the *Police Service Administration Act 1990*, section 10.1.

31 Limit on disclosure or use of information

- (1) The commissioner may disclose or use information, including confidential information, obtained under this part only for identifying and reviewing a systemic issue under section 9(a).
- (2) This section does not limit section 95.

32 Interaction with other laws

- (1) This part does not limit a power or obligation under another Act or law to give information.
- (2) Sections 29 and 30 apply to information despite any other law that would otherwise prohibit or restrict the giving of the information.
- (3) However, if a person may claim privilege in relation to information under another Act or law, the privilege is not affected only because the information may be, or is, disclosed under this part.

33 Information sharing arrangements

- (1) The commissioner may enter into an arrangement with a government entity for the purposes of sharing or exchanging information—
 - (a) held by the commissioner or government entity; or
 - (b) to which the commissioner or government entity has access.
- (2) The arrangement may relate only to information that assists the commissioner in performing the commissioner's functions under section 9(a) and (b).

- (3) The arrangement must not provide for sharing or exchanging of protected information.

Part 4 Reporting

34 Annual reports

- (1) As soon as practicable after the end of each financial year, but no later than 31 October, the commissioner must give the Minister a report on the performance of the commissioner's functions during the preceding financial year (the *reporting period*).
- (2) The report must include, for the reporting period—
 - (a) details of the activities of the commissioner; and
 - (b) any recommendations made by the commissioner under this Act including, for example—
 - (i) a recommendation about changes to government policy; or
 - (ii) a recommendation that a policy or procedure be created, amended or reviewed as a result of the performance of the commissioner's functions; and
 - (c) an evaluation of any action taken in response to a recommendation, whether the recommendation was made before or during the reporting period; and
 - (d) the number of each of the following—
 - (i) complaints made or referred to the commissioner;
 - (ii) complaints resolved by the commissioner;
 - (iii) complaints that have not been resolved by the commissioner, other than complaints the commissioner has refused to deal with;
 - (iv) complaints the commissioner has refused to deal with; and

- (e) other information the commissioner considers appropriate.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

35 Other reports

- (1) The commissioner may prepare a report about a matter relevant to the performance of the commissioner's functions under this Act.
- (2) The commissioner may include a recommendation to another entity about the matter in the report.
- (3) As soon as practicable after preparing the report, the commissioner must give the report to the Minister and make a recommendation about whether the report should be tabled in the Legislative Assembly.
- (4) The commissioner may recommend that the Minister table the report only if section 36 has been complied with in relation to the report.
- (5) If the commissioner recommends that the report should not be tabled, the report must be accompanied by a statement of reasons for that recommendation.
- (6) Despite a recommendation not to table the report, the Minister may table the report in the Legislative Assembly if the Minister is satisfied—
 - (a) the public interest in tabling the report outweighs any other considerations; and
 - (b) section 36 has been complied with in relation to the report.
- (7) If the commissioner recommends that the report should be tabled and the Minister is satisfied that tabling the report is in the public interest, the Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

- (8) For subsection (7), the following matters must not be taken into account in deciding whether there is a public interest against tabling the report—
 - (a) causing embarrassment to, or a loss of confidence in, the Minister or the department;
 - (b) the possibility that the information may be misunderstood or misinterpreted by a person.
- (9) The commissioner may publish the report to the public only if the Minister tables the report.

36 Requirements for reports under this part

- (1) A report under this part must not include information that—
 - (a) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (b) would prejudice a prosecution or another matter before a court or tribunal; or
 - (c) is confidential information.
- (2) Also, the commissioner must not include in a report under this part any information adverse to an entity identifiable from the report, unless the entity has been given a reasonable opportunity to make a submission about the information.
- (3) If the entity gives the commissioner a written submission in response to any adverse information, the commissioner must ensure the entity's submission is fairly stated in the report.

Part 5 Other matters

37 Terms of reference

- (1) The commissioner may decide the extent of, and terms of reference for, each review of a systemic issue conducted by the commissioner under section 9(a).
- (2) The commissioner may publish the terms of reference for the review if the commissioner considers publication would not have an adverse effect on another review, investigation or proceeding under this Act or another law.

Chapter 3 Charter of victims' rights

Part 1 Preliminary

38 Meaning of *affected victim* and *personal harm*

- (1) An *affected victim* is a person who suffers personal harm—
 - (a) because a relevant offence is committed against the person; or
 - (b) because the person is a family member or dependant of another person who suffers personal harm or dies because a relevant offence is committed against the other person; or
 - (c) as a direct result of intervening to help another person who suffers personal harm or dies because a relevant offence is committed against the other person.
- (2) Subsection (3) applies if an affected victim mentioned in subsection (1)(a) is pregnant when the relevant offence is committed and, as a result of the commission of the relevant offence—

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- (a) the person sustains a bodily injury that results in the destruction of the life of the person's unborn child; or
 - (b) the person dies, resulting in the destruction of the life of the person's unborn child.
- (3) An ***affected victim*** includes a person who has suffered personal harm because the person would, if the unborn child had been born alive, have been a family member of the child.
- (4) Also, an ***affected victim*** includes a person not mentioned in subsection (1) or (3) who suffers personal harm—
- (a) because domestic violence is committed against the person; or
 - (b) because the person is a family member or dependant of a person mentioned in paragraph (a); or
 - (c) as a direct result of intervening to help a person mentioned in paragraph (a).
- (5) A person who commits a relevant offence or domestic violence against a person as mentioned in subsection (1)(a) or (4)(a) is not an affected victim under subsection (1)(b) or (c), (3) or (4)(b) or (c).
- (6) For this section, a person suffers ***personal harm*** if, because of a relevant offence or domestic violence committed against the person, the person suffers physical, psychological or emotional harm.

Examples for subsection (6)—

bodily injury, grief, distress or trauma

39 Meaning of *relevant offence*

- (1) A ***relevant offence*** is an act or omission constituting any of the following offences—
- (a) an offence against the person of someone;
 - (b) a domestic violence offence within the meaning of the Criminal Code, section 1;

- (c) an offence against the *Domestic and Family Violence Protection Act 2012*, section 177(2), 178(2) or 179(2);
 - (d) an offence of attempting to commit, or conspiring to commit, an offence mentioned in paragraph (a), (b) or (c).
- (2) For deciding whether an act or omission constitutes an offence mentioned in subsection (1)(a), (b), (c) or (d)—
- (a) any justification, excuse or defence a person may have for doing the act or making the omission is to be disregarded; and
 - (b) it does not matter whether the person who did the act or made the omission has been identified, arrested, prosecuted or convicted in relation to the act or omission.
- (3) A reference to a justification, excuse or defence in subsection (2)(a) does not include—
- (a) a matter mentioned in the Criminal Code, section 31(1)(a) or (b); or
 - (b) an authorisation to do an act or make an omission that is provided for under an Act.

40 Meaning of *prescribed person*

- (1) A *prescribed person* is any of the following persons—
- (a) a government entity;
 - (b) a non-government entity;
 - (c) an officer, member or employee of a government entity or non-government entity.
- (2) However, a person is not a *prescribed person* if, or to the extent, the person is dealing with an affected victim in the person's capacity as a legal representative of a person accused of committing a relevant offence or domestic violence against the victim.

Part 2 Victims charter

41 Charter of victims' rights

- (1) The charter of victims' rights (the *victims charter*) is set out in schedule 1.
- (2) As far as practicable and appropriate, the victims charter is to govern the conduct of prescribed persons in dealing with affected victims.

Note—

See also the principles for victims and others under the *Mental Health Act 2016*, section 6.

42 Purposes of victims charter

The purposes of the victims charter are to—

- (a) advance the interests of affected victims by stating rights that are to be observed by prescribed persons in dealing with affected victims; and
- (b) inform affected victims of the rights that affected victims can expect will underlie the conduct of prescribed persons in dealing with the affected victims.

43 Victims charter does not give legal rights or affect legal rights or obligations

- (1) The rights stated in the victims charter—
 - (a) are not enforceable by any proceeding for the enforcement of a right or obligation, regardless of whether the right or obligation is—
 - (i) substantive or procedural; or
 - (ii) direct or indirect; and

- (b) do not affect the validity, or give grounds for review, of anything done or not done, or a decision made or not made, in contravention of them; and
 - (c) do not affect the operation of any other law, including, for example—
 - (i) the *Criminal Practice Rules 1999* and the rules of evidence in criminal proceedings; and
 - (ii) the Criminal Code, chapter 62, chapter division 3; and
 - (d) do not affect an obligation applying to a prescribed person to maintain confidentiality about particular information under any Act or law.
- (2) Subsection (1) does not prevent disciplinary action being taken against a prescribed person who contravenes processes for implementing the rights stated in the victims charter that have been adopted by the government entity or non-government entity responsible for the prescribed person's conduct.

44 Conduct to be consistent with affected victims' rights

- (1) This section applies—
- (a) if a prescribed person is dealing with a person who the prescribed person is aware, or ought reasonably to be aware, is an affected victim; and
 - (b) to the extent the rights stated in the victims charter apply to the prescribed person in dealing with the affected victim.
- (2) The prescribed person must not, in dealing with the affected victim, engage in conduct that is inconsistent with the rights stated in the victims charter.

Part 3 **Complaints for contraventions of victims charter**

45 Who may make a complaint

- (1) This section applies if an affected victim believes a prescribed person has, in relation to the affected victim, engaged in conduct that is inconsistent with the rights stated in the victims charter.
- (2) The affected victim (the *complainant*) may make a complaint about the conduct to—
 - (a) if the prescribed person is a government entity—the government entity; or
 - (b) if the prescribed person is a non-government entity—the non-government entity; or
 - (c) if the prescribed person is an officer, member or employee of a government entity or non-government entity—the government entity or non-government entity concerned; or
 - (d) the commissioner.
- (3) Also, the following persons may make a complaint to the commissioner—
 - (a) a person acting with the consent of the affected victim;
 - (b) an agent of the affected victim.

46 Complaints made to a government entity or non-government entity

- (1) This section applies to a complaint made to a government entity or non-government entity under section 45.
- (2) The entity must—
 - (a) give the complainant information about the process that will be used for resolving the complaint; and

- (b) take all reasonable steps to resolve the complaint as soon as is reasonably practicable.
- (3) Without limiting subsection (2)(b), the entity may comply with the subsection by—
 - (a) referring the complaint to another entity mentioned in subsection (4) to resolve; and
 - (b) giving the other entity timely and reasonable assistance to resolve the complaint.
- (4) For subsection (3)(a), the other entities are—
 - (a) the commissioner; or
 - (b) for a government entity—another government entity; or
 - (c) for a non-government entity—the entity that gives the non-government entity funding to provide services to help affected victims.

47 Form of complaint made or referred to the commissioner

- (1) A complaint made or referred to the commissioner must—
 - (a) be written; and
 - (b) state the complainant's name and contact details; and
 - (c) include enough details to indicate the alleged contravention to which the complaint relates.
- (2) If the commissioner is satisfied the complainant needs help to put the complaint in writing, the commissioner must give reasonable help to the complainant to put the complaint in writing.

48 Complaints made or referred to the commissioner

- (1) This section applies to a complaint made or referred to the commissioner under section 45 or 46(3)(a).
- (2) The commissioner may deal with or refuse to deal with the complaint.

- (3) Also, the commissioner may, after deciding to deal with the complaint, refuse to continue to deal with the complaint.
- (4) However, the commissioner may refuse to deal with or to continue to deal with the complaint only if the commissioner is satisfied—
 - (a) there is a more appropriate course of action available under another law to deal with the subject of the complaint; or
 - (b) the subject of the complaint is being, or has been, appropriately dealt with by the commissioner or another entity; or
 - (c) the requirements under section 47 have not been met; or
 - (d) the complaint is frivolous or vexatious.
- (5) The commissioner must advise the complainant about the commissioner's decision under this section to deal with, refuse to deal with or refuse to continue to deal with the complaint.

49 Preliminary inquiries

The commissioner may make preliminary inquiries about a complaint made or referred to the commissioner to decide how to deal with the complaint under this part.

50 Requesting information from complainants

For dealing with a complaint, the commissioner may ask the complainant to give the commissioner information in relation to the alleged contravention to which the complaint relates.

Note—

See section 48(4) for when the commissioner may refuse to continue to deal with a complaint.

51 Requesting information from relevant entities

- (1) For dealing with a complaint, the commissioner may, by notice, ask a relevant entity for a complaint to give the commissioner information, including confidential information, about the complaint.
- (2) The notice must state the purpose for making the request and a reasonable period for complying with the request.
- (3) The relevant entity must comply with the notice, unless the entity has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) It is a reasonable excuse for a relevant entity to fail to comply with the notice because complying with the notice—
 - (a) would require the entity to disclose information that is the subject of legal professional privilege; or
 - (b) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (c) would prejudice a prosecution or another matter before a court or tribunal; or
 - (d) would endanger a person's life or physical safety; or
 - (e) may lead to the identification of an informant or a person who is a notifier under the *Child Protection Act 1999*, section 186.
- (5) However, if the relevant entity is an individual, it is not a reasonable excuse for the individual to fail to comply with the notice on the basis that complying with the notice might tend to incriminate the individual or expose the individual to a penalty.

Note—

See section 100 for evidential immunity for individuals complying with an information request.

(6) If a relevant entity does not comply with the notice, the entity must, as soon as practicable, give the commissioner a notice stating the reasons for not complying with the notice.

(7) In this section—

relevant entity, for a complaint, means any prescribed entity or the prescribed person the subject of the complaint.

52 Dealing with complaint

(1) If the commissioner decides to deal with a complaint, the commissioner may take any reasonable steps the commissioner considers appropriate to resolve the complaint.

(2) Without limiting subsection (1), the commissioner may—

- (a) ask the complainant or prescribed person to give the commissioner information relevant to the complaint; or
- (b) make enquiries of, and discuss the complaint with, the complainant and the prescribed person; or
- (c) ask the prescribed person to make submissions to the commissioner in writing in response to the complaint; or
- (d) give the complainant a copy of the prescribed person's written submissions; or
- (e) make recommendations to a prescribed person in relation to dealing with affected victims.

53 Resolved complaints

(1) This section applies if the commissioner considers a complaint has been resolved.

(2) The commissioner must, as soon as practicable after the complaint is resolved, advise the complainant—

- (a) about the outcome of the resolution of the complaint; and

- (b) that the commissioner has finished dealing with the complaint.
- (3) Also, the commissioner must give the prescribed person a notice stating the matters mentioned in subsection (2).

54 Report about unresolved complaint

- (1) This section applies in relation to a complaint being dealt with under this part if, after taking reasonable steps to resolve the complaint, the commissioner believes the complaint can not be resolved.
- (2) The commissioner must prepare a report about the complaint as soon as practicable after the commissioner has taken all reasonable steps to deal with the complaint.
- (3) The report must include—
 - (a) the substance of the complaint; and
 - (b) the actions taken to resolve the complaint.
- (4) However, the commissioner must not include in the report any information adverse to the prescribed person, unless the person has been given a reasonable opportunity to make a submission about the information.
- (5) If the prescribed person gives the commissioner a written submission in response to any adverse information, the commissioner must ensure the person's submission is fairly stated in the report.
- (6) The report may include details of the steps the commissioner considers the prescribed person for the complaint should take to ensure the prescribed person's acts and decisions comply with the victims charter.
- (7) The commissioner must give a copy of the report to the complainant and the prescribed person.
- (8) The report is not admissible in any proceeding, and a person can not be compelled to produce the report or to give evidence about the report or its contents in any proceeding.

- (9) However, subsection (8) does not apply if the report is admitted or produced, or evidence about the report or its contents is given, in a proceeding with the consent of the commissioner and the person to whom the report relates.

55 Commissioner may publish information

- (1) The commissioner may publish information about a complaint that the commissioner has finished dealing with.
- (2) The publication—
- (a) may include the substance of the complaint; and
 - (b) may draw on information about the complaint contained in a report under this part.
- (3) However, the publication must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual.

Part 4 Other matters

56 Arrangements for referral of complaints

- (1) The commissioner and a prescribed person may enter into an arrangement about—
- (a) the types of complaints the commissioner will refer to the person because the complaints would be more appropriately dealt with by the person; and
 - (b) the types of matters the prescribed person will refer to the commissioner because the matter relates to an alleged contravention of the victims charter.
- (2) If an arrangement provides for a referral under subsection (1), the arrangement must also provide for how the referral must be made.

57 Commissioner may refer complaint

- (1) The commissioner may refer a complaint or part of a complaint to a government entity or non-government entity if the commissioner is satisfied the complaint would be more appropriately dealt with by the entity.
- (2) The government entity or non-government entity must deal with the complaint under section 46.
- (3) However, the entity may not refer the complaint to the commissioner under section 46(3)(a).
- (4) If the commissioner refers a complaint under subsection (1), the commissioner must advise the complainant that the complaint has been referred to the government entity or non-government entity.

58 Commissioner must keep records

- (1) This section applies if the commissioner—
 - (a) asks the complainant for information under section 50; or
 - (b) advises the complainant in relation to dealing with, refusing to deal with or referring the complaint under section 48, 52 or 57.
- (2) If the commissioner does not advise the complainant in writing, the commissioner must ensure that a record is kept of the advice given to the complainant.

59 Government entity required to include information about complaints in annual report

- (1) This section applies if a complaint is made to—
 - (a) a government entity; or
 - (b) an officer, member or employee of a government entity.
- (2) The government entity must include in its annual report for a financial year—

[s 60]

- (a) the total number of complaints received by the government entity in the financial year; and
 - (b) the number of complaints made in relation to each general right and right relating to the criminal justice system under the victims charter; and
 - (c) the number of complaints referred to another government entity in the financial year; and
 - (d) how each complaint was dealt with by the government entity; and
 - (e) any other information the government entity considers appropriate about each complaint.
- (3) For subsection (2), the annual report must not include confidential information.

60 Information sharing arrangements

- (1) The commissioner may enter into an arrangement with a prescribed person for the purposes of sharing or exchanging information—
 - (a) held by the commissioner or prescribed person; or
 - (b) to which the commissioner or prescribed person has access.
- (2) The arrangement may relate only to information that assists the commissioner and prescribed person in dealing with a complaint under part 3.
- (3) The arrangement must not provide for sharing or exchanging of protected information.

Chapter 4 Sexual Violence Review Board

Part 1 Establishment, membership and board proceedings

Division 1 Establishment

61 Sexual Violence Review Board

The Sexual Violence Review Board is established.

62 Functions

- (1) The board's main function is to identify and review systemic issues in relation to the reporting, investigation and prosecution of sexual offences.
- (2) Without limiting subsection (1), the board has the following functions—
 - (a) to review government policy, practices, procedures and systems to identify systemic issues;
 - (b) to review and analyse data and information held by government entities and non-government entities;
 - (c) to make recommendations to the Minister, government entities and non-government entities about improvements to government policy, practices, procedures and systems arising out of a review mentioned in paragraph (a) or (b);
 - (d) to monitor the implementation of recommendations mentioned in paragraph (c).
- (3) Also, the board has any other functions given to it under this Act or another Act.

63 Powers

- (1) The board has the power to do all things necessary or convenient to be done in performing the board's functions under this Act or another Act.
- (2) Without limiting subsection (1), the board may engage appropriately qualified persons to give advice to the board relevant to the board's functions.

64 Board to act independently and in the public interest

- (1) In performing its functions, the board must act independently and in the public interest.
- (2) Without limiting subsection (1), the board is not subject to direction by any person, including the Minister, about the way in which the board's functions are performed.

65 Relationship to functions under other particular laws

The board must ensure that the board's functions are performed in a way that does not duplicate the performance of a function of an entity under this Act or any of the following Acts—

- (a) the *Coroners Act 2003*;
- (b) the *Corrective Services Act 2006*;
- (c) the *Crime and Corruption Act 2001*;
- (d) the *Director of Public Prosecutions Act 1984*;
- (e) the *Family and Child Commission Act 2014*;
- (f) the *Guardianship and Administration Act 2000*;
- (g) the *Human Rights Act 2019*;
- (h) the *Inspector of Detention Services Act 2022*;
- (i) the *Mental Health Act 2016*;
- (j) the *Ombudsman Act 2001*;

- (k) the *Penalties and Sentences Act 1992*;
- (l) the *Police Service Administration Act 1990*;
- (m) the *Public Guardian Act 2014*;
- (n) the *Victims of Crime Assistance Act 2009*.

Example of ensuring functions are performed in a way mentioned in this section—

To avoid duplication, the board may coordinate the conduct of a review under section 62(1) with a person performing a function under another Act mentioned in this section.

66 Board not a statutory body for particular Acts

It is declared that the board is not a statutory body for the *Financial Accountability Act 2009* or the *Statutory Bodies Financial Arrangements Act 1982*.

Division 2 Membership

67 Members of board

The board consists of—

- (a) the chairperson; and
- (b) the police commissioner or a police officer nominated by the police commissioner; and
- (c) the director of public prosecutions or officer appointed to assist the director under the *Director of Public Prosecutions Act 1984* nominated by the director; and
- (d) not more than 6 other members appointed by the Minister under section 69.

68 Chairperson

- (1) The commissioner is the chairperson.

- (2) The chairperson is responsible for leading the board, and directing its activities, to ensure it appropriately performs its functions.
- (3) A person ceases to be chairperson if the person ceases to be the commissioner.

69 Appointed members

- (1) The Minister must appoint the following members (each an *appointed member*) as members of the board—
 - (a) 1 public sector employee appropriately qualified in forensic services or clinical forensic medicine;
 - (b) 1 public sector employee appropriately qualified in matters relating to the court system;
 - (c) not more than 4 other persons who are eligible for appointment under subsection (4).
- (2) A person may be appointed as a member of the board only if the Minister is satisfied—
 - (a) the person is eligible for appointment; and
 - (b) the person is appropriately qualified to ensure the board performs its functions under this Act effectively and efficiently.
- (3) However, any person mentioned in subsection (1) is not eligible for appointment as a member if the person is disqualified from becoming a member under section 70.
- (4) A person mentioned in subsection (1)(c) is eligible for appointment if—
 - (a) the person has professional experience in the field of sexual offence matters; or
 - (b) the person has experience in providing support services to victims of sexual violence; or

- (c) the person has experience as a victim of sexual violence, including, for example, experience as a victim in the criminal justice system.
- (5) The Minister must ensure—
- (a) at least 1 member of the board is a person who has experience as a victim of sexual violence; and
 - (b) at least 1 member of the board is a person who is an Aboriginal person or Torres Strait Islander person; and
 - (c) the board's membership reflects the social, cultural and linguistic diversity of the Queensland community.
- (6) In this section—
- forensic services* means the application of scientific methods of testing and analysis, and scientific interpretation, for either of the following purposes—
- (a) the investigation or prevention of crime;
 - (b) the provision of expert evidence to inform decisions and findings relevant to the administration of criminal justice.

70 Disqualification from appointment

A person is disqualified from becoming or continuing as an appointed member if—

- (a) the person has a conviction, other than a spent conviction, for an indictable offence; or
- (b) the person is an insolvent under administration; or
- (c) the person is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) the person does not consent to the Minister requesting a report about the person's criminal history under section 77; or
- (e) the person is a member of the Legislative Assembly.

71 Deputy chairperson

- (1) The Minister may appoint an appointed member mentioned in section 69(1)(c) to be the deputy chairperson.
- (2) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of the chairperson; and
 - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.
- (3) A vacancy arises in the office of deputy chairperson if the person holding the office—
 - (a) resigns office by signed notice given to the Minister; or
 - (b) ceases to be a member.
- (4) A person resigning the office of deputy chairperson may continue to be an appointed member.

72 Term of appointment

- (1) An appointed member holds office for the term stated in the member's instrument of appointment.
- (2) The stated term must not be more than 4 years.
- (3) An appointed member may be reappointed.

73 Conditions of appointment

- (1) A member is to be paid the remuneration and allowances decided by the Minister.
- (2) The member holds office on the terms and conditions, not provided for by this Act, decided by the Minister.
- (3) A member who is a prescribed person under the *Public Sector Act 2022*, section 267 is not entitled to be paid remuneration for holding office as a member.

74 Vacancy in office

The office of an appointed member becomes vacant if the member—

- (a) completes a term of office and is not reappointed; or
- (b) is disqualified from continuing in office under section 70; or
- (c) is absent from 3 consecutive meetings of the board without the board's permission and without a reasonable excuse; or
- (d) resigns by notice under section 75; or
- (e) is removed from office under section 76.

75 Resignation

- (1) An appointed member may resign the member's office by giving the Minister a signed letter of resignation.
- (2) The resignation takes effect when the Minister receives the resignation or, if a later day is stated in the letter, the later day.

76 Removal

- (1) The Minister may, by signed notice given to an appointed member, remove the member from office if the Minister is satisfied the member—
 - (a) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
 - (b) is incapable of ensuring that the board performs its functions under this Act because of a physical or mental incapacity or for some other reason; or
 - (c) has neglected, or incompetently performed, the duties of the member.

- (2) This section does not limit the *Acts Interpretation Act 1954*, section 25.

Division 3 Criminal history reports

77 Criminal history reports

- (1) To decide if a person is disqualified from becoming or continuing as an appointed member, the Minister may ask the police commissioner for—
- (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The police commissioner must comply with the request in relation to information in the police commissioner's possession or to which the police commissioner has access.
- (4) Before using information obtained under this section, the Minister must—
- (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the Minister about the information.

78 Changes in criminal history must be disclosed

- (1) This section applies if a person who is an appointed member is charged with or convicted of an indictable offence.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the charge or conviction to the Minister.

Maximum penalty—100 penalty units.

- (3) The notice must include—

- (a) the existence of the charge or conviction; and
- (b) for a charge—
 - (i) details adequate to identify the alleged offence; and
 - (ii) when the offence was alleged to have been committed; and
- (c) for a conviction—
 - (i) when the offence was committed; and
 - (ii) details adequate to identify the offence; and
 - (iii) the sentence imposed on the person.

Division 4 Proceedings of the board

79 Time and place of meetings

- (1) The chairperson may call a board meeting at a time and place decided by the chairperson.
- (2) The board must meet at least 4 times each year.
- (3) However, the chairperson must call a meeting if asked to do so by at least 3 members.

80 Quorum

A quorum for a meeting is at least half of the board members.

81 Presiding at meetings

- (1) The chairperson is to preside at all meetings at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.

- (3) If neither the chairperson nor the deputy chairperson is present at a meeting, the board member chosen by the members present is to preside.

82 Conduct of business

- (1) Subject to this division, the board may conduct the board's business in the way the board considers appropriate.
- (2) The board may hold meetings, or allow board members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (3) A board member who takes part in a meeting under subsection (2) is taken to be present at the meeting.
- (4) A question at a meeting is to be decided by a majority of the votes of the board members present at the meeting.
- (5) If the votes are equal, the board member presiding has a casting vote.
- (6) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—
 - (a) at least half of the board members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.
- (7) The board may invite persons other than board members to attend a meeting to advise or inform the board about any matter.

83 Minutes and other records

- (1) The board must keep—
 - (a) minutes of its meetings; and
 - (b) a record of its decisions and resolutions.

- (2) If the board makes a decision or resolution that relates to a function of the board under this Act, the minutes must include details of how each member voted.

Examples for subsection (2)—

a decision about reviewing a systemic issue, a resolution about the terms of reference for a review

84 Disclosure of interests

- (1) This section applies if—
- (a) a board member has a direct or indirect interest in a matter being considered, or about to be considered, at a meeting; and
 - (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the board member's knowledge, the member must disclose the nature of the interest at a meeting.
- (3) Particulars of the disclosure must be recorded by the board in a register of interests kept for the purpose.
- (4) Unless the board otherwise directs, the board member must not—
- (a) be present when the board considers the matter; or
 - (b) take part in a decision of the board about the matter.
- (5) The board member must not be present when the board is considering whether to give a direction under subsection (4).
- (6) A contravention of this section does not invalidate a decision of the board.
- (7) However, if the board becomes aware the board member contravened this section, the board must reconsider a decision made by the board in which the member took part in contravention of this section.

85 Attendance by proxy

- (1) A board member may attend a meeting of the board by proxy.
- (2) The proxy holder—
 - (a) may participate in the meeting, but not vote, on the board member's behalf; and
 - (b) is not entitled to preside at the meeting only because the person is the proxy holder for the chairperson or deputy chairperson; and
 - (c) is not counted for the purpose of deciding whether a quorum is present under section 80.
- (3) For section 74(c), an absent board member is not taken to have attended a meeting only because a proxy holder for the member attended the meeting.

Part 2 Access to information

86 Information must be given to chairperson

- (1) This section applies if the chairperson considers a prescribed entity has information necessary for identifying and reviewing systemic issues under section 62(1).
- (2) The chairperson may, by notice, ask the entity to give to the chairperson information mentioned in subsection (1), including confidential information, held by the entity or to which the entity has access.
- (3) The notice must state—
 - (a) the information required by the chairperson; and
 - (b) the reasons why the information is required; and
 - (c) the purpose for which the information will be used; and
 - (d) a reasonable period for the entity to comply with the notice.

- (4) The entity must comply with the notice, unless the entity has a reasonable excuse.

Maximum penalty—100 penalty units.

Note—

See section 99 for protection from liability for persons complying with an information request.

- (5) Without limiting subsection (4), it is a reasonable excuse for a prescribed entity to fail to comply with the notice because complying with the notice—

- (a) would require the entity to disclose information that is the subject of legal professional privilege; or
- (b) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
- (c) would prejudice a prosecution or another matter before a court or tribunal; or
- (d) would endanger a person's life or physical safety; or
- (e) may lead to the identification of an informant or a person who is a notifier under the *Child Protection Act 1999*, section 186.

- (6) However, if the prescribed entity is an individual, it is not a reasonable excuse for the individual to fail to comply with the notice on the basis that complying with the notice might tend to incriminate the individual or expose the individual to a penalty.

Note—

See section 100 for evidential immunity for individuals complying with an information request.

- (7) If a prescribed entity does not comply with the notice, the entity must, as soon as practicable, give the chairperson a notice stating the reasons for not complying with the notice.

87 Obtaining evidentiary material

- (1) This section applies if, under section 86, the chairperson asks the director of public prosecutions or the police commissioner for information that relates to a person who has been charged with or convicted of an offence.
- (2) The director of public prosecutions or the police commissioner is authorised to give the chairperson a copy or a summary of evidentiary material about the offence despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.
- (3) Without limiting subsection (2), this section applies despite—
 - (a) the *Director of Public Prosecutions Act 1984*, section 24A; and
 - (b) the *Police Service Administration Act 1990*, section 10.1.

88 Limit on disclosure or use of information

- (1) The chairperson may disclose or use information, including confidential information, obtained under this part only for reviewing a systemic issue under section 62(1).
- (2) This section does not limit section 95.

89 Interaction with other laws

- (1) This part does not limit a power or obligation under another Act or law to give information.
- (2) Sections 86 and 87 apply to information despite any other law that would otherwise prohibit or restrict the giving of the information.
- (3) However, if a person may claim privilege in relation to information under another Act or law, the privilege is not affected only because the information may be, or is, disclosed under this part.

90 Information sharing arrangements

- (1) The chairperson may enter into an arrangement with a government entity for the purposes of sharing or exchanging information—
 - (a) held by the commissioner or government entity; or
 - (b) to which the commissioner or government entity has access.
- (2) The arrangement may relate only to information that assists the board in reviewing a systemic issue under section 62(1).
- (3) The arrangement must not provide for sharing or exchanging of protected information.

Part 3 Reporting

91 Annual reports

- (1) As soon as practicable after the end of each financial year, but no later than 31 October, the board must give the Minister a report on the performance of the board's functions during the preceding financial year (the *reporting period*).
- (2) The report must include, for the reporting period—
 - (a) details of the activities of the board; and
 - (b) any recommendations made by the board under this Act; and
 - (c) details of conflicts of interest disclosed by members and actions taken by the board to address any conflict of interest, including conflicts of interests disclosed before the reporting period.
- (3) The report may include an evaluation of any action taken in response to a recommendation by the Minister, a government entity or non-government entity during the reporting period, whether the recommendation was made before or during the reporting period.

- (4) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

92 Other reports

- (1) The board may prepare a report about the outcome of a review or another matter arising from the performance of its functions under this Act.
- (2) The board may include a recommendation made to an entity that is relevant to the review or matter in the report.
- (3) As soon as practicable after preparing the report, the board must give the report to the Minister and make a recommendation about whether the report should be tabled in the Legislative Assembly.
- (4) The board may recommend that the Minister table the report only if section 93 has been complied with in relation to the report.
- (5) If the board recommends that the report should not be tabled, the report must be accompanied by a statement of reasons for that recommendation.
- (6) Despite a recommendation not to table the report, the Minister may table the report in the Legislative Assembly if the Minister is satisfied—
 - (a) the public interest in tabling the report outweighs any other considerations; and
 - (b) section 93 has been complied with in relation to the report.
- (7) If the board recommends that the report should be tabled and the Minister is satisfied that tabling the report is in the public interest, the Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

- (8) For subsection (7), the following matters must not be taken into account in deciding whether there is a public interest against tabling the report—
 - (a) causing embarrassment to, or a loss of confidence in, the Minister or the department;
 - (b) the possibility that the information may be misunderstood or misinterpreted by a person.
- (9) The board may publish the report to the public only if the Minister has tabled the report.

93 Requirements for reports under this part

- (1) A report under this part must not include information that—
 - (a) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (b) would prejudice a prosecution or another matter before a court or tribunal; or
 - (c) is confidential information.
- (2) Also, the board must not include in a report under this part any information adverse to an entity identifiable from the report, unless the entity has been given a reasonable opportunity to make a submission about the information.
- (3) If the entity gives the board a written submission in response to any adverse information, the board must ensure the entity's submission is fairly stated in the report.

Part 4 Other matters

94 Terms of reference

- (1) The board must decide the extent of, and terms of reference for, each review conducted by the board under section 62.

- (2) The board may publish the terms of reference for the review if the board considers publication would not have an adverse effect on the review or on any other review, investigation or proceeding under this Act or another law.

Chapter 5 General

Part 1 Confidentiality and protection

95 Confidentiality of information

- (1) This section applies to a person who—
- (a) is or has been—
 - (i) the Minister or a member of the Minister's staff; or
 - (ii) the commissioner; or
 - (iii) a member of the board; or
 - (iv) a staff member of the office; or
 - (v) a person engaged, consulted or employed under section 28 or 63; or
 - (vi) a person mentioned in section 82(7); and
 - (b) in that capacity, has acquired or has access to confidential information, other than criminal history information under section 97.
- (2) The person must not disclose the confidential information to anyone else, or use the information, other than under this section.
- Maximum penalty—200 penalty units.
- (3) The person may disclose or use the confidential information—

- (a) to the extent the disclosure or use is necessary to perform the person's functions under or relating to this Act; or
- (b) if the disclosure or use is required or permitted under this Act or another law; or
- (c) with the written consent of the person to whom the information relates; or
- (d) in compliance with a lawful process requiring the production of documents to, or giving of evidence before, a court or tribunal; or
- (e) if the disclosure or use—
 - (i) does not identify the person to whom the information relates; or
 - (ii) does not allow the identity of the person to be reasonably ascertained; or
- (f) if the information is, or has been, lawfully accessible to the public.

96 Confidentiality of information given to other persons

- (1) This section applies to a person (the *receiver*) who is given confidential information by a person under section 31(1), 88(1) or 95(3).
- (2) The receiver must not disclose the confidential information to anyone else, or use the information, other than under this section.
Maximum penalty—200 penalty units.
- (3) The receiver may disclose or use the confidential information to the extent the disclosure or use is otherwise required or permitted under this Act or another law.

97 Confidentiality of criminal history information

- (1) This section applies to a person who—

- (a) is, or has been—
 - (i) the Minister; or
 - (ii) a public service employee performing functions under or relating to the administration of chapter 2, part 1, division 3 or chapter 4, part 1, division 3; and
 - (b) in that capacity, has acquired or has access to criminal history information.
- (2) The person must not disclose the criminal history information to anyone else, or use the information, other than under this section.

Maximum penalty—200 penalty units.

- (3) The person may disclose or use the criminal history information—
- (a) to the extent the disclosure or use is—
 - (i) necessary to perform the person's functions under or relating to this Act; or
 - (ii) otherwise required or permitted under this Act or another law; or
 - (b) with the written consent of the person to whom the information relates; or
 - (c) in compliance with a lawful process requiring the production of documents to, or giving of evidence before, a court or tribunal; or
 - (d) if the information is, or has been, lawfully accessible to the public.
- (4) A person who possesses a document containing criminal history information must ensure the document is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given.
- (5) Subsection (4) applies despite the *Public Records Act 2002*.
- (6) In this section—

criminal history information means information contained in—

- (a) a report and description of circumstances given under section 23 or 77; or
- (b) a notice given under section 24 or 78.

98 Protection from liability for officials

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—

official means—

- (a) the Minister; or
- (b) the commissioner; or
- (c) a member of the board.

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see the *Public Sector Act 2022*, section 269.

99 Protection from liability for giving information

- (1) This section applies if a person, acting honestly and without negligence, gives information in compliance with section 29, 51 or 86.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or

- (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.

100 Evidential immunity for individuals complying with information requests

- (1) Subsection (2) applies if an individual, because of an information request made to a prescribed entity or relevant entity under section 29, 51 or 86, gives information to the commissioner or board.
- (2) Evidence of the information, and other evidence directly or indirectly derived from the information, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in which the false or misleading nature of the information is relevant evidence.

Part 2 Other provisions

101 Delegations

- (1) The commissioner may delegate the commissioner's functions under this Act or another Act to an appropriately qualified public service officer.
- (2) The board may delegate the board's functions under this Act or another Act to a board member or an appropriately qualified public service officer.
- (3) In this section—
function includes power.

102 Approved forms

The commissioner may approve forms for use under this Act, other than chapter 4.

103 Regulation-making power

The Governor in Council may make regulations under this Act.

Schedule 1 Charter of victims' rights

section 41

Part 1 Rights of affected victims

Division 1 General rights

Note—

For this division, *affected victim* includes a victim of domestic violence that is not a relevant offence. See section 38(4) of this Act.

- 1 An affected victim will be treated with courtesy, compassion, respect and dignity, taking into account the victim's needs.
- 2 The personal information of an affected victim, including the victim's address and telephone number, will not be disclosed unless authorised by law.
- 3 An affected victim will be informed at the earliest practicable opportunity about services and remedies available to the victim.

Division 2 Rights relating to the criminal justice system

- 1 An affected victim will be informed about the progress of the investigation of a relevant offence, unless informing the victim may jeopardise the investigation. If the investigation may be jeopardised, the victim will be informed accordingly.
- 2 An affected victim will be informed of each major decision (including the reasons for the decision) made about the prosecution of a person accused of committing the relevant offence, including decisions about any of the following matters—

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- (a) the charges brought against the accused;
 - (b) not bringing charges, or substantially changing the charges, against the accused;
 - (c) accepting a plea of guilty to a lesser or different charge.
 - 3 An affected victim will be informed of the following matters—
 - (a) the name of a person charged with an offence in relation to the relevant offence;
 - (b) the issue of a warrant for the arrest of a person accused of committing the relevant offence;
 - (c) details of relevant court processes, including when the victim may attend a court proceeding and the date and place of a hearing of a charge against the accused;

Example of a relevant court process—
an application for bail made by the accused
 - (d) details of any diversionary programs available to the accused in relation to the relevant offence;
 - (e) the outcome of a criminal proceeding against the accused, including the sentence imposed and the outcome of an appeal.
 - 4 An affected victim will be informed about the outcome of a bail application made by the accused and any arrangements made for the release of the accused, including any special bail conditions imposed that may affect the victim's safety or welfare.
 - 5 If an affected victim is a witness at the accused's trial, the victim will be informed about the trial process and the victim's role as a witness.
 - 6 During a court proceeding, the affected victim will be protected from unnecessary contact with, or violence or intimidation by, the accused, defence witnesses and family members and supporters of the accused.
 - 7 An affected victim may make a victim impact statement under the *Penalties and Sentences Act 1992* for consideration by the

court during sentencing of a person found guilty of an offence relating to the relevant offence.

- 8 The property of an affected victim held by the State for an investigation or as evidence will be returned to the victim as soon as possible.

Division 3 Complaints

Note—

For this division, *affected victim* includes a victim of domestic violence that is not a relevant offence. See section 38(4) of this Act.

- 1 An affected victim may make a complaint about a contravention of a right under this charter, and will be given information about the procedure for making a complaint, under chapter 3 of this Act.

Part 2 Rights of eligible persons

- 1 An eligible person in relation to a prisoner under the *Corrective Services Act 2006* or a child detained under the *Youth Justice Act 1992* will be kept informed of the following matters—
 - (a) the prisoner's period of imprisonment or the child's period of detention;
 - (b) the transfer of the prisoner or child to another facility;
 - (c) the escape of the prisoner or child from custody or whether the prisoner or child is unlawfully at large.
- 2 An eligible person will be given the opportunity to make written submissions to the parole board under the *Corrective Services Act 2006* about granting parole to the offender.

Schedule 2 Dictionary

section 5

affected victim see section 38.

appointed member, of the board, see section 69(1).

board means the Sexual Violence Review Board established under section 61.

chairperson means the chairperson of the board under section 68.

commissioner means the Victims' Commissioner appointed under section 14.

complainant, for chapter 3, see section 45(2).

complaint means a complaint made under chapter 3, part 3, about conduct engaged in by a prescribed person when dealing with an affected victim.

confidential information—

- (a) means personal information about a person or other information of a confidential nature; but
- (b) does not include—
 - (i) information that is publicly available; or
 - (ii) statistical or other information that could not reasonably be expected to result in the identification of the person to whom it relates.

criminal history, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

criminal offence, against a person, includes a criminal offence alleged to have been committed against the person.

dependant, of a person, means—

- (a) another person who is entirely or substantially dependant on the person's income; or

- (b) if the person has died because a criminal offence or relevant offence is committed against the person—
- (i) a person who was entirely or substantially dependant on the person's income when the person died; or
 - (ii) a person who would have been entirely or substantially dependant on the person's income if the person had not died, including a child of the person who is born after the person's death.

director of public prosecutions means the director under the *Director of Public Prosecutions Act 1984*.

disclose, for chapter 5, part 1, in relation to information, includes give access to the information.

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8.

eligible person, in relation to another person, for schedule 1, means—

- (a) if the other person is a prisoner under the *Corrective Services Act 2006*—an eligible person in relation to the prisoner within the meaning of that Act; or
- (b) if the other person is a child detained in a detention centre under the *Youth Justice Act 1992*—an eligible person in relation to the child within the meaning of that Act.

evidentiary material, about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following—

- (a) a summary of the circumstances of the alleged offence prepared by a police officer;

Examples—

bench charge sheet, QP9

- (b) a witness statement;
- (c) an indictment;

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- (d) a recording within the meaning of the *Evidence Act 1977*, section 21AY;
 - (e) a section 93A criminal statement or a section 93A transcript within the meaning of the *Evidence Act 1977*, schedule 3;
 - (f) a recorded statement, or a transcript of a recorded statement, within the meaning of the *Evidence Act 1977*, section 103A;
 - (g) a report by an expert about a person alleged to have committed the offence;
 - (h) a statement or other information provided by a victim;

Example—

a victim impact statement within the meaning of the *Penalties and Sentences Act 1992*, section 179I

- (i) any reasons for a decision in relation to—
 - (i) an action taken during an investigation or prosecution of an offence; or
 - (ii) whether a person is charged with an offence.

family member, of a person, means—

- (a) the person's spouse; or
- (b) the person's child; or
- (c) the person's parent; or
- (d) the person's brother, sister, stepbrother or stepsister; or
- (e) a person who, under Aboriginal tradition or Island custom, is regarded as a person mentioned in paragraph (a), (b), (c) or (d).

government entity means any of the following—

- (a) a public sector entity under the *Public Sector Act 2022*;
- (b) the director of public prosecutions;
- (c) the police service.

harm see section 6.

information includes a document.

non-government entity means an entity funded by the Commonwealth or the State to provide services to affected victims as its primary function.

notice means a written notice.

office means the Office of the Victims' Commissioner established under section 25.

parent see the *Victims of Crime Assistance Act 2009*, schedule 3.

personal information see the *Information Privacy Act 2009*, section 12.

police service means the Queensland Police Service under the *Police Service Administration Act 1990*.

prescribed entity means any of the following—

- (a) the chief executive of a public sector entity under the *Public Sector Act 2022*;
- (b) the director of public prosecutions;
- (c) the police commissioner;
- (d) an entity funded by the Commonwealth or the State that provides services to victims as its primary function.

prescribed person, for chapter 3, see section 40.

protected information means information that is—

- (a) a person's criminal history; or
- (b) information which must not be disclosed under the *Child Protection Act 1999*, chapter 6, part 6, division 2, subdivision 1; or
- (c) confidential information within the meaning of the *Director of Public Prosecutions Act 1984*, section 24A; or
- (d) sensitive evidence within the meaning of the Criminal Code, section 590AF; or
- (e) a recording within the meaning of the *Evidence Act 1977*, section 21AY; or

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- (f) a section 93A criminal statement or a section 93A transcript within the meaning of the *Evidence Act 1977*, schedule 3; or
 - (g) a recorded statement, or a transcript of a recorded statement, within the meaning of the *Evidence Act 1977*, section 103A; or
 - (h) subject to an order of a court or tribunal that prohibits sharing or exchanging the information.

relevant offence, for chapter 3 and schedule 1, see section 39.

sexual offence—

- (a) means an offence of a sexual nature, including, for example—
 - (i) attempt to commit rape; and
 - (ii) rape; and
 - (iii) assault with intent to commit rape; and
 - (iv) an offence defined in the Criminal Code, section 352; and
 - (v) indecent treatment of children under 16; and
- (b) includes an offence of a sexual nature alleged to have been committed against a person.

victim see section 6.

victims charter see section 41.