

Queensland

Police Service Administration Act 1990

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Police Service Administration Act 1990

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Police Service Administration Act 1990

An Act to provide for the Queensland Police Service and its administration

Part 1 Preliminary

1.1 Short title

This Act may be cited as the *Police Service Administration Act 1990*.

1.2 Commencement

(1) Section 1.1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided in subsection (1), the provisions of this Act, or such of them as are specified in the proclamation, commence on the day or days appointed by proclamation for commencement of those provisions.

1.3 Objects

The objects of this Act are to provide for the following—

(a) the maintenance of the Queensland Police Service;

(b) the membership of the service;

(c) the development and administration of the service.

1.4 Definitions

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

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1.5 Meaning of *tenure not limited by time*

A person is appointed to a position on a ***tenure not limited by time*** if the appointment does not specify an appointment period.

Part 2 Queensland Police Service

2.1 Maintenance of service

There is to be maintained at all times in the State a body of persons under the name and style 'Queensland Police Service'.

2.2 Membership of service

(1) The Queensland Police Service consists of police officers, police recruits and staff members.

(2) Police officers are—

(a) the commissioner of the police service;

(b) the persons holding appointment as an executive police officer;

(c) the persons holding appointment as a commissioned police officer;

(d) the persons holding appointment as a noncommissioned police officer;

(e) the persons holding appointment as a constable;

(f) the persons holding appointment as a special constable (State officer).

2.3 Functions of service

The functions of the police service are the following—

(a) the preservation of peace and good order—

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(i) in all areas of the State; and

(ii) in all areas outside the State where the laws of the State may lawfully be applied, when occasion demands;

(b) the protection of all communities in the State and all members thereof—

(i) from unlawful disruption of peace and good order that results, or is likely to result, from—

(A) actions of criminal offenders;

(B) actions or omissions of other persons;

(ii) from commission of offences against the law generally;

(c) the prevention of crime;

(d) the detection of offenders and bringing of offenders to justice;

(e) the upholding of the law generally;

(f) the administration, in a responsible, fair and efficient manner and subject to due process of law and directions of the commissioner, of—

(i) the provisions of the Criminal Code;

(ii) the provisions of all other Acts or laws for the time being committed to the responsibility of the service;

(iii) the powers, duties and discretions prescribed for officers by any Act;

(g) the provision of the services, and the rendering of help reasonably sought, in an emergency or otherwise, as are—

(i) required of officers under any Act or law or the reasonable expectations of the community; or

(ii) reasonably sought of officers by members of the community;

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(h) the provision of services for the security of state buildings.

2.3A Presence of police officers at fire or hazardous materials emergency

(1) On receiving information of the occurrence of an incident requiring the attendance of fire service officers, the commissioner or the police officer in charge, at the time, of the police station nearest to the location of the incident must immediately send as many police officers as are considered necessary to preserve order and to help at the incident.

(2) In this section—

incident means—

(a) a fire; or

(b) a hazardous materials emergency under the *Fire Services Act 1990*.

2.3AA Responsibility for command

At any incident—

(a) that calls for action by police; and

(b) at which officers are present;

the officer who is responsible for taking such action, and for action taken, is the senior officer who is present.

2.4 Community responsibility preserved

(1) The prescription of any function as one of the functions of the police service does not relieve or derogate from the responsibility and functions appropriately had by the community at large and the members thereof in relation to—

(a) the preservation of peace and good order; and

(b) the prevention, detection and punishment of breaches of the law.

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(2) In performance of the functions of the police service, members of the service are to act in partnership with the community at large to the extent compatible with efficient and proper performance of those functions.

2.5 Administration of staff members

(1) Staff members are—

(a) officers of the public service assigned to perform duties in the police service; and

(b) persons appointed as staff members by the commissioner under—

(i) section 8.3(5); or

(ii) the *Public Sector Act 2022*, chapter 4, part 2; and

(c) protective services officers and protective services officers (in training); and

(d) MRQ members; and

(e) SES members.

(2) While performing duties in or for the service, a staff member is subject to the commissioner's directions.

2.5A Officers etc. employed under this Act

Police officers, police recruits and special constables are employed under this Act and not the *Public Sector Act 2022*.

Part 3 Police officers' powers and duties related to those of constable

3.1 Meaning of *officer* in part

In this part—

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officer includes a special constable (associate).

3.2 Relation to office of constable

(1) Subject to section 2.3AA where it applies, in performance of the duties of office, an officer is subject to the directions and orders of the commissioner and to the orders of any superior officer.

(2) A noncommissioned officer or a constable has and may exercise the powers, and has and is to perform the duties of a constable at common law or under any other Act or law.

(3) An officer other than one referred to in subsection (2) has and may exercise the powers of a constable at common law or under any other Act or law.

(4) Except as prescribed by this section and section 6.4, this Act does not, in relation to any officer, derogate from the powers, obligations and liabilities of a constable at common law or under any other Act or law.

(5) This section—

(a) applies to a special constable (State officer) subject to section 5.16A(4); and

(b) applies to a special constable (associate) subject to section 5.16B(1)(c).

3.3 Oath of office

Before a person begins to perform duty as an officer, the person is to take, or make, and subscribe the oath or affirmation prescribed by regulation.

3.4 Proof of office

If a question arises as to a person's identity as an officer, or to a person's entitlement to exercise the powers or to perform the duties of an officer—

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(a) the general reputation of a person, who is an officer, as being an officer is evidence of that identity and entitlement; and

(b) the absence of, or failure to produce, any written appointment or other documentary proof to establish that identity or entitlement does not prejudice or otherwise affect the exercise of the powers or the performance of the duties by a person who is an officer.

3.7 Termination of powers

Powers had by a person as an officer terminate immediately on the person ceasing, by whatever means, to be an officer.

Part 4 Commissioner of the Queensland Police Service

4.1 Establishment of office

There is hereby established the office of the commissioner of the police service.

4.2 Appointment

(1) The Governor in Council may, on a recommendation agreed to by the chairperson of the Crime and Corruption Commission, appoint an appropriate person as commissioner of the police service.

(2) The appointment is to be made by gazette notice.

4.3 Conditions of appointment

(1) The conditions on which an appointment as commissioner is held—

(a) are such as are for the time being agreed by the Minister and the chairperson of the Crime and Corruption

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Commission, approved by the Governor in Council, and accepted by the person who is to be, or is, the commissioner; and

(b) are to be governed by a contract of employment made, or taken to be made, between the Crown and the commissioner; and

(c) are not subject to any industrial instrument or any determination or rule of an industrial authority.

(2) If an offer of a contract of employment as commissioner on conditions in writing agreed to by the chairperson of the Crime and Corruption Commission and approved by the Governor in Council in relation to the appointment, is made to a person before that person's appointment as commissioner, the person, on accepting appointment as commissioner, is taken to have made with the Crown (and the Crown is taken to have made with the appointee) a contract of employment that accords with the contract last offered to the person before the appointment was made.

4.4 Term of appointment

The commissioner is to be appointed for a term not less than 3 years or more than 5 years.

4.5 Removal and suspension of commissioner

(1) The office of the commissioner becomes vacant if the commissioner—

(a) dies; or

(b) resigns the office by writing signed by the commissioner and accepted by the Governor in Council; or

(c) is removed from office in accordance with this section.

(2) The commissioner may be removed from office pursuant to the contract that governs the commissioner's employment or if the commissioner has breached the contract of employment.

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(3) Additional grounds on which the commissioner may be removed from office are the following—

(a) incapacity, because of physical or mental infirmity, to properly perform the duties of office, or other unfitness to hold office;

(b) incompetence in performing, or neglect of the duties of office;

(c) a finding by QCAT of corrupt conduct being proved against the commissioner if QCAT orders the commissioner's dismissal;

(d) conviction in the State of an indictable offence (whether on indictment or summarily);

(e) imprisonment for any offence.

(4) If 1 or more of the grounds prescribed by subsection (3) exists, the commissioner may be removed from office by—

(a) the Governor in Council, on a recommendation in which the chairperson of the Crime and Corruption Commission concurs; or

(b) in default of exercise of the authority conferred by paragraph (a), the Governor, on an address from the Legislative Assembly praying for the commissioner's removal from office.

(5) If satisfied that 1 or more of the grounds prescribed by subsection (3) exists, or that the commissioner is charged with corrupt conduct or an offence referred to in subsection (3)(d), the Governor in Council may suspend the commissioner from office.

(6) If the commissioner is suspended from office, the commissioner is entitled to be reinstated in office, unless, upon action taken forthwith following the suspension and pursued diligently to its conclusion, the commissioner is removed from office in accordance with subsection (4).

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4.6 Communications between Minister and commissioner

(1) The commissioner—

(a) is to furnish to the Minister reports and recommendations in relation to the administration and functioning of the police service, when required by the Minister to do so; and

(b) may at any time furnish to the Minister such reports and recommendations as the commissioner thinks fit with a view to the efficient and proper administration, management and functioning of the police service.

(2) The Minister, having regard to advice of the commissioner first obtained, may give, in writing, directions to the commissioner concerning—

(a) the overall administration, management, and superintendence of, or in the police service; and

(b) policy and priorities to be pursued in performing the functions of the police service; and

(c) the number and deployment of officers and staff members and the number and location of police establishments and police stations.

(3) The commissioner is to comply with all directions duly given under subsection (2).

4.7 Recording and publication of communications

(1) The commissioner is to keep a register in which are to be recorded—

(a) all reports and recommendations made to the Minister under section 4.6(1)(a); and

(b) all directions given in writing to the commissioner under section 4.6(2); and

(c) all reasons tabled by the Minister under the *Crime and Corruption Act 2001*, section 64.

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(2) Within 28 days following 31 December in each year, the commissioner is to have prepared a copy of the register, which copy, being certified by the commissioner as a true copy of the register, is to be furnished forthwith to the chairperson of the Crime and Corruption Commission, with or without comment of the commissioner.

(3) Within 28 days following receipt of the certified copy of the register, the chairperson is to give the copy together with comments of the commissioner relating thereto, and with or without further comment of the chairperson, to the chairperson of the Parliamentary Crime and Corruption Committee of the Legislative Assembly.

(4) The chairperson of the Parliamentary Crime and Corruption Committee of the Legislative Assembly is to table in the Legislative Assembly—

(a) the certified copy of the register; and

(b) all comment relating thereto;

within 14 sitting days after the chairperson's receipt thereof.

4.8 Commissioner's responsibility

(1) The commissioner is responsible for—

(a) the efficient and proper administration, management and functioning of the police service in accordance with law; and

(b) without limiting paragraph (a), the efficient and proper administration, management and functioning of—

(i) Marine Rescue Queensland under the *Marine Rescue Queensland Act 2024*; and

(ii) the State Emergency Service under the *State Emergency Service Act 2024*.

(2) Without limiting subsection (1), a regulation may prescribe—

(a) particular matters within the scope of the prescribed responsibility; or

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(b) additional responsibilities of the commissioner.

(3) The commissioner is authorised to do, or cause to be done, all such lawful acts and things as the commissioner considers to be necessary or convenient for the efficient and proper discharge of the prescribed responsibility.

(4) In discharging the prescribed responsibility, the commissioner—

(a) is to comply with all relevant industrial instruments and determinations and rules made by an industrial authority; and

(b) subject to this Act, is to ensure compliance with the requirements of all Acts and laws binding on members of the police service, and directions of the commissioner; and

(c) is to have regard to section 4.6 and ministerial directions duly given thereunder; and

(d) is to discharge the responsibility in relation to such matters as are prescribed for the time being.

4.9 Commissioner's directions

(1) In discharging the prescribed responsibility, the commissioner may give, and cause to be issued, to officers, staff members or police recruits, such directions, written or oral, general or particular as the commissioner considers necessary or convenient for the efficient and proper functioning of the police service.

(2) A direction of the commissioner is of no effect to the extent that it is inconsistent with this Act.

(3) Subject to subsection (2), every officer or staff member to whom a direction of the commissioner is addressed is to comply in all respects with the direction.

(4) A direction issued under subsection (1) to officers about functions, powers or responsibilities that are also functions,

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powers or responsibilities of watch-house officers is taken to be also issued to watch-house officers.

(5) In all proceedings—

(a) a document purporting to be certified by the commissioner to be a true copy of a direction under subsection (1) is admissible as evidence of the direction; and

(b) a direction under subsection (1) is to be taken as effectual until the contrary is proved.

4.10 Delegation

(1) The commissioner may delegate powers of the commissioner under this Act or any other Act to any of the following—

(a) a police officer;

(b) a staff member;

(c) the Inspector-General of Emergency Management under the *Disaster Management Act 2003*;

(d) the commissioner under the *Fire Services Act 1990*;

(e) an appropriately qualified person employed in—

(i) the Office of the Inspector-General of Emergency Management under the *Disaster Management Act 2003*; or

(ii) Queensland Fire and Rescue or Rural Fire Service Queensland under the *Fire Services Act 1990*.

(2) Without limiting subsection (1), the commissioner may also, under subsection (1), delegate powers of the commissioner to discharge the prescribed responsibility.

(3) A delegation of a power of the commissioner may permit the subdelegation of the power to another person mentioned in subsection (1).

(4) Proof of a delegation by the commissioner under subsection (1) is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the

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proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.

(5) The notice must be in the approved form.

Note—

See the *Weapons Act 1990*, section 141ZV for limitations on the delegation of powers under section 141G of that Act.

4.11 Acting as commissioner

(1) The Minister may appoint an appropriate person to act as commissioner—

(a) whenever there is a vacancy in the office of commissioner; or

(b) during a period when the commissioner is suspended from office or can not perform the duties of office because of physical or mental incapacity.

(2) The commissioner may appoint an appropriate person to act as commissioner during another period when the commissioner is absent from duty or can not perform the duties of the office.

(3) The remuneration payable to a person who acts as commissioner must not be more than the remuneration payable to the commissioner.

4.12 Commissioner's official seal

(1) The commissioner has an official seal.

(2) All courts and persons acting judicially are to take judicial notice of the following—

(a) the signature of the commissioner or any person who at any time was the commissioner;

(b) the fact that the commissioner has, or any such person had, an official seal;

(c) the official seal of the commissioner or any such person;

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if the signature or seal appears on a document made for the purposes of judicial proceedings or on a document purporting, or seeming, to have been made for the purposes of this Act.

Part 5 Appointment of personnel

Division 1 Officers and other police personnel

5.1 Ranks

The ranks of officers are the ranks declared by regulation.

5.2 Appointment to be on merit on impartial procedures

(1) In this section—

transfer of a police officer to a position means the appointment of a police officer to a position in which the police officer will hold the same rank and be entitled to at least the same level of salary.

(2) A decision to appoint a person, other than an executive officer, as a police recruit or to a police officer position, or to appoint an executive officer to a police officer position or rank, must be made by fair and equitable procedures that—

(a) include inviting applications and selection on the basis of the merit of applicants; and

(b) prevent unjust discrimination, whether in favour of or against a person.

(3) However, if a decision is made to transfer a police officer on a basis prescribed by regulation, the decision need not involve the procedures mentioned in subsection (2)(a).

(4) Written notice to a police officer of a transfer because of a decision under subsection (3) must specify the prescribed basis used for the transfer.

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(5) For the purposes of this section merit of an officer comprises—

(a) the integrity, diligence and good conduct of the officer; and

(b) the potential of the officer to discharge the duties of the position or rank in question; and

(c) the industry shown by the officer in performance of the duties of office in the course of the officer's career; and

(d) the physical and mental fitness of the officer to perform the duties of the position or rank in question.

(6) For the purpose of determining the potential of an officer to discharge the duties of a position or rank the following factors must be taken into account—

(a) the performance of duties of office in the course of the officer's career;

(b) the range of practical experience of the officer in the service or outside the service;

(c) the ability, aptitude, skill, knowledge and experience determined by the commissioner to be necessary for the proper performance of the duties of the position or rank in question;

(d) any relevant academic, professional or trade qualifications of the officer.

5.3 Executive officers

(1) The Governor in Council may appoint as executive officers such persons as are recommended by the commissioner for appointment.

(2) The number of positions as executive officer is to be such as is, for the time being, necessary for the effectual administration of this Act and the efficient and proper discharge of the prescribed responsibility and is recommended by the commissioner.

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5.4 Conditions of employment

(1) An appointment to a position as executive officer, including by way of promotion, is to be on the basis of full-time employment.

(2) The conditions on which an appointment as executive officer is held—

(a) are such as are for the time being approved by the commissioner and accepted by the person who is, or is to be, the executive officer; and

(b) are to be governed by a contract of employment made, or taken to be made, between the Crown and the executive officer; and

(c) are not subject to any industrial instrument or any determination or rule of an industrial authority.

(3) If an offer of a contract of employment as an executive officer, on conditions in writing approved by the commissioner in relation to the appointment, is made to a person before that person's appointment as executive officer, the person, on accepting appointment as executive officer, is taken to have made with the Crown (and the Crown is taken to have made with the appointee) a contract of employment that accords with the contract last offered to the person before the appointment was made.

5.5 Acting as executive officer

(1) The commissioner may appoint an appropriate person to act as executive officer during—

(a) any vacancy, or all vacancies, in the office of executive officer; or

(b) any period, or all periods, when the executive officer is absent from duty or, for another reason, can not perform the duties of the office.

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(2) The remuneration payable to a person who acts as an executive officer must not be more than the remuneration payable to the executive officer.

5.6 Other appointments

The commissioner may appoint such number of persons to be commissioned officers, noncommissioned officers, constables or police recruits as is necessary for the effectual administration of this Act and the efficient and proper discharge of the prescribed responsibility.

5.7 Conditions of employment of commissioned officers

(1) Appointment to a position as a commissioned officer, including by way of promotion—

(a) if the position is prescribed as one open to appointment on a part-time basis—may be on the basis of part-time employment; or

(b) in the case of any other position—is to be on the basis of full-time employment.

(2) A person—

(a) is to be appointed to, and employed in, a position as a commissioned officer on salary upon a tenure not limited by time, if the position is not one referred to in paragraph (b) or (c);

(b) if a position of commissioned officer is prescribed as one open to appointment upon a limited duration of tenure—may be appointed to and employed in the position upon a limited duration of tenure;

(c) if a position of commissioned officer is prescribed as one open to appointment on a contract basis—may be appointed to and employed in the position on a contract basis—

(i) upon a tenure not limited by time; or

(ii) for a limited duration of tenure.

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(3) The conditions of employment from time to time of a commissioned officer duly appointed on a contract basis—

(a) are such as are for the time being approved by the commissioner and accepted by the person who is, or is to be, the commissioned officer; and

(b) are to be governed by a contract of employment made, or taken to be made, between the Crown and the commissioned officer; and

(c) are not subject to any industrial instrument or any determination or rule of an industrial authority.

(4) If an offer of a contract of employment as a commissioned officer, on conditions in writing approved by the commissioner in relation to the appointment, is made to a person before that person's appointment as commissioned officer, the person, on accepting appointment as commissioned officer, is taken to have made with the Crown (and the Crown is taken to have made with the appointee) a contract of employment that accords with the contract last offered to the person before the appointment was made.

5.8 Acting as commissioned officer

(1) The commissioner may appoint an appropriate person to act as a commissioned officer during—

(a) any vacancy, or all vacancies, in the office of commissioned officer; or

(b) any period, or all periods, when a commissioned officer is absent from duty or, for another reason, can not perform the duties of the office.

(2) The remuneration payable to a person who acts as a commissioned officer must not be more than the remuneration payable to a person appointed to the office.

(3) While a person acts as a commissioned officer, the person is relieved of the duties of a constable at common law or under any Act or law.

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5.9 Conditions of employment of noncommissioned officers and constables

(1) Appointment to a position as a noncommissioned officer or constable, including by way of promotion—

(a) is to be on the basis of full-time employment, if the position is not one referred to in paragraph (b);

(b) if the position is prescribed as one, or one of a class, open to appointment on a part-time basis—may be on the basis of part-time employment.

(2) A person—

(a) is to be appointed to and employed in a position as a noncommissioned officer or constable upon a tenure not limited by time, if the position is not one referred to in paragraph (b);

(b) if the position is prescribed as one, or one of a class, open to appointment upon a limited duration of tenure—may be appointed and employed in a position as a noncommissioned officer or constable upon a limited duration of tenure.

5.10 Officer's election on termination of certain appointments

(1) If an officer who holds a position in the service on a contract basis or for a limited duration of tenure ceases to hold the position because—

(a) the contract or tenure has expired and has not been renewed; or

(b) the contract or tenure is terminated otherwise than by reason of—

(i) the officer's resignation from the service or retirement from the service; or

(ii) disciplinary action against the officer;

and before accepting the position that person was an officer in employment that satisfies the requirements of subsection (2)

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that person is entitled to elect to continue as an officer in accordance with this section.

(2) The requirements referred to in subsection (1) are—

(a) the employment in the service before acceptance of the position referred to in subsection (1) must have been on a tenure not limited by time;

(b) the employment in the service before acceptance of the position referred to in subsection (1) must have been, or be taken to have been, continuous.

(3) If a person makes an election under subsection (1), the commissioner may appoint the person at a rank determined by the commissioner—being a rank not lower than that at which the person was employed in the service immediately before the person first accepted employment in the position referred to in subsection (1), or a rank prescribed for the time being to be equivalent to that rank.

(4) If a person makes an election under subsection (1), the person thereby renounces all entitlements secured to the person by the contract of employment in the event of its termination as referred to in subsection (1).

(5) An election made under subsection (1)—

(a) must be made in writing signed by the elector and given to the commissioner within 14 days following—

(i) expiry of the contract or tenure in question; or

(ii) notice of termination of the contract or tenure being given to the holder of the position in question; and

(b) when duly made, has the effect that the elector's service as an officer is taken not to have been terminated by the expiry or termination of the contract or tenure in question, but to have continued in accordance with the foregoing provisions of this section.

(6) If the regulations prescribe requirements to be met, if service as an officer is to be taken as continuous, service of an officer referred to in this section is not continuous unless it accords

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with the requirements of the regulations, and subsection (5)(b) has operation subject to this subsection.

5.11 Conditions of employment of police recruits

(1) The conditions of employment of a police recruit—

(a) are as approved by the commissioner and accepted by the person who is, or is to be, the recruit; and

(b) are to be governed by a contract of employment made, or taken to be made, between the Crown and the recruit; and

(c) are not subject to any industrial instrument or any determination or rule of an industrial authority.

(2) If an offer of a contract of employment as a police recruit on conditions in writing approved by the commissioner in relation to the appointment, including the grounds on which the employment may be continued and discontinued, is made to a person before that person's appointment as a recruit, the person, on accepting appointment as a recruit, is taken to have made with the Crown (and the Crown is taken to have made with the appointee) a contract of employment that accords with the contract last offered to the person before the appointment was made.

5.12 Appointment on probation

(1) This section does not apply in relation to an appointment as an officer made on a contract basis.

(2) An appointment as an officer of a person who was not an officer immediately before the appointment is an appointment on probation—

(a) for a period not less than 12 months determined by the commissioner; or

(b) in the absence of such a determination, for a period of 12 months.

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(3) Unless the position as an officer is advertised in the Queensland Police Gazette as one to which appointment is to be made without a period of probation, an appointment of an officer to a position on promotion is an appointment on probation—

(a) for a period not less than 6 months determined by the commissioner; or

(b) in the absence of such a determination—for a period of 6 months.

(4) The commissioner may—

(a) in respect of an appointee referred to in subsection (2)—

(i) at any time during the initial period of probation or during any extension of a period of probation, terminate the employment of the appointee; or

(ii) at the end of any period of probation, confirm the appointment, extend or further extend the period of probation or terminate the employment of the appointee; or

(b) in respect of an appointee referred to in subsection (3) whose appointment is on probation—

(i) at any time during the initial period of probation or during any extension of a period of probation, terminate that appointment; or

(ii) at the end of any period of probation, confirm the appointment, extend or further extend the period of probation or terminate that appointment.

(5) If an appointment is terminated under subsection (4)(b), the person who was the appointee is to be retained in employment as an officer at a level of salary not less than the level of salary of the person immediately before the appointment that is terminated until—

(a) the person is appointed to another position in the service; or

(b) the person is otherwise dealt with under this Act.

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5.13 Officer not to refuse transfer, but may object

(1) A police officer who is transferred to a position must accept the transfer, even if the officer has not applied for it.

(2) However, if the officer did not apply for the transfer, the officer may—

(a) object to the transfer under section 5.13A; or

(b) apply for a review of the transfer under section 9.3.

5.13A Objection to transfer

(1) If a police officer is transferred to a position without applying for the transfer, the officer may object to the transfer by giving the commissioner written reasons for the objection within 14 days of receiving written notice of the transfer.

(2) The commissioner may allow or reject the objection.

(3) If the commissioner allows the objection, the transfer stops having effect.

(4) If the commissioner rejects the objection, the commissioner must give the officer written reasons for the rejection.

(5) This section—

(a) does not limit the right of an officer to apply to a commissioner for police service reviews for a review of the transfer (a ***transfer review***); but

(b) does limit the right of an officer to object to a transfer under this section once the officer has applied for a transfer review.

(6) If an officer objects to a transfer under this section, the time allowed by regulation for an application for a transfer review does not start to be counted until the day the commissioner gives the officer written reasons under subsection (4).

(7) If an officer applies for a transfer review, the officer can not start or proceed further with an objection under this section.

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5.13B Delay in attendance for duty on directed transfer to allow for objection and review

(1) If a police officer is transferred to a position, the commissioner can not direct the officer to attend for duty in the position until—

(a) after the time allowed for an objection under section 5.13A(1) has ended; and

(b) if the officer objects to the transfer—the commissioner decides the objection.

(2) If—

(a) the officer objects to the transfer under section 5.13; and

(b) the commissioner rejects the objection;

the commissioner can not direct the police officer to attend for duty until after the time allowed by regulation for an application to a commissioner for police service reviews for a review of the transfer has ended.

(3) Despite section 9.2, if the officer applies to a commissioner for police service reviews for a review of the transfer, the commissioner can not direct the officer to attend for duty—

(a) if the officer then withdraws the application—until at least 14 days after the withdrawal; or

(b) if the officer does not withdraw the application and the commissioner decides under section 9.5 to proceed with the transfer—until at least 14 days after the day the officer receives written notice of the commissioner's decision.

(4) This section does not limit the commissioner's powers to direct an officer to attend for duty in a position in circumstances the commissioner considers are urgent.

5.14 Calculation of continuous service as officer

(1) For the purpose of calculating continuous service of an officer, continuous service had by a person—

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(a) as an officer; and

(b) as the holder of any prescribed office, offices or class of office under the Crown in any of its capacities;

where the service had as an officer and the service had as such holder are themselves continuous, are to be taken to constitute continuous service as an officer.

(2) A person who has continuous service as an officer pursuant to subsection (1), while the person continues as an officer, retains and may claim against the Crown in right of the State in respect of all benefits and entitlements that have accrued to the person throughout the continuous service.

(3) If the regulations prescribe requirements to be met, if service of an officer is to be taken as continuous, service or services referred to in this section is, or are, not continuous unless it accords, or they accord, with the regulations, and subsection (1) has operation subject to this subsection.

(4) For the purpose of calculating continuous service of an officer, a period of service as a special constable (State officer) is to be disregarded.

5.15 Officer as employee of Crown

An officer, other than one who holds appointment on a contract basis, is taken—

(a) to be an employee of the Crown; and

(b) to be within the application of the *Industrial Relations Act 2016* to employees of the Crown as provided by that Act.

5.16 Appointment of special constables

(1) The commissioner may make as many appointments of special constables as, in the commissioner's opinion, are necessary for the effectual administration of this Act and the efficient and proper discharge of the prescribed responsibility.

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(2) The commissioner may, in writing, appoint a person as a special constable on the terms and conditions the commissioner considers appropriate.

(3) An appointment must be as—

(a) a special constable (State officer); or

(b) a special constable (associate).

5.16A Special constables (State officer)

(1) Appointment as a special constable (State officer) is to be on the basis of employment other than full-time or part-time employment.

(2) The commissioner may at any time, by written notice given to a special constable (State officer), revoke or vary the special constable's appointment.

(3) A special constable (State officer) is entitled to the salary, allowances and other remuneration that are—

(a) provided for in the special constable's instrument of appointment; or

(b) prescribed by regulation.

(4) The powers of a special constable (State officer) may be limited by the special constable's instrument of appointment.

(5) Despite section 1.4, definition *senior officer*—

(a) a special constable (State officer) is the senior officer in relation to a constable on probation; and

(b) an officer other than a constable on probation is the senior officer in relation to a special constable (State officer).

(6) In this section—

constable on probation means a constable whose appointment is on probation under section 5.12.

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5.16B Special constables (associate)

(1) A special constable (associate)—

(a) is not an employee of the State or of the commissioner; and

(b) is not entitled to salary, allowances or other remuneration, except as provided for in the special constable's instrument of appointment; and

(c) has the powers and duties of an officer, under this Act or another Act, as specified in the special constable's instrument of appointment, and no other.

(2) Subject to subsection (1), relevant provisions and other Acts apply to a special constable (associate) as if the special constable were an officer.

(3) In this section—

relevant provision means a provision of this Act relating to an officer that may be reasonably applied to a special constable (associate).

5.16C Exclusion of matters about special constables from review under other Acts

(1) This section applies to the following matters (each an ***excluded matter***)—

(a) a decision to appoint or not to appoint a person as a special constable;

(b) a decision to revoke or vary a person's appointment as a special constable;

(c) the terms and conditions of a person's appointment as a special constable, including the salary, allowances and other remuneration to which a special constable is entitled;

(d) a decision about a matter mentioned in paragraph (c).

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(2) An excluded matter, or a matter affecting or relating to an excluded matter, is not an industrial matter for the *Industrial Relations Act 2016*.

(3) Without limiting subsection (2), an industrial instrument does not apply to a person appointed as a special constable.

(4) Subsections (2) and (3) apply despite section 5.15(b).

(5) However, subsection (2) does not affect the *Industrial Relations Act 2016*, section 471.

(6) Unless the Supreme Court decides an excluded decision is affected by jurisdictional error, the decision—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

(7) The *Judicial Review Act 1991*, part 5 applies to an excluded decision to the extent it is affected by jurisdictional error.

(8) In this section—

appoint, in relation to a special constable (State officer), includes employ.

decision includes a decision or conduct leading up to or forming part of the process of making a decision.

excluded decision means a decision that is an excluded matter.

5.17 Authorisation of non-State police officers

(1) This section applies if the commissioner reasonably believes—

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(a) a terrorist act has been committed or there is an imminent threat of a terrorist act; and

(b) the help of a non-State police officer is urgently needed to enable the Queensland Police Service to continue to perform its functions effectively while responding to the terrorist act or threat; and

(c) it is impracticable in the circumstances to appoint the officer as a special constable.

(2) The commissioner may authorise the non-State police officer to exercise the powers of a police officer under—

(a) the police Acts specified in the authorisation; or

(b) all police Acts.

(3) The authorisation must name the non-State police officer.

(4) The authorisation—

(a) may be limited to stated powers; and

(b) may be limited to a stated time; and

(c) may be given on conditions.

(5) The authorisation may be given orally or in writing but, if given orally, must be put in writing as soon as reasonably practicable.

(6) A failure to put the authorisation in writing does not invalidate the authorisation or anything done under the authorisation.

(7) While the authorisation is in force, the non-State police officer may exercise the powers only—

(a) in accordance with the authorisation; and

(b) subject to the directions of the commissioner or another State police officer.

(8) Each empowering Act applies to the non-State police officer, in relation to the exercise of the powers, as if the officer were a State police officer.

(9) The commissioner must ensure that, as soon as practicable after the authorisation is given, the non-State police officer is

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given an appropriate explanation of the officer's powers and responsibilities under each empowering Act.

(10) Part 10 applies to the non-State police officer as if the officer were a State police officer.

(11) The commissioner must revoke the authorisation as soon as the commissioner is satisfied the non-State police officer's help is no longer needed.

(12) The revocation may be made orally or in writing but, if made orally, must be put in writing as soon as reasonably practicable.

(13) A failure to put the revocation in writing does not invalidate the revocation.

(14) The commissioner may only delegate the commissioner's authorisation power to a State police officer of the rank of at least assistant commissioner.

(15) The commissioner must include, in the annual report for a financial year, the following information about any authorisations made under this section during the financial year relating to a terrorist act or threat—

(a) the nature of the act or threat;

(b) the number of non-State police officers authorised and the police force or service of which they were members;

(c) when the authorisations started and ended;

(d) the empowering Acts under the authorisations;

(e) the functions performed by the officers;

(f) the results of the authorisations, including benefits and problems.

(16) This section does not purport to confer a duty on a federal police officer to perform a function, or to exercise a power, if the conferral of the duty would be beyond the legislative power of the Parliament of the State.

(17) In this section—

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authorisation power means the power to give or revoke an authorisation under this section.

empowering Act means—

(a) for an authorisation under subsection (2)(a)—a police Act specified in the authorisation; or

(b) for an authorisation under subsection (2)(b)—a police Act.

federal police officer means a member of the Australian Federal Police.

non-State police officer means a police officer of a police force or service of another State or a federal police officer.

police Act means a Queensland Act that confers a power on a police officer.

State police officer means a police officer of the Queensland Police Service.

terrorist act see the *Police Powers and Responsibilities Act 2000*, section 211.

Division 2 Watch-house officers

5.18 Appointment of watch-house officers

(1) This section applies if the commissioner proposes to appoint a person who is or is to become a staff member to be a watch-house officer.

(2) The commissioner may appoint the person only if the commissioner is satisfied the person has appropriate qualifications and experience for performing the functions of a watch-house officer.

(3) A person has appropriate qualities and experience for appointment as a watch-house officer only if the commissioner is satisfied the person—

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(a) has completed a course of training approved by the commissioner for the purpose; or

(b) possesses appropriate qualifications, standing and experience for performing the functions of a watch-house officer.

Note—

Staff members may include persons appointed under the Public Sector Act 2022 or section 8.3(5) but do not include police officers.

Division 3 Protective services officers

5.19 Appointment of protective services officers

(1) The commissioner may appoint a person, other than a police officer, to be—

(a) a protective services officer; or

(b) a protective services officer (in training).

(2) The commissioner may appoint the person as a protective services officer only if the commissioner is satisfied the person is appropriately qualified to perform the functions of a protective services officer.

(3) A person is appropriately qualified to perform the functions of a protective services officer only if the commissioner is satisfied the person—

(a) has the qualifications, experience or standing appropriate to perform the functions of a protective services officer; or

(b) has completed a course of training approved by the commissioner for the purpose of this section.

(4) Protective services officers and protective services officers (in training) are employed under the *Public Sector Act 2022* and not under this Act.

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5.20 Ranks

The ranks of protective services officers are the ranks declared by regulation.

5.21 Issue of identity card

(1) The commissioner must issue an identity card to each protective services officer.

(2) The identity card must—

(a) state the protective services officer's name; and

(b) contain a recent photograph of the protective services officer; and

(c) identify the person the subject of the identity card as a protective services officer; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

5.22 Oath of office for protective services officers

Before a person begins to perform duty as a protective services officer, the person is to take, or make, and subscribe the oath or affirmation prescribed by regulation.

5.23 Functions of protective services officers

(1) The primary function of protective services officers is to carry into effect the systems formulated for the security of state buildings, including, for example, the systems for the entry of vehicles into state buildings and the parking of the vehicles.

(2) Also, the functions of protective services officers include—

(a) providing services, on a commercial basis, for a building (other than a state building) under a contract entered into by the State; and

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(b) exercising a power given to protective services officers under this Act or another Act; and

(c) another function given to protective services officers under this Act or another Act.

5.24 Duties of protective services officers

(1) A protective services officer—

(a) is subject to the directions and orders of the commissioner; and

(b) if performing functions as a duty officer—must remain on duty in the state building until—

(i) relieved from duty by another protective services officer; or

(ii) authorised by the commissioner to leave the building.

(2) Without limiting subsection (1)(a), if directed by the commissioner, a protective services officer must take up duty promptly in an emergency, unless the officer has a reasonable excuse.

(3) To remove any doubt, it is declared that subsection (1)(b) does not prevent a protective services officer leaving a building to perform a function of the officer.

Part 5A Alcohol and drug tests

Division 1 General

5A.1 Object of pt 5A

The objects of this part are—

(a) to ensure appropriate steps are taken in the interests of the health and welfare of relevant persons; and

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(b) to enhance the public's confidence in the service and the integrity of the service in which relevant persons, including persons who are not members of the service, perform functions associated with, or ancillary to, the functions of the service.

5A.2 Definitions for pt 5A

In this part—

alcohol test means a test for deciding whether a relevant person is over the limit applying to the person when the test is conducted.

analyst means a person who, under section 5A.4A, is appointed as an analyst.

authorised person means—

(a) in all cases—the commissioner or deputy commissioner; or

(b) for an alcohol test or a random alcohol test—

(i) if the person to be tested is a police recruit or staff member—a commissioned officer; or

(ii) otherwise—the assistant commissioner or a commissioned officer who holds rank above the rank of the person to be tested; or

(c) for periodic testing of an operative—

(i) the assistant commissioner; or

(ii) a commissioned officer who—

(A) is responsible for supervising operatives; and

(B) is above the rank of the operative to be tested; or

(d) for a test to be conducted because of section 5A.8(c)—

(i) if the person to be tested is a police recruit or staff member—a commissioned officer; or

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(ii) otherwise—the assistant commissioner or a commissioned officer who holds rank above the rank of the person to be tested; or

(e) for section 5A.10 or section 5A.14—

(i) if the person to be tested is a police recruit or staff member—a commissioned officer; or

(ii) otherwise—the assistant commissioner or a commissioned officer who holds rank above the rank of the person to be tested.

critical area means any of the following in which a police recruit or staff member performs functions for the police service—

(a) a communications centre;

(b) a driver training facility;

(c) a facility used for storing dangerous drugs under the *Police Powers and Responsibilities Act 2000*, chapter 21, part 4;

(d) a magazine used for storing explosives;

(e) a police armoury or weapons collection facility;

(f) a property point as defined under the *Police Powers and Responsibilities Act 2000*;

(g) a watch-house;

(h) a weapons training facility;

(i) the unit known as the police air wing;

(j) a place prescribed under a regulation as a critical area.

critical incident means any of the following—

(a) an incident in which an officer on duty discharges a firearm—

(i) injuring a person; or

(ii) in circumstances in which a person could be injured;

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(b) an incident in which a person in custody dies or suffers grievous bodily harm;

(c) a workplace incident at a police station or police establishment in which a person—

(i) dies or suffers grievous bodily harm; or

(ii) suffers injuries for which the person is admitted to hospital;

(d) an incident in which a person dies or suffers grievous bodily harm in the course of, or as a result of, police operations;

Examples of police operations—

- a vehicle pursuit
- an evacuation

(e) a vehicle pursuit in which a person suffers injuries for which the person is admitted to hospital.

dangerous drug means a dangerous drug under the *Drugs Misuse Act 1986*.

deputy commissioner means the executive officer holding rank as deputy commissioner.

evidence, of a targeted substance in a person's urine or saliva, includes evidence of the presence of the following in the person's urine or saliva—

(a) a targeted substance;

(b) a substance that is used in a targeted substance;

(c) a metabolite of a targeted substance.

firearm does not include a firearm loaded with a projectile that is not designed to cause death or grievous bodily harm.

Examples of a projectile that is not designed to cause death or grievous bodily harm—

beanbag round, 40mm impact round

general alcohol limit means the general alcohol limit under section 5A.6(1)(c).

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grievous bodily harm see the Criminal Code, section 1.

low alcohol limit means the low alcohol limit under section 5A.6(1)(b).

medical examination includes medical assessment and test, whether physical or mental.

no alcohol limit means the no alcohol limit under section 5A.6(1)(a).

operative means a police officer who is—

(a) a participant in an authorised operation under the *Police Powers and Responsibilities Act 2000*, chapter 11; or

(b) a covert operative for a controlled operation under the *Crime and Corruption Act 2001*, chapter 3, part 6A.

over the limit, in relation to a relevant person, means the person is over the general alcohol limit, the low alcohol limit or the no alcohol limit applying to the person.

random alcohol test means an alcohol test conducted under section 5A.9.

relevant person see section 5A.3.

saliva analysing instrument means an instrument, prescribed by regulation, for finding out whether a targeted substance is present in a person's saliva by analysing a specimen of the person's saliva.

targeted substance means—

(a) a dangerous drug; or

(b) another substance mentioned in section 5A.4(c) or (d).

targeted substance test means a test for deciding whether a relevant person has evidence of a targeted substance in the person's urine or saliva.

vehicle pursuit means a police motor vehicle pursuit for the purpose of apprehending a person.

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5A.3 Persons to whom pt 5A applies

(1) This part, other than to the extent specified in section 5A.21A, applies only to a person (***relevant person***) who is—

(a) an officer; or

(b) a staff member, other than the following persons, whose duties include performing functions in a critical area—

(i) an MRQ volunteer;

(ii) an SES local government employee;

(iii) an SES volunteer; or

(c) a watch-house officer; or

(d) a police radio and electronics technician; or

(e) a recruit; or

(f) a protective services officer; or

(g) a protective services officer (in training).

(2) However, for subsection (1)(b), if the critical area in which the functions are performed is a driver training facility, this part applies to the staff member only if the member is a driver, instructor or mechanic at the facility.

5A.4 Substances to which pt 5A applies

This part applies only in relation to the following substances—

(a) alcohol;

(b) a dangerous drug;

(c) a regulated substance under the *Medicines and Poisons Act 2019* that may impair a person's physical or mental capacity;

(d) another substance that may impair a person's physical or mental capacity.

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5A.4A Analysts

The Minister may, by gazette notice, appoint an appropriately qualified person as an analyst for this part.

5A.4B Operators of saliva analysing instruments

(1) The commissioner may authorise an appropriately qualified officer or staff member to operate a saliva analysing instrument under section 5A.14.

(2) An authorisation may be—

(a) general or limited; and

Example—

An authorisation may be limited to operating a saliva analysing instrument to analyse samples given by relevant persons of a stated class.

(b) given on the conditions the commissioner considers appropriate.

5A.5 Part does not affect other powers

This part does not affect the commissioner's powers under section 8.3.

Division 2 Provisions about alcohol testing

5A.6 When is a person over the limit

(1) For this part—

(a) a person is over the ***no alcohol limit*** if the concentration of alcohol in the person's breath is more than 0g of alcohol in 210L of breath;

(b) a person is over the ***low alcohol limit*** if the concentration of alcohol in the person's breath is, or is more than, 0.02g of alcohol in 210L of breath;

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(c) a person is over the ***general alcohol limit*** if the concentration of alcohol in the person's breath is, or is more than, 0.05g of alcohol in 210L of breath.

(2) For this Act, the concentration of alcohol in a person's breath may be expressed as—

(a) a specified number of grams of alcohol in 210L of breath; or

(b) a specified number of grams in 210L.

Example for subsection (2)—

The concentration of alcohol in a person's breath may be expressed as 0.063g of alcohol in 210L of breath or as 0.063g/210L.

5A.7 Alcohol limits

(1) A relevant person must be under the low alcohol limit—

(a) when reporting for duty for a rostered shift; or

(b) while on duty for a rostered shift; or

(c) while on call on a rotational basis for duty.

(2) Also, a relevant person must be under the general alcohol limit when not rostered for duty but permanently on call for duty in a place where there is a police station at which no more than 1 or 2 officers are permanently stationed.

(3) However, if the relevant person is a member of the special emergency response team, the person must not be over the no alcohol limit when reporting for duty, while on duty, or while on call on a rotational basis.

(4) This section does not apply to a relevant person who is a police officer to the extent it prevents the person consuming alcohol while performing duties under an exemption under section 5A.9(4).

5A.8 Circumstances for alcohol testing

An authorised person may require a relevant person to submit to an alcohol test if—

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(a) the person has been involved in a critical incident; or

(b) the test is authorised under section 5A.9; or

(c) an authorised person reasonably suspects the person is contravening or has contravened section 5A.7; or

(d) for an officer who is an applicant to become an operative, the person is required to undergo a medical examination for deciding the person's suitability to be an operative.

5A.9 Random alcohol testing

(1) An authorised person may require a relevant person to submit to a random alcohol test.

(2) However, an authorised person other than the commissioner or deputy commissioner may require the relevant person to submit to the test—

(a) only with the written approval of the commissioner or deputy commissioner; or

(b) only if the test is conducted in accordance with criteria prescribed under a regulation for conducting random alcohol tests without the approval of the commissioner or deputy commissioner.

(3) For subsection (2)(b), a regulation may prescribe the criteria for deciding—

(a) when and where a random alcohol test may be conducted; and

(b) when a random alcohol test may be conducted without the approval of the commissioner or deputy commissioner.

(4) Also, the commissioner or deputy commissioner may, in writing, exempt a relevant person or class of relevant person from random alcohol testing, either generally or in particular circumstances.

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Examples—

1 The relevant person may be an operative.

2 The relevant person may be required to consume alcohol at a hotel when keeping a person suspected of engaging in criminal activities under surveillance.

(5) The power to approve random alcohol testing under this section can not be delegated.

5A.10 Providing specimen of breath for alcohol test or random alcohol test

(1) If a relevant person is required to submit to an alcohol test or a random alcohol test under this part, an authorised person may require the relevant person to provide a specimen of breath for the test.

(2) The authorised person may require the relevant person to provide the specimen to the authorised person's satisfaction.

(3) The relevant person must comply with a requirement under subsection (2).

(4) The authorised person must perform the test—

(a) using an instrument approved by the commissioner for the purpose; and

(b) in accordance with the manufacturer's instructions for use of the instrument.

5A.11 Failure to provide specimen of breath

A relevant person who fails to provide a specimen of breath as required is taken to have been tested for alcohol and to have been over the limit for alcohol applying to the person when the failure happened.

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Division 3 Provisions about drug testing

5A.12 Targeted substance levels

(1) A relevant person must not have evidence of a dangerous drug present in the person's urine or saliva at any time.

(2) A relevant person, who is lawfully taking a targeted substance mentioned in section 5A.4(c) or (d), must not perform duties in or involving an operational capacity or critical area if the substance impairs the person's capacity to perform the duties without danger to the person or someone else.

(3) A relevant person must not have present in the person's urine or saliva—

(a) evidence of a targeted substance mentioned in section 5A.4(c) that the person may not lawfully take; or

(b) evidence of having taken a targeted substance mentioned in section 5A.4(c) or (d) in a way contrary to a direction of a doctor or a recommendation of the manufacturer of the substance.

5A.13 Circumstances for targeted substance testing

(1) An authorised person may require a relevant person to submit to a targeted substance test if—

(a) the relevant person—

(i) has been involved in a critical incident; or

(ii) is an operative; or

(iii) is an officer who is an applicant to become an operative and is required to undergo a medical examination or test for deciding the person's suitability to be a covert operative; or

(b) an authorised person reasonably suspects the relevant person is contravening or has contravened section 5A.12.

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(2) Also, an authorised person may require a person who has been notified of the person's appointment as a recruit to submit to a targeted substance test before the person starts the training necessary to become an officer.

5A.14 Providing specimen for targeted substance test

(1) If a relevant person is required to submit to a targeted substance test under this part, an authorised person may require the relevant person to provide a specimen of urine or saliva to an authorised tester, at a stated time and place, for the test.

(2) If the specimen is required because of section 5A.13(1)(a)(i), the requirement must be made, and the stated time for providing the specimen must be, as soon as practicable after the critical incident happened.

(3) An authorised tester may give the relevant person a direction about how the specimen is to be provided or about providing a sufficient specimen for testing.

(4) However, a direction must be—

(i) reasonably necessary; and

(ii) consistent with any requirements prescribed under subsection (6).

(5) As soon as practicable after a specimen is collected under this section, the specimen must be dealt with in the way prescribed under subsection (6).

(6) A regulation may prescribe requirements about collecting and dealing with specimens under this section.

(7) In this section—

authorised tester means—

(a) for a specimen of urine given by a relevant person—a doctor or registered nurse; or

(b) for a specimen of saliva given by a relevant person—an officer or staff member authorised under section 5A.4A

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to operate a saliva analysing instrument to analyse a sample given by the relevant person.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing profession, other than as a student; and

(b) in the registered nurses division of that profession.

5A.15 Effect of failure to provide a specimen

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

(a) is required to provide a specimen of urine or saliva under section 5A.14; and

(b) fails to provide a specimen in compliance with the requirement and any directions given by an authorised tester under that section.

(2) However, this section does not apply to a relevant person who is unable to provide the required specimen because of a medical condition.

(3) The relevant person is taken to have been tested for a targeted substance and to have been found to have had evidence of a targeted substance in the person's saliva or urine (whichever is relevant).

Division 4 What happens if a test result is positive

5A.16 If alcohol or targeted substance test positive

(1) This section applies if a test conducted under this part shows a relevant person, when tested—

(a) was over the limit applying to the person when the test was conducted; or

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(b) had evidence of a targeted substance in the person's urine or saliva.

(2) The commissioner may do any 1 or more of the following—

(a) suspend the relevant person from duty until the person is no longer over the relevant alcohol limit or no longer has evidence of a targeted substance in the person's urine or saliva;

(b) correct the relevant person by way of guidance;

(c) require the relevant person to undergo counselling or rehabilitation approved by the commissioner;

(d) require the relevant person to attend a government medical officer for a medical examination of the person's fitness to continue to perform the person's current duties;

(e) after considering a report of a government medical officer about a medical examination under paragraph (d), direct the relevant person to perform other duties for the time the commissioner considers necessary;

(f) take disciplinary or other action against the relevant person under whichever of the following is relevant—

(i) this Act;

(ii) the *Public Sector Act 2022*;

(g) require the relevant person to submit to further testing from time to time until the commissioner is satisfied the reason for making the requirement no longer exists.

Example of other action for paragraph (f)—

action that may be taken under section 6.1

(3) Subsection (2)(a), (b), (c) and (f) do not apply to a targeted substance mentioned in section 5A.12(2).

(4) A relevant person directed to perform other duties under subsection (2)(e) is entitled to be paid salary and allowances at the rate at which the person would have been paid had the person not been directed to perform the other duties.

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(5) A government medical officer who prepares a report about a medical examination of a relevant person may give the report to the commissioner.

5A.17 Effect of failure to comply

(1) This section applies if a relevant person—

(a) fails to attend or complete counselling or rehabilitation under a requirement under section 5A.16(2)(c); or

(b) fails to attend a government medical officer for medical examination under a requirement under section 5A.16(2)(d).

(2) The commissioner may take disciplinary action against the person under whichever of the following is relevant—

(a) this Act;

(b) the *Public Sector Act 2022*.

Division 5 General

5A.18 Giving requirements

A requirement under this part may be given orally or in writing or by any form of electronic communication.

5A.19 Interfering with specimens

A person must not unlawfully interfere with a specimen of breath, urine or saliva provided under this part.

Maximum penalty—100 penalty units.

5A.20 Test result evidence generally inadmissible

(1) Evidence of—

(a) anything done under this part; and

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(b) the result of any test conducted under this part;

is inadmissible in a civil or criminal proceeding before a court.

(2) Without limiting subsection (1), evidence of any of the following is inadmissible in a civil or criminal proceeding before a court—

(a) an approval given to conduct a random alcohol test;

(b) a requirement made under division 2, 3 or 4;

(c) a direction given by a person under division 3;

(d) a disclosure made or an agreement entered into under section 5A.21A.

(3) Also, the commissioner and anyone else involved in any way in anything done under this part can not be compelled to produce to a court any document kept or to disclose to a court any information obtained because of the doing of the thing.

(4) This section does not apply to—

(a) a proceeding for a charge of an offence arising from a critical incident; or

(b) an inquest in a Coroners Court into the death of a person in a critical incident; or

(c) a proceeding on an application under the *Industrial Relations Act 2016*, section 317 for reinstatement because of unfair dismissal.

(5) Also, this section does not prevent the commissioner giving a witness identity protection certificate under the *Evidence Act 1977*, section 21F that includes matters mentioned in section 21G(1)(h) of that Act in relation to a person who has been found guilty of misconduct or another ground for disciplinary action because of the testing of the person under this part.

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5A.21 Evidentiary provision

(1) A certificate apparently signed by an analyst and stating the following is evidence of what it states—

(a) a specimen of urine or saliva provided by a stated person on a stated day and at a stated place was received from a stated authorised person at the analyst's laboratory on a stated day and time;

(b) the analyst made a laboratory test of the specimen on a stated day and at the stated place;

(c) a stated targeted substance or a metabolite of a stated targeted substance was indicated by the laboratory test to be present in the person's urine or saliva.

(2) A certificate apparently signed by a government medical officer and stating that the presence of a stated targeted substance in a person impairs or may impair the person's capacity to perform the person's duties without danger to the person or others is evidence of what it states.

(3) A certificate apparently signed by the commissioner and stating either of the following is evidence of what it states—

(a) at a stated time a stated officer performed duties in an operational capacity in a critical area;

(b) at a stated time a stated staff member performed duties involving a critical area.

5A.21A Agreements about counselling and rehabilitation

(1) An eligible member of the service may make a written request to a person prescribed by regulation (a ***prescribed person***) for the provision of counselling or rehabilitation about the member's personal use of alcohol or a drug.

(2) If a prescribed person receives a request under subsection (1), the prescribed person must forward the written request to the eligible member who may enter into an agreement for providing counselling or rehabilitation.

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(3) The commissioner may enter into an agreement to provide to the eligible member the counselling or rehabilitation approved by the commissioner.

(4) The commissioner must not use information disclosed by a member under this section for the purposes of disciplinary or other action against the member under this Act or the *Public Sector Act 2022*.

(5) Also, the commissioner must not disclose information in the possession of the commissioner because of a request or agreement made under this section other than—

(a) for the purposes of the agreement; or

(b) to the extent the commissioner considers reasonably necessary to prevent or lessen a serious threat to the public or to health or safety of the member who disclosed the information; or

(c) for the purposes of a claim for compensation under the *Workers' Compensation and Rehabilitation Act 2003*; or

(d) if the information relates to a member who is an officer—for the purposes of section 6.1(1)(c) or 8.3.

(6) A regulation may prescribe the matters that must be included in an agreement under this section.

(7) In this section—

eligible member means a member of the service, other than—

(a) an MRQ volunteer; or

(b) an SES local government employee; or

(c) an SES volunteer.

5A.23 Limitation on disciplinary proceedings

(1) If 2 or more contraventions of this part by a particular relevant person arise out of the same facts or circumstances, a disciplinary proceeding against the relevant person may be started for 1 disciplinary offence only.

(2) In this section—

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disciplinary proceeding includes a proceeding against a former officer under part 7A.

Part 5AA Assessment of suitability of persons seeking to be engaged, or engaged, by the service

Division 1 Preliminary

5AA.1 Purpose of pt 5AA

The purpose of this part is to ensure the commissioner—

(a) may gather all the relevant information the commissioner needs about a person engaged or seeking to be engaged by the service; and

(b) may use the information to assess the person's suitability to be, or continue to be, engaged by the service.

5AA.1A Definition for pt 5AA

In this part—

criminal history, of a person—

(a) means the person's convictions in relation to offences committed in Queensland or elsewhere; and

(b) includes information about offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person.

5AA.2 Parliament's intention

(1) It is Parliament's intention that relevant information about a person that is obtained by the commissioner under this part is

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to be used only for assessing the person's suitability to be, or continue to be, engaged by the service.

(2) However, it is not Parliament's intention to prevent the commissioner using information obtained under this part that discloses the commission of an offence, or is, or leads to, the discovery of evidence of the commission of an offence, for an investigation into the offence and any proceeding started or facilitated because of the investigation.

5AA.3 Meaning of *engaged by the service*

A person is ***engaged by the service*** for this part if the person is 1 of the following—

(a) a police officer;

(b) a staff member;

(c) a recruit;

(d) a special constable;

(e) an external service provider;

(f) a person performing functions at a police station or police establishment under a contract for services;

(g) a person working in the service as a volunteer under section 10.5(6) or as a student on work experience.

5AA.4 This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

This part applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

5AA.5 Person to be advised of duties of disclosure etc.

(1) Before a person, other than an external service provider, is engaged by the service, the commissioner must, if the commissioner considers the terms of the engagement require it—

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(a) tell the person—

(i) of the person's duty to disclose relevant information under division 2; and

(ii) that the commissioner may obtain and consider relevant information about the person under divisions 3 and 4; and

(b) give the person a copy of the guidelines for dealing with relevant information obtained by the commissioner under this part.

(2) Subsections (3) and (4) apply if the chief executive officer (a ***relevant CEO***) of another entity becomes aware a person employed or engaged by the entity is an external service provider.

(3) The relevant CEO must—

(a) tell the person—

(i) the person is or, if employed, will be engaged by the service for this part; and

(ii) of the person's duty to disclose relevant information under division 2; and

(iii) that the commissioner may—

(A) obtain and consider relevant information about the person under divisions 3 and 4; and

(B) disclose relevant information to the relevant CEO under division 4; and

(b) give the person a copy of the guidelines issued by the commissioner for dealing with relevant information obtained by the commissioner under this part.

(4) The information required to be given to the person under subsection (3) must be given as soon as practicable after the relevant CEO becomes aware the person is an external service provider.

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Division 2 Disclosure of relevant information

5AA.6 Persons engaged or seeking to be engaged by the service must disclose relevant information

(1) Each of the following must, if required by the commissioner, disclose to the commissioner in the way approved by the commissioner any relevant information known to the person that may affect the person's suitability to be engaged by the service—

(a) a person engaged by the service;

(b) a person seeking to be engaged by the service.

(2) A person required to disclose information under subsection (1)(b) must disclose the information before being engaged by the service.

5AA.7 Persons engaged by the service must disclose changes in relevant information

If a person engaged by the service is aware that there is a change in relevant information about the person, the person must immediately disclose to the commissioner in the way approved by the commissioner the details of the change.

Note—

For some persons engaged by the service, a failure to disclose a change in relevant information of which the person is aware may become the subject of disciplinary proceedings.

Division 3 Commissioner may obtain relevant information from other entities

5AA.9 Commissioner may request information from other authorities

(1) This section applies to a person who—

(a) is engaged by the service; or

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(b) seeks to be engaged by the service and has given the commissioner a disclosure for the purposes of division 2.

(2) Also, this section applies even though the disclosure does not state any relevant information about the person.

(3) The commissioner may ask another law enforcement agency, whether a declared agency, or a law enforcement agency of another country that has an obligation under the law of that country to assess the integrity of persons employed or engaged by the government of that country, to give the commissioner a report that includes relevant information about the person.

5AA.10 Prosecuting authority to notify commissioner about committal, conviction etc.

(1) This section applies if a person is charged with an indictable offence and the director of public prosecutions is aware that the person is engaged by the service.

(2) The director of public prosecutions must give the commissioner written notice of the person's name and the following particulars within 7 days after the director of public prosecutions becomes aware of the particulars—

(a) if the person is committed by a court for trial for an indictable offence—

(i) the court committing the person for trial; and

(ii) particulars of the offence with which the person is charged; and

(iii) the date of the committal; and

(iv) the court to which the person was committed;

(b) if the person is convicted before the Supreme Court or the District Court of an indictable offence—

(i) the court convicting the person; and

(ii) particulars of the offence; and

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(iii) the date of the conviction; and

(iv) the sentence imposed by the court;

(c) if the person is convicted of an indictable offence, and has appealed the conviction, and the appeal is finally decided or has otherwise ended—

(i) particulars of the offence of which the person is convicted; and

(ii) the date the appeal was decided or otherwise ended; and

(iii) if the appeal was decided—

(A) the court in which it was decided; and

(B) particulars of the decision;

(d) if the prosecution process ends without the person being convicted of an indictable offence—

(i) if relevant—the court in which the prosecution process ended; and

(ii) particulars of the offence with which the person was charged; and

(iii) the date the prosecution process ended.

(3) For subsection (2)(d), a prosecution process ends if—

(a) an indictment is presented against the person and—

(i) a nolle prosequi is entered on the indictment; or

(ii) the person is acquitted; or

(b) the prosecution process has otherwise ended.

(4) A reference in this section to a conviction of an indictable offence includes a summary conviction of an indictable offence.

(5) Subsection (1) does not apply if the person is charged by a police officer.

(6) Subsection (2)(a) does not apply if the prosecutor appearing is a police officer.

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(7) Subsection (2)(d) does not apply if the prosecution process ends while a police officer is in charge of the prosecution.

5AA.10A Information about disciplinary action to be given by chief executive

(1) This section applies if—

(a) the commissioner asks the chief executive of another department (the ***chief executive***) for disciplinary information the chief executive has about a person who is or was a public service employee; and

(b) the information is reasonably necessary for the commissioner to make a decision about the suitability of the person to be engaged, or continue to be engaged, by the service.

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

(3) In this section—

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

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

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

(c) possible disciplinary action under consideration;

(d) disciplinary action, including a disciplinary declaration.

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Division 4 Controls on use of relevant information and information about particular investigations

5AA.11 Assessment of suitability

(1) This section applies to the commissioner in considering the suitability of a person to be, or continue to be, engaged by the service.

(2) When making the assessment, the commissioner may have regard to all relevant information available to the commissioner, including, but not limited to—

(a) information that is disclosed to the commissioner under this part; and

(b) information that is made available by a declared agency or a law enforcement agency of another country because of a request made under this part; and

(ba) disciplinary information given to the commissioner by a chief executive of another department under section 5AA.10A; and

(c) information that is stored on—

(i) a database kept by the commissioner; or

(ii) a database kept by another law enforcement agency to which the commissioner has access; and

(d) information that is otherwise available to the commissioner.

Examples for subsection (2)—

1 information obtained from previous employment checks

2 fingerprint checks

3 DNA tests

(3) In addition, information obtained under this part may be taken into account in deciding a question of merit under a merit provision.

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(4) Subsection (3) is in addition to and does not limit a merit provision.

(5) In this section—

merit provision means—

(a) section 5.2; or

(b) the *Public Sector Act 2022*, chapter 3, part 3.

5AA.12 Particular persons to be advised if person unsuitable

(1) If, because of information relied on by the commissioner under this part, the commissioner considers a person, other than an external service provider, may not be suitable to be, or continue to be, engaged by the service, the commissioner must, before deciding the person is not suitable—

(a) disclose the information to the person; and

(b) give reasons why the commissioner considers the person may not be suitable to be, or continue to be, engaged by the service; and

(c) allow the person a reasonable opportunity to make representations to the commissioner about the information.

(2) However, the commissioner is not required to disclose the information or give reasons under subsection (1) if the commissioner considers the disclosure or giving of reasons may—

(a) prejudice the investigation of a contravention or possible contravention of the law; or

(b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or

(c) endanger a person's life or physical safety; or

(d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or

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dealing with a contravention or possible contravention of the law; or

(e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or

(f) prejudice national security; or

(g) be prohibited under a law of this or any other State or the Commonwealth.

(3) If, after considering any representations made under subsection (1)(c), the commissioner decides the person is not suitable to be, or continue to be, engaged by the service, the commissioner must give the person a written notice stating that the person is not suitable to be, or continue to be, engaged by the service.

(4) Information relied on under this section to decide that a person is not suitable to be engaged by the service can not be used for any other purpose, unless its disclosure is authorised under section 5AA.14(3).

5AA.13 External service provider to be advised if person unsuitable

(1) If, because of information relied on by the commissioner under this part, the commissioner considers a person who is an external service provider may not be suitable to be, or continue to be, engaged by the service, the commissioner must, before deciding the person is not suitable—

(a) disclose the information to the person and the chief executive officer of the relevant entity; and

(b) give reasons why the commissioner considers the person may not be suitable to be, or continue to be, engaged by the service; and

(c) allow the person and the chief executive officer a reasonable opportunity to make representations to the commissioner about the information; and

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(d) allow the person a reasonable opportunity to make representations to the commissioner about any representations made to the commissioner by the chief executive officer.

(2) However, the commissioner is not required to disclose the information or give reasons under subsection (1) if the commissioner considers the disclosure or giving of reasons may—

(a) prejudice the investigation of a contravention or possible contravention of the law; or

(b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or

(c) endanger a person's life or physical safety; or

(d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or

(e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or

(f) prejudice national security; or

(g) be prohibited under a law of this or any other State or the Commonwealth.

(3) If, after considering any representations made under subsection (1)(c) or (d), the commissioner decides the person is not suitable to be, or continue to be, engaged by the service, the commissioner must give the person and the chief executive officer of the relevant entity a written notice stating that the person is not suitable to be, or continue to be, engaged by the service.

(4) If the person is already employed or engaged by the entity, the chief executive officer must—

(a) have regard to the commissioner's decision that the person is not suitable to be engaged by the police service and the reasons for the decision; and

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(b) consider whether appropriate steps may be taken to minimise—

(i) the potential adverse effects of the assessment; and

(ii) the person's access to information in the possession of the commissioner; and

(c) advise the commissioner of the chief executive officer's decision.

(5) If the commissioner considers the steps taken do not adequately minimise the person's access to information in the possession of the commissioner, the commissioner may ask the chairperson of the Crime and Corruption Commission to review the chief executive officer's decision.

(6) A review conducted under this section—

(a) must be conducted in private; and

(b) must be conducted in the way decided by the chairperson; and

(c) if the chairperson considers it appropriate, may be conducted on the papers, without hearing submissions from any person; and

(d) is not a hearing or investigation of a kind the chairperson may hold under the *Crime and Corruption Act 2001*.

(7) The chairperson's decision on the review—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

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(8) Information disclosed to the chief executive officer of the entity under subsection (3) must not be disclosed to a member of a selection panel or to anyone else, unless this or another Act permits or requires the disclosure.

5AA.14 Secrecy

(1) This section applies to a person who—

(a) is, or has been—

(i) a person engaged by the service; or

(ii) a selection panel member; and

(b) in that capacity acquired relevant information about someone else.

(2) The person must not disclose the information to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to the disclosure of information about a person, if—

(a) the disclosure—

(i) is to a police officer, a public service employee in the service, or a selection panel member, for the purpose of assessing the person's suitability to be, or continue to be, engaged by the service; or

(ii) is with the person's consent; or

(iii) is of information that is relevant to an existing investigation of an offence; or

(iv) is for a proceeding started because of an investigation mentioned in subparagraph (iii); or

(v) is information the person may disclose to a person who is entitled to ask for it under another Act; or

Example for subparagraph (v)—

Public Sector Act 2022, section 97

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(b) the information discloses evidence of the commission or suspected commission of an offence and an investigation is started or facilitated because of the information.

(4) Also, a person involved in any way in anything done under this part can not be compelled to produce to a court any document kept, or to disclose to a court any information obtained, because of the doing of the thing.

(5) Other than to the extent the *Police Powers and Responsibilities Act 2000*, section 803 applies to the document or information, subsection (4) does not affect the operation of the *Judicial Review Act 1991*.

(6) In this section—

disclose, in relation to information about a person, includes give access to information about a person.

selection panel member means a member of a panel formed to make a recommendation to the commissioner about a person's engagement by the service.

5AA.15 Guidelines for dealing with relevant information

(1) The commissioner must make guidelines, consistent with this part, for dealing with relevant information obtained by the commissioner under this part.

(2) The purpose of the guidelines is to ensure—

(a) natural justice is afforded to the persons about whom the information is obtained; and

(b) only relevant information is used in assessing the persons' suitability to be, or continue to be, engaged by the service; and

(c) decisions about the suitability of persons, based on the information, are made in a consistent way.

(3) The commissioner must give a copy of the guidelines, on request, to a person seeking to be engaged, or engaged, by the service.

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Part 6 Standing down and suspension

6.1 Power to stand down and suspend

(1) If—

(a) it appears to the commissioner, on reasonable grounds that—

(i) an officer is liable to be dealt with for corrupt conduct; or

(ii) an officer is liable to disciplinary action under part 7; or

(iii) the efficient and proper discharge of the prescribed responsibility might be prejudiced, if the officer's employment is continued; or

(b) an officer is charged with an indictable offence; or

(c) an officer is unfit for reasons of health to such an extent that the officer should not be subject to the duties of a constable;

the commissioner may—

(d) stand down the officer from duty as an officer and direct the person stood down to perform such duties as the commissioner thinks fit; or

(e) suspend the officer from duty.

(2) The commissioner may at any time revoke a standing down or suspension imposed under subsection (1).

6.2 Salary entitlement if stood down

An officer who is stood down from duty under section 6.1 is entitled to be paid salary and allowances at the rate at which the officer would have received salary and allowances had the standing down not occurred.

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6.3 Salary entitlement if suspended

(1) An officer suspended from duty under section 6.1 is entitled to be paid salary and allowances at the rate at which the officer would have received salary and allowances had the suspension not occurred, unless the commissioner otherwise determines in a particular case.

(1A) Except that an officer suspended under section 6.1(1)(c) is to be entitled to the salary and allowances to which that officer was previously entitled.

(2) An officer suspended from duty who is not entitled to be paid salary during the suspension—

(a) may receive and retain salary, wages, fees or other remuneration from any lawful source during the suspension, unless the commissioner otherwise determines in a particular case; and

(b) if the officer resumes duty as an officer on the revocation of the suspension—is entitled to receive a sum equivalent to the amount of salary and allowances the officer would have received had the suspension not occurred, reduced by a sum equivalent to the amount of salary, wages, fees and other remuneration to which the officer became entitled from any other source during the suspension, unless the commissioner otherwise determines in a particular case.

(3) An officer suspended from duty without salary who enters into employment whereby the officer will become entitled to salary, wages, fees or other remuneration is to inform the commissioner immediately of the particulars of the employment.

(4) An officer suspended from duty who during the suspension becomes entitled to salary, wages, fees or other remuneration from a source incompatible with assessment of the officer as a fit and proper person to be an officer and who fails to satisfy the commissioner that there are reasonable grounds for not dismissing the officer, may be dismissed from the service.

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6.4 Officer relieved of powers and duties while stood down or suspended

While an officer remains stood down or suspended under section 6.1—

(a) the officer is relieved of the powers and duties of a constable at common law or under any Act or law; and

(b) the officer is not bound by the oath or affirmation taken or made by the officer as prescribed by section 3.3; and

(c) the officer is not to be taken to have breached such oath or affirmation, or provisions of any Act or law relating thereto, or to be liable to disciplinary action under part 7, by reason of the officer's failure to exercise or perform the powers or duties required of the officer by such oath or affirmation.

Part 6A Reporting obligations of officers and staff members

6A.1 Duty concerning misconduct and other grounds for disciplinary action

(1) In this section—

conduct means conduct of an officer, wherever and whenever occurring, whether the officer whose conduct is in question is on or off duty at the time the conduct occurs.

officer includes a police recruit.

(2) If any officer or staff member—

(a) knows or reasonably suspects that conduct to which this section refers has occurred; or

(b) is one in respect of whom it can be reasonably concluded that the officer or staff member knew or reasonably suspected that conduct to which this section refers has occurred;

it is the duty—

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(c) of the officer or staff member, in the case of conduct that is misconduct, to report the occurrence of the conduct, as soon as is practicable, to the commissioner and to the chairperson of the Crime and Corruption Commission; and

(d) of the officer, in the case of conduct that is misconduct or another ground for disciplinary action, to take all action necessary to achieve the purposes of part 7 that is—

(i) warranted and reasonable in the circumstances; and

(ii) within the authority of the officer.

(3) The commissioner may, by written instrument, exempt stated officers or staff members who have or are likely to have knowledge of conduct that is an alleged contravention of the *Anti-Discrimination Act 1991* from compliance with subsection (2), generally or on stated conditions.

(4) The commissioner may give an exemption under subsection (3) only if the commissioner is reasonably satisfied giving the exemption will not adversely affect the welfare of the officers or staff members affected by or involved in the conduct.

(5) However, if a person is given an exemption generally because the person is likely to have knowledge of an alleged contravention of the *Anti-Discrimination Act 1991* and the person is the person against whom the complaint for the contravention is made, the exemption does not operate in relation to the complaint against the person.

(6) Also, the commissioner may, by written instrument, exempt an officer or staff member from compliance with subsection (2), generally or on stated conditions, if the officer or staff member—

(a) is appointed to provide confidential counselling services to officers and staff members; or

(b) is a prescribed person under section 5A.21A.

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(7) An exemption under subsection (6) only operates while the officer or staff member is providing professional counselling services in an official capacity.

(8) If a person is not required to report misconduct under subsection (2) because of an exemption under subsection (3), the commissioner also is not required to report the misconduct.

6A.2 Offence of victimisation

A person who—

(a) prejudices, or threatens to prejudice, the safety or career of any person;

(b) intimidates or harasses, or threatens to intimidate or harass any person;

(c) does any action that is, or is likely to be, to the detriment of any person;

because the person referred to in paragraph (a), (b) or (c), or any other person, has complied with section 6A.1 by performing the duty therein prescribed commits an offence against this Act.

Maximum penalty—100 penalty units.

Part 7 Discipline process for officers

Division 1 Preliminary

7.1 Main purposes of part

The main purposes of this part are—

(a) to provide for a system of guiding, correcting, rehabilitating and, if necessary, disciplining officers; and

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(b) to ensure appropriate standards of discipline are maintained within the service to—

(i) protect the public; and

(ii) uphold ethical standards within the service; and

(iii) promote and maintain public confidence, and officers' confidence, in the service.

7.2 Application of part

This part applies in relation to a complaint about an officer (the ***subject officer***) if—

(a) the complaint is received by the commissioner or the CCC; and

(b) the CCC has not assumed responsibility for investigating the complaint under the *Crime and Corruption Act 2001*, section 47 or 48.

Note—

See section 7.7 for when the complaint is received by the commissioner or the CCC.

7.3 Definitions for part

In this part—

abbreviated process notice see section 7.18(1).

complaint, about an officer, includes a report about the officer's conduct under section 6A.1.

comprehensive transfer see section 7.37.

disciplinable conduct means conduct of the subject officer that may constitute a ground for disciplinary action.

disciplinary action means a disciplinary proceeding or the imposition of a professional development strategy under this part.

disciplinary charge, for division 4, see section 7.25(a).

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disciplinary history, of an officer, includes—

(a) disciplinary action taken against the officer; and

(b) complaints made against the officer in relation to which a disciplinary proceeding was started, if the disciplinary charge was found not to have been proved; and

(c) complaints made against the officer for which no disciplinary action has been taken.

disciplinary proceeding means a proceeding against the subject officer under division 3 or 4.

disciplinary proceeding notice see section 7.25.

disciplinary sanction see section 7.34.

finally dealt with, in relation to a proceeding, means the proceeding has been withdrawn or dismissed or has otherwise ended, including—

(a) any review or appeal relating to the proceeding; or

(b) the period for starting a review or appeal relating to the proceeding.

ground for disciplinary action means a ground for disciplining the subject officer mentioned in section 7.4.

local transfer see section 7.38.

officer includes a recruit.

prescribed officer means a police officer mentioned in section 2.2(2)(a), (b) or (c) who holds a rank above the rank of the subject officer.

professional development strategy means a requirement that the subject officer do 1 or more of the following things—

(a) undertake mentoring for a stated period not longer than 6 months;

(b) undertake closer supervision for a stated period not longer than 6 months;

(c) comply with additional reporting obligations for a stated period not longer than 6 months;

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(d) complete internal training;

(e) complete external training or professional development, at the expense of the service or the subject officer;

(f) undertake counselling, whether provided within the service or externally, at the expense of the service or the subject officer;

(g) receive guidance;

(h) undertake a temporary reassignment of duties for a stated period not longer than 6 months;

Note—

See also section 7.5(1) in relation to a temporary reassignment of duties.

(i) undertake or complete another program, development or strategy, at the expense of the service or the subject officer and with the subject officer's agreement;

(j) anything else prescribed by regulation.

proposed sanction notice see section 7.28(2).

proposed sanction or strategy—

(a) for division 3, see section 7.18(1)(c); or

(b) for division 4, see section 7.28(2)(c).

required period, for division 3, subdivision 3, see section 7.20.

service history, of an officer, includes—

(a) the rank and positions held by the officer; and

(b) the officer's performance history, other than matters included in the officer's disciplinary history; and

(c) other matters related to the officer's service.

subject officer see section 7.2.

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7.4 Grounds for disciplinary action

(1) The subject officer may be disciplined under this part if the subject officer has—

(a) committed misconduct; or

(b) been convicted—

(i) in Queensland of an indictable offence; or

(ii) outside Queensland of an offence that, if it were committed in Queensland, would be an indictable offence; or

(c) performed the subject officer's duties carelessly, incompetently or inefficiently; or

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

(e) contravened, without reasonable excuse—

(i) a provision of this Act or the *Police Powers and Responsibilities Act 2000*; or

(ii) a code of conduct that applies to the subject officer; or

(iii) a direction given to the subject officer by the commissioner under this Act or by a senior officer with authority to give the direction.

(2) For subsection (1)(b), the subject officer is ***convicted*** if a court makes a finding of guilt, or accepts a plea of guilty, whether or not a conviction is recorded.

7.5 Imposition of professional development strategies etc.

(1) For the definition *professional development strategy*, paragraph (h), a temporary reassignment of duties may be imposed on the subject officer under this part only if—

(a) the subject officer is not required to travel more than 40km by road from the officer's place of residence to the location of the officer's reassigned duties without the officer's consent; and

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(b) during the reassignment, the officer's salary, allowances and other entitlements under an industrial instrument are not less than the officer's entitlements immediately before the reassignment.

(2) Nothing in this part limits a senior officer—

(a) imposing, in a reasonable way, professional development strategies on the subject officer in relation to a ground for disciplinary action; or

(b) giving the subject officer guidance in relation to inappropriate acts or omissions of the subject officer in the performance of the subject officer's duty.

(3) Subsection (2) applies even if the period for starting a disciplinary proceeding against the subject officer based on the ground for disciplinary action has ended.

7.6 Corrupt conduct

(1) Nothing in this part prevents the CCC or the commissioner starting a corrupt conduct proceeding against the subject officer instead of a disciplinary proceeding.

(2) Subsection (3) applies if—

(a) a corrupt conduct proceeding is started against the subject officer; and

(b) a disciplinary proceeding relating to the corrupt conduct has been started against the subject officer but has not been finally dealt with.

(3) The disciplinary proceeding is taken to have been withdrawn and is of no effect.

(4) In this section—

corrupt conduct proceeding means a proceeding for corrupt conduct under the *Crime and Corruption Act 2001*, section 219F.

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7.7 When complaints are received

(1) For this part, a complaint is taken to be received by the commissioner or the CCC when the complaint is first recorded.

(2) However, if more than 1 complaint is received by the commissioner or the CCC about the same matter or substantially similar matters, each complaint is taken to be received by the commissioner or the CCC when any of the complaints is first recorded.

(3) The commissioner and the chairperson of the CCC must ensure a complaint is recorded as soon as reasonably practicable after it is made.

(4) In this section—

recorded means recorded in an electronic system for complaints management operated by the service or the CCC.

7.8 Requirement to give notices to subject officer's lawyer

(1) This section applies if—

(a) a provision of this part requires or permits a person to give a notice to the subject officer; and

(b) the person is aware the subject officer is represented by a lawyer.

(2) The person must give the subject officer's lawyer a copy of the notice given to the subject officer.

(3) Failure to comply with subsection (2) does not affect—

(a) the validity of the notice given to the subject officer; or

(b) the person's compliance with the provision mentioned in subsection (1)(a).

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Division 2 Preliminary provisions for starting disciplinary proceedings

7.9 Implementation of professional development strategies by commissioner

(1) This section applies when the complaint mentioned in section 7.2 is received by the commissioner, regardless of whether it was first recorded by the CCC.

(2) The commissioner must consider whether to impose a professional development strategy on the subject officer.

(3) The commissioner may impose a professional development strategy under this section—

(a) to reduce the risk of recurrence of similar conduct; or

(b) to improve the subject officer's performance; or

(c) for any other purpose.

(4) The professional development strategy must be implemented, in a reasonable way, as soon as practicable after the ground for disciplinary action arises.

Note—

See also section 7.35(3) in relation to the professional development strategy being taken into account by a prescribed officer deciding the disciplinary sanction to be imposed on the subject officer.

(5) In this section—

recorded see section 7.7.

7.10 Referral of complaint to prescribed officer

(1) This section applies if—

(a) the complaint mentioned in section 7.2 has been received by the commissioner; and

(b) the commissioner has considered under section 7.9 whether to impose a professional development strategy.

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(2) The commissioner must decide whether to refer the complaint to a prescribed officer, having regard to the following matters—

(a) any professional development strategy, or other management action, that has been implemented in relation to the subject officer;

(b) whether implementation of any other professional development strategy would be sufficient to achieve the purposes mentioned in section 7.1(b);

(c) the subject officer's disciplinary history and service history;

(d) the seriousness of the conduct to which the complaint relates;

(e) whether it is necessary to take disciplinary action against the subject officer to achieve the purposes mentioned in section 7.1(b).

7.11 Requirements for starting disciplinary proceeding

(1) This section applies if the commissioner has, under section 7.10, referred the complaint to a prescribed officer.

(2) The prescribed officer may start a disciplinary proceeding against the subject officer if the prescribed officer reasonably believes there is a ground for disciplinary action against the subject officer.

7.12 When disciplinary proceeding must be started

(1) A disciplinary proceeding against the subject officer must start within the latest of the following periods to end—

(a) 1 year from the date the ground for disciplinary action arises;

(b) 6 months from the date the complaint mentioned in section 7.2, or another complaint substantially relating to the same ground for disciplinary action, is received by the commissioner or the CCC;

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(c) if a relevant proceeding has been started—6 months from the day the relevant proceeding is finally dealt with.

(2) For this section, a period for which the subject officer is absent from duty is not counted if the commissioner can demonstrate the absence caused or contributed to a delay in starting a disciplinary proceeding.

Examples of the subject officer being absent from duty—

- the subject officer is on leave
- the subject officer is suspended from duty

(3) For this part, a disciplinary proceeding starts when an invitation under section 7.17 or disciplinary proceeding notice for the proceeding is given to the subject officer by the prescribed officer.

(4) In this section—

relevant proceeding means either of the following proceedings, in relation to conduct that substantially relates to the ground for disciplinary action—

(a) a criminal proceeding started against a member of the service or a former officer within the meaning of section 7A.1(1)(b);

(b) a proceeding for an application for a protection order under the *Domestic and Family Violence Protection Act 2012* to which the subject officer is the respondent.

7.13 When ground for disciplinary action arises

(1) For this part, a ground for disciplinary action against the subject officer arises on—

(a) if the ground relates to conduct involving a single act or omission—the day the conduct occurred; or

(b) if the ground relates to ongoing conduct of the same or a similar nature or arising out of the same circumstances—the latest day the conduct occurs.

(2) However, subsection (3) applies if—

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(a) during a prescribed operation, the commissioner or the CCC becomes aware of a ground for disciplinary action against the subject officer; and

(b) a relevant officer overseeing all or part of the operation reasonably believes that starting disciplinary action against the subject officer may compromise the operation.

(3) The ground for disciplinary action is taken to arise on the day the operation ends.

(4) If subsection (3) applies because the CCC becomes aware of the ground for disciplinary action, the chairperson of the CCC must include the information mentioned in subsection (6) in a statutory declaration, or a report under the *Crime and Corruption Act 2001*, section 49, given to the commissioner.

(5) If subsection (3) applies because the commissioner becomes aware of the ground for disciplinary action, the commissioner must issue a notice including the information mentioned in subsection (6).

(6) For subsections (4) and (5), the information is—

(a) that the commissioner or the CCC, as the case may be, became aware of a ground for disciplinary action against a named officer during a prescribed operation; and

(b) the dates the operation started and ended; and

(c) that a named relevant officer had oversight of all or part of the operation; and

(d) the relevant officer reasonably believed that starting disciplinary action against the officer mentioned in paragraph (a) before the end of the operation may have compromised the operation.

(7) In this section—

integrity agency means a statutory body established under a law of the Commonwealth or another State, the functions of which include the investigation of matters relating to integrity

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or corruption in the police force or service, or the public service, of the Commonwealth or that State.

police agency means a police force or service of the Commonwealth or another State.

prescribed operation means—

(a) a controlled activity or controlled operation under the *Crime and Corruption Act 2001* or the *Police Powers and Responsibilities Act 2000*; or

(b) a specific intelligence operation under the *Crime and Corruption Act 2001*; or

(c) an investigation by the CCC or an integrity agency; or

(d) an investigation carried out by the service, a police agency, the CCC or an integrity agency involving interception of telecommunications authorised by a warrant issued under the *Telecommunications (Interception and Access) Act 1979* (Cwlth); or

(e) an investigation involving a surveillance device authorised by a surveillance device warrant issued under the *Police Powers and Responsibilities Act 2000*; or

(f) an activity, operation or investigation that—

(i) is carried out by a police agency or an integrity agency under a law of the Commonwealth or another State; and

(ii) corresponds or substantially corresponds to an activity, operation or investigation mentioned in paragraph (a), (b) or (c).

relevant officer means—

(a) the commissioner; or

(b) the chairperson of the CCC; or

(c) a delegate of the commissioner or the chairperson of the CCC.

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7.14 Examination by medical practitioner

(1) This section applies if—

(a) a prescribed officer is considering starting disciplinary action against the subject officer; and

(b) the disciplinable conduct involves absence from duty.

(2) The prescribed officer may—

(a) appoint a medical practitioner to examine the subject officer and give the commissioner a written report on the subject officer's mental or physical condition; and

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

(3) The report on the medical examination must include the medical practitioner's opinion as to whether the subject officer's mental or physical condition was a cause of the subject officer's absence from duty.

(4) The commissioner must give the subject officer a copy of the report.

Division 3 Abbreviated disciplinary proceedings

Subdivision 1 Preliminary

7.15 Application of division

This division applies in relation to the subject officer if a disciplinary proceeding under division 4 relating to the complaint mentioned in section 7.2—

(a) has not been started; or

(b) has been started but has not been finally dealt with.

Note—

See also the requirements in sections 7.11 and 7.12 for starting disciplinary proceedings under this division.

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Subdivision 2 Invitation and making of offer

7.16 Offer to impose disciplinary sanction or professional development strategy

(1) A prescribed officer may offer to impose a disciplinary sanction or professional development strategy on the subject officer under this division.

(2) However, the offer may be made only if the CCC has agreed to the making of the offer.

(3) The offer may be made regardless of whether an investigation relating to the complaint has started or been finalised.

7.17 Requirement to give subject officer an invitation and ability to seek further information

(1) Before seeking the agreement of the CCC for section 7.16, the prescribed officer—

(a) must comply with subsections (2) and (3); and

(b) may obtain further information from the subject officer under subsection (4).

(2) The prescribed officer must give the subject officer a written notice (an ***invitation***) stating the following matters—

(a) the date and details of the complaint and alleged ground for disciplinary action;

(b) any further particulars necessary to identify the conduct alleged to constitute the ground for disciplinary action;

(c) that the subject officer may give the prescribed officer a written submission and other material, within a stated period of at least 21 days, addressing—

(i) the complaint; or

(ii) what disciplinary sanction or professional development strategy the subject officer would accept if an offer were made under section 7.16;

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(d) that the subject officer may refuse the invitation by giving the prescribed officer written notice of the refusal within the period mentioned in paragraph (c).

(3) The prescribed officer must consider any written submission or other materials given within the stated period to the prescribed officer by the subject officer.

(4) After complying with subsection (3), the prescribed officer may, by written notice, require the subject officer to give the prescribed officer further stated information (the ***required information***) reasonably required by the prescribed officer to decide—

(a) whether to make the subject officer an offer under section 7.16; or

(b) the disciplinary sanction or professional development strategy to be offered to the subject officer under section 7.16.

(5) A notice given under subsection (4) must state the period, of at least 14 days, within which the required information must be given to the prescribed officer.

(6) The prescribed officer may extend the period mentioned in subsection (5).

7.17A Ending of proceeding—subject officer does not accept invitation

(1) Subsection (2) applies if the subject officer—

(a) does not give the prescribed officer a written submission and other material within the stated period under section 7.17(2)(c); or

(b) gives the prescribed officer a written notice refusing the invitation within the stated period under section 7.17(2)(d); or

(c) fails to give the prescribed officer the required information within the period stated in section 7.17(5) or the further period stated in section 7.17(6).

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(2) The disciplinary proceeding under this division ends and a disciplinary proceeding against the subject officer may be started under division 4.

(3) For starting a disciplinary proceeding against the subject officer under division 4, section 7.12(1)(b) applies as if it referred to the period of 6 months from the following day—

(a) if the subject officer does not give the prescribed officer a written submission and other material within the stated period under section 7.17(2)(c)—the day the stated period ends;

(b) if the subject officer gives the prescribed officer a written notice refusing the invitation within the stated period under section 7.17(2)(d)—the day the notice is given;

(c) if the prescribed officer requires the subject officer to give the prescribed officer required information and the subject officer fails to give the information within the period stated in section 7.17(5) or the further period stated in section 7.17(6)—the day the period or further period ends.

7.18 Abbreviated process notice

(1) An offer under section 7.16 must be made by giving the subject officer a written notice (an ***abbreviated process notice***) stating the following matters—

(a) the date and details of the complaint and alleged ground for disciplinary action;

(b) any further particulars necessary to identify the conduct alleged to constitute the ground for disciplinary action;

(c) the disciplinary sanction or professional development strategy (the ***proposed sanction or strategy***) the prescribed officer proposes to impose;

(d) that the proposed sanction or strategy will be imposed only if the subject officer accepts it;

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(e) the period within which, and how, the subject officer may accept the proposed sanction or strategy;

(f) that the subject officer's acceptance of the proposed sanction or strategy may be accompanied by a submission or other materials about the complaint or the proposed sanction or strategy;

(g) that if a disciplinary sanction or professional development strategy is imposed under this division—

(i) the sanction or strategy will be part of the subject officer's disciplinary history; and

(ii) there is no right of review under this Act or the *Crime and Corruption Act 2001* in relation to the imposition of the disciplinary sanction or professional development strategy;

(h) that the subject officer may apply to QCAT under section 7.24 for an order quashing the disciplinary proceeding in particular circumstances.

(2) For subsection (1)(e), the stated period must be a reasonable period of at least 21 days after the subject officer is given the abbreviated process notice.

7.19 Subject officer may ask commissioner to make offer

(1) The subject officer may, at any time, ask the commissioner to consider making an offer under section 7.16.

(2) The request may be accompanied by a written submission or other materials about matters the subject officer believes the commissioner should consider in deciding—

(a) whether to make the offer; or

(b) an appropriate disciplinary sanction or professional development strategy to be proposed.

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Subdivision 3 Acceptance of offer and imposition of sanction or strategy

7.20 Definition for subdivision

In this subdivision—

required period means—

(a) the period stated in the abbreviated process notice under section 7.18(1)(e); or

(b) if the period mentioned in paragraph (a) is extended under section 7.21(3)—the extended period.

7.21 Subject officer's acceptance of proposed sanction or strategy

(1) If an abbreviated process notice is given to the subject officer, the subject officer may, by written notice that complies with subsection (2)(a), accept the proposed sanction or strategy.

(2) The subject officer's notice—

(a) must be given to the prescribed officer—

(i) within the required period; and

(ii) in the way stated in the abbreviated process notice under section 7.18(1)(e); and

(b) may be accompanied by a submission or other materials about the complaint or the proposed sanction or strategy.

(3) The prescribed officer may, by agreement with the subject officer, extend the period stated in the abbreviated process notice in which the subject officer may accept the proposed sanction or strategy.

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7.22 Ending of proceeding—subject officer does not accept proposed sanction or strategy

(1) If the subject officer does not accept the proposed sanction or strategy within the required period—

(a) the disciplinary proceeding under this division ends; and

(b) a disciplinary proceeding against the subject officer may be started under division 4; and

(c) each of the following is not admissible against the subject officer in any proceeding, including a subsequent disciplinary proceeding—

(i) a submission made by the subject officer in response to an invitation under section 7.17, including any accompanying materials;

(ii) a request made by the subject officer under section 7.19, including any accompanying submission or other materials.

(2) For starting a disciplinary proceeding against the subject officer under division 4, section 7.12(1)(b) applies as if it referred to the period of 6 months from the following day—

(a) if the subject officer gives the prescribed officer a written notice refusing to accept the proposed sanction or strategy within the required period—the day the notice is given;

(b) otherwise—the day the required period ends.

7.23 Imposition of disciplinary sanction or professional development strategy

(1) This section applies if the subject officer accepts the proposed sanction or strategy within the required period.

(2) The prescribed officer must, after considering any written submission and other materials given to the prescribed officer by the subject officer under this division—

(a) impose the proposed sanction or strategy; and

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(b) give the subject officer notice of the decision, including a brief statement of the reasons for the decision.

(3) The subject officer is taken to have admitted the alleged ground for disciplinary action stated in the abbreviated process notice.

(4) The imposition of the disciplinary sanction or professional development strategy finalises the complaint to which the proceeding relates.

(5) This section applies subject to section 7.24 and division 5.

Subdivision 4 Quashing proceeding

7.24 New evidence and quashing of proceeding by QCAT

(1) This section applies if—

(a) a disciplinary sanction or professional development strategy has been imposed under this division; and

(b) fresh, additional or substituted evidence (***new evidence***) later emerges that, had it been considered by the prescribed officer in deciding the disciplinary sanction or professional development strategy to be imposed, would have affected the decision.

(2) The CCC, the commissioner or the subject officer may apply to QCAT for an order quashing the proceeding under this division.

(3) QCAT may make an order quashing the proceeding under this division if satisfied—

(a) the new evidence would have had a considerable effect on the disciplinary sanction or professional development strategy imposed; and

(b) it is in the interests of justice to quash the proceeding.

(4) If QCAT makes an order quashing the disciplinary proceeding under this division—

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(a) the proceeding is taken to have never occurred; and

(b) subject to subsection (5), a new disciplinary proceeding may be started against the subject officer in relation to the same matter or a substantially similar matter; and

(c) each of the following is inadmissible in a new disciplinary proceeding or proceeding for corrupt conduct under the *Crime and Corruption Act 2001*—

(i) an invitation under section 7.17, an abbreviated process notice or a request to be given an abbreviated process notice;

(ii) a submission or decision made under section 7.17, 7.19 or 7.21;

(iii) anything else produced by the subject officer for the proceeding.

(5) Despite section 7.12, a new disciplinary proceeding mentioned in subsection (4)(b) must be started within 6 months of the making of the order by QCAT.

Division 4 Process for hearings by prescribed officers

Subdivision 1 Decision to take disciplinary action

7.25 How disciplinary proceeding is started

A prescribed officer may start a disciplinary proceeding under this division by giving the subject officer a notice (a ***disciplinary proceeding notice***) stating—

(a) particulars of the alleged ground for disciplinary action (the ***disciplinary charge***); and

(b) that the subject officer may, within a stated period of at least 28 days, give the prescribed officer a written submission and other materials to show why

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disciplinary action should not be taken in relation to the disciplinary charge.

Note—

See also the requirements in sections 7.11 and 7.12 for starting disciplinary proceedings under this division.

7.26 Subject officer's right to make written submission

(1) The subject officer may, within the required period, give the prescribed officer a written submission and other materials to show why disciplinary action should not be taken in relation to the disciplinary charge.

(2) The prescribed officer may, by agreement with the subject officer, extend the period stated in the disciplinary proceeding notice under section 7.25(b).

(3) In this section—

required period means—

(a) the period mentioned in the disciplinary proceeding notice under section 7.25; or

(b) if the period mentioned in paragraph (a) has been extended under subsection (2)—the extended period.

7.27 Decision about whether disciplinary charge is proved

(1) This section applies if—

(a) either—

(i) the required period under section 7.26 has ended; or

(ii) a written submission has been given to the prescribed officer by the subject officer under section 7.26(1); and

(b) the prescribed officer has considered any written submission and other materials given to the prescribed officer by the subject officer under section 7.26(1).

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(2) The prescribed officer must decide whether the disciplinary charge, or another ground for disciplinary action, is proved.

(3) Subsection (4) applies if—

(a) the prescribed officer is not reasonably satisfied the disciplinary charge, or another ground for disciplinary action, is proved; or

(b) the prescribed officer—

(i) is reasonably satisfied the disciplinary charge, or another ground for disciplinary action, is proved; but

(ii) does not propose to impose a disciplinary sanction or professional development strategy on the subject officer.

(4) Within 14 days after making the decision, the prescribed officer must—

(a) for a decision mentioned in subsection (3)(a)—

(i) give the subject officer written notice of the decision; and

(ii) give the CCC a QCAT information notice for the decision; or

(b) for a decision mentioned in subsection (3)(b)—give the subject officer and the CCC a QCAT information notice for the decision.

Notes—

1 If the prescribed officer is satisfied the disciplinary charge or another ground for disciplinary action is proved, see also section 7.31 for the requirement to give a QCAT information notice for—

- the decision that the disciplinary charge, or another ground for disciplinary action, is proved
- the decision to impose, or not to impose, a disciplinary sanction or professional development strategy.

2 See the *Crime and Corruption Act 2001*, chapter 5, part 3 in relation to review by QCAT of the decisions mentioned in subsection (3).

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Subdivision 2 Decision to impose disciplinary sanction or professional development strategy

7.28 Proposed sanction notice

(1) This section applies if, under section 7.27, the prescribed officer is reasonably satisfied the disciplinary charge, or another ground for disciplinary action, is proved.

(2) The prescribed officer may give the subject officer a notice (a ***proposed sanction notice***) stating each of the following matters—

(a) that the prescribed officer has decided the disciplinary charge, or another ground for disciplinary action, is proved;

(b) the reasons for the decision;

(c) the disciplinary sanction or professional development strategy (the ***proposed sanction or strategy***) the prescribed officer proposes to impose on the subject officer;

(d) that the subject officer may give the prescribed officer a written submission and other materials, within a stated period of at least 21 days, to show why the proposed sanction or strategy should not be imposed.

7.29 Subject officer's right to make written submission

(1) The subject officer may, within the required period, give the prescribed officer a written submission and other material to show why the proposed sanction or strategy should not be imposed.

(2) The prescribed officer may, by agreement with the subject officer, extend the period stated in the proposed sanction notice under section 7.28(2)(d).

(3) In this section—

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required period means—

(a) the period stated in the proposed sanction notice under section 7.28(2)(d); or

(b) if the period mentioned in paragraph (a) has been extended under subsection (2)—the extended period.

7.30 Decision about imposition of disciplinary sanction or professional development strategy

(1) This section applies if—

(a) the prescribed officer has given the subject officer a proposed sanction notice; and

(b) either—

(i) the required period under section 7.29 has ended; or

(ii) the subject officer has given the prescribed officer a written submission under section 7.29(1); and

(c) the prescribed officer has considered any written submission and other materials given to the prescribed officer by the subject officer under section 7.29(1).

(2) The prescribed officer must decide—

(a) to impose on the subject officer—

(i) the proposed sanction or strategy; or

(ii) any other disciplinary sanction or professional development strategy that is no more detrimental to the subject officer than the proposed sanction or strategy; or

(b) not to impose a disciplinary sanction or professional development strategy on the subject officer.

(3) A decision under subsection (2)(a) takes effect on the day the subject officer is given a QCAT information notice for the decision under section 7.31.

(4) This section applies subject to division 5.

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7.31 QCAT information notices

(1) Within 14 days after making a decision under section 7.30(2), the prescribed officer must give the subject officer and the CCC a QCAT information notice for each of the following decisions—

(a) the decision under section 7.27(2) that the disciplinary charge, or another ground for disciplinary action, is proved;

(b) the decision under section 7.30(2) to impose, or not to impose, a disciplinary sanction or professional development strategy.

Note—

See the *Crime and Corruption Act 2001*, chapter 5, part 3 in relation to review by QCAT of the decisions mentioned in subsection (1).

(2) A QCAT information notice for a decision to impose a disciplinary sanction or professional development strategy must state the following matters—

(a) the disciplinary sanction or professional development strategy imposed;

(b) the date the sanction or strategy takes effect;

(c) whether the sanction or strategy is suspended under section 7.41 and, if so, the period and any conditions of the suspension;

(d) that the sanction or strategy will form part of the subject officer's disciplinary history;

(e) that the sanction or strategy may be taken into account in future disciplinary proceedings for deciding—

(i) whether to start a disciplinary proceeding for any future alleged disciplinable conduct; and

(ii) the suitability of the subject officer to be or continue to be a police officer, including a police officer of a particular rank.

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Note—

If the disciplinary sanction is probation, see also section 7.36(3) for additional matters that must be stated in the QCAT information notice.

(3) Subsection (2) does not limit the QCAT Act, section 157(2).

Subdivision 3 General

7.32 Principles for conducting disciplinary proceeding

In conducting the disciplinary proceeding, the prescribed officer—

(a) must observe the rules of natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the matters before the prescribed officer; and

(c) is not bound by the rules of evidence; and

(d) may get information on a matter in a way the prescribed officer considers appropriate; and

(e) may decide the procedures to be followed for the proceeding, subject to any guidelines made under section 7.44.

Division 5 Disciplinary sanctions

7.33 Application of division

This division applies for imposing a disciplinary sanction or professional development strategy on the subject officer under division 3 or 4.

7.34 Disciplinary sanctions

Each of the following sanctions is a ***disciplinary sanction***—

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(a) dismissal;

(b) suspension from duty without pay for not longer than 12 months;

(c) probation for not longer than 12 months;

Note—

See also section 7.36 in relation to probation.

(d) demotion, whether permanently or for a stated period;

(e) comprehensive transfer;

(f) local transfer;

(g) performance of up to 100 hours of community service;

Note—

See also section 7.39 in relation to community service.

(h) a fine of up to 50 penalty units;

Note—

See also section 7.40 in relation to fines.

(i) a reprimand.

7.35 Power of prescribed officer to impose disciplinary sanction

(1) The prescribed officer may impose a disciplinary sanction on the subject officer that—

(a) is mentioned in subsection (2); and

(b) the prescribed officer considers is appropriate in the particular case.

(2) For subsection (1)(a), the following disciplinary sanctions may be imposed—

(a) if the prescribed officer is the commissioner—any disciplinary sanction;

(b) if the prescribed officer is a deputy commissioner—any disciplinary sanction;

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(c) if the prescribed officer is an assistant commissioner—

(i) suspension from duty without pay for not longer than 28 days; or

(ii) demotion; or

(iii) local transfer; or

(iv) community service; or

(v) a fine; or

(vi) a reprimand;

(d) if the prescribed officer is a commissioned officer—

(i) community service; or

(ii) a fine; or

(iii) a reprimand.

(3) In deciding the disciplinary sanction to be imposed, the prescribed officer must have regard to the following matters—

(a) any considerations provided for in a guideline made under section 7.44;

(b) the subject officer's disciplinary history and service history;

(c) any professional development strategies imposed on, or completed by, the subject officer in relation to the ground for disciplinary action.

(4) For the removal of doubt, it is declared that the prescribed officer may impose more than 1 disciplinary sanction on the subject officer.

7.36 Probation

(1) This section applies if the disciplinary sanction imposed on the subject officer is probation.

(2) The prescribed officer may impose conditions on the probation.

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(3) Without limiting the QCAT Act, section 157(2), the information notice for the decision to impose the disciplinary sanction given to the subject officer under section 7.31(1)(b) must state—

(a) the period and any conditions of the probation; and

(b) that the subject officer may be asked to show cause as to why the officer should not be dismissed if—

(i) the subject officer breaches the probation; or

(ii) the commissioner reasonably believes the subject officer is unsuitable to continue to be a police officer.

(4) The purpose of the probation is to enable—

(a) during the period of the probation, the commissioner to assess the subject officer's suitability to continue to be a police officer; and

(b) if, during the period of the probation, the subject officer breaches the probation or the commissioner reasonably believes the subject officer is unsuitable to continue to be a police officer—the dismissal of the subject officer after conducting a show cause proceeding.

(5) For this section, the subject officer ***breaches*** the probation if, during the period of the probation, the subject officer—

(a) commits misconduct; or

(b) fails without a reasonable excuse to comply with a condition of the probation.

(6) A show cause proceeding for dismissal of the subject officer on a ground mentioned in subsection (3)(b) must—

(a) be conducted by a prescribed officer who is authorised under this division to impose a disciplinary sanction of probation; and

(b) be started within 12 months from the date of the breach; and

(c) observe the rules of natural justice.

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(7) The prescribed officer who conducts the show cause proceeding must give the subject officer and the CCC a QCAT information notice for the decision to dismiss, or not to dismiss, the subject officer.

Note—

See the *Crime and Corruption Act 2001*, chapter 5, part 3 in relation to review by QCAT of the decision.

7.37 Comprehensive transfer

A ***comprehensive transfer*** is a transfer of the subject officer to a position in another location in Queensland, if—

(a) the transfer reasonably requires the subject officer to—

(i) relocate the subject officer's residence; or

(ii) travel more than 40km by road between the subject officer's residence and the location; and

(b) the subject officer does not consent to the transfer.

7.38 Local transfer

(1) A ***local transfer*** is—

(a) a transfer to another position, at the same location in Queensland, that involves a change in the nature of the subject officer's duties; or

(b) a transfer of the subject officer to a position in another location in Queensland if the transfer does not reasonably require the subject officer to—

(i) relocate the subject officer's residence; or

(ii) travel more than 40km by road between the subject officer's residence and the location.

(2) A local transfer mentioned in subsection (1) may be imposed without the consent of the subject officer.

(3) Also, a transfer of the subject officer to a position in another location in Queensland is a ***local transfer*** if—

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(a) the transfer reasonably requires the subject officer to—

(i) relocate the subject officer's residence; or

(ii) travel more than 40km by road between the subject officer's residence and the location; and

(b) the subject officer consents to the transfer.

7.39 Community service

(1) This section applies if the disciplinary sanction imposed on the subject officer is community service.

(2) The subject officer must be allowed at least 1 calendar month to complete each 10 hours, or part of 10 hours, of the community service.

(3) A prescribed officer of at least the same rank as the prescribed officer who imposed the disciplinary sanction of community service may, on application by the subject officer, extend the time for performing the community service, or otherwise vary the community service, on reasonable grounds.

7.40 Fines

(1) This section applies if the disciplinary sanction imposed on the subject officer is a fine.

(2) The fine must not be deducted from the subject officer's fortnightly salary at a rate of more than 2 penalty units each fortnight, without the subject officer's written consent.

(3) If the subject officer retires, resigns or otherwise stops being an officer, any outstanding amount of the fine may be deducted in full from any allowances, salary or other entitlements owing to the subject officer.

7.41 Suspension of disciplinary sanctions

(1) This section does not apply if the disciplinary sanction imposed on the subject officer is dismissal or probation.

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(2) The prescribed officer imposing the disciplinary sanction may wholly or partly suspend the sanction for not more than 12 months—

(a) by giving the subject officer written notice of the suspension; and

(b) subject to any conditions stated in the notice.

(3) If the subject officer complies with the conditions of the suspension—

(a) the disciplinary sanction remains part of the subject officer's disciplinary history but, to the extent it is suspended, is not to be given effect; and

(b) when the suspension ends, the disciplinary sanction is taken to have been discharged or satisfied.

(4) If the subject officer does not comply with the conditions of the suspension—

(a) as soon as reasonably practicable after becoming aware of the non-compliance, the commissioner must give the CCC a written notice stating—

(i) details of the non-compliance; and

(ii) any information known to the commissioner about the reasons for the non-compliance; and

(b) a prescribed officer of at least the same rank as the officer who imposed the suspended sanction must give effect to the disciplinary sanction unless the subject officer can show cause why the conditions should be varied or cancelled.

(5) A show cause proceeding under subsection (4)(b) must be started within 12 months from the end of the period of the suspension.

(6) The prescribed officer conducting a show cause proceeding under subsection (4)(b) must decide to—

(a) give effect to the disciplinary sanction; or

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(b) continue the suspension of the disciplinary sanction and vary the conditions, including by extending the period of the suspension for a further period of not more than 12 months; or

(c) continue the suspension and cancel the conditions.

(7) The prescribed officer must give the subject officer and the CCC a QCAT information notice for the decision.

Note—

See the *Crime and Corruption Act 2001*, chapter 5, part 3 in relation to review by QCAT of the decision.

7.42 Professional development strategies

The prescribed officer may decide to impose, in a reasonable way, 1 or more professional development strategies on the subject officer—

(a) for achieving the purposes of this part; and

(b) instead of, or as well as, a disciplinary sanction.

Division 6 Other provisions

Subdivision 1 Conduct of disciplinary proceeding if prescribed officer unable to continue

7.42A Application of subdivision

This subdivision applies if—

(a) the commissioner has, under section 7.10, referred a complaint about a subject officer to a prescribed officer (the ***original prescribed officer***); and

(b) the original prescribed officer has started a disciplinary proceeding against the subject officer but the

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disciplinary proceeding has not been finally dealt with; and

(c) the original prescribed officer is unable to continue to conduct the disciplinary proceeding because the prescribed officer—

(i) dies; or

(ii) stops being employed as an officer; or

(iii) is stood down or suspended from duty under section 6.1; or

(iv) is demoted, whether permanently or for a stated period; or

(v) has a certificate issued by a medical practitioner stating that the prescribed officer is incapable of continuing to conduct the disciplinary proceeding, whether temporarily or otherwise, because of mental or physical incapacity.

7.42B Appointment of new prescribed officer

(1) The commissioner must, within 28 days after the commissioner becomes aware that the original prescribed officer is unable to continue to conduct the disciplinary proceeding, ask the subject officer to give the commissioner, within 14 days after the request (the ***stated period***), written consent to appoint another prescribed officer (a ***new prescribed officer***) to conduct the disciplinary proceeding.

(2) If the subject officer gives written consent within the stated period or a longer period the commissioner allows, the commissioner may appoint a new prescribed officer with the power to impose the same or a lesser disciplinary sanction under this part as the original prescribed officer.

Note—

See section 7.35(2) for the disciplinary sanctions that may be imposed by particular prescribed officers.

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(3) The appointment of the new prescribed officer must be made within 28 days after the commissioner receives the subject officer's consent.

(4) In conducting the disciplinary proceeding, the new prescribed officer may consider only—

(a) any matters stated in an abbreviated process notice or the disciplinary charge stated in the disciplinary proceeding notice given to the subject officer under section 7.18 or 7.25; and

(b) any submissions and materials given to the original prescribed officer or new prescribed officer under section 7.19(2) or 7.26(1).

(5) If the original prescribed officer had proposed imposing a professional development strategy on the subject officer under section 7.18 or 7.28, the new prescribed officer may impose the same or a different professional development strategy but must not impose a disciplinary sanction on the subject officer.

(6) If the original prescribed officer had proposed imposing a disciplinary sanction on the subject officer under section 7.18 or 7.28 (the ***proposed sanction***), the new prescribed officer must not impose a greater disciplinary sanction on the subject officer than the proposed sanction.

7.42C Ending of proceeding—subject officer does not give consent for new prescribed officer to conduct proceeding

(1) This section applies if the subject officer does not give the commissioner, within the stated period under section 7.42B(1) or the longer period the commissioner allows, written consent to appoint a new prescribed officer to conduct the disciplinary proceeding.

(2) The commissioner must appoint another prescribed officer to start a disciplinary proceeding under division 3 or 4 against the subject officer for the complaint (the ***new proceeding***).

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Note—

See section 7.35(2) for the disciplinary sanctions that may be imposed by particular prescribed officers.

(3) The prescribed officer appointed under subsection (2) must have the power to impose the same or a lesser disciplinary sanction under this part as the original prescribed officer.

(4) Upon the new proceeding starting, the disciplinary proceeding is taken to be withdrawn and is of no effect.

(5) The prescribed officer must conduct the new proceeding without regard to any submissions or material given by the subject officer for the disciplinary proceeding, unless the subject officer consents to the submissions or material being used for the new proceeding.

(6) Despite section 7.12, the new proceeding must start within 28 days after the appointment of the prescribed officer under subsection (2).

Subdivision 2 Miscellaneous provisions

7.43 Central disciplinary unit

(1) The commissioner may establish a central unit (the ***central unit***) that is responsible for conducting disciplinary proceedings.

(2) The central unit must be separate and distinct from the unit involved in investigating complaints for this part.

(3) The executive officer responsible for investigating complaints for this part must not be responsible for the operation, supervision or command of the central unit.

(4) An officer, while performing duties as an assistant commissioner within the central unit, is taken to have the same powers to impose disciplinary sanctions under this part as a deputy commissioner.

(5) An officer, while performing duties as a chief superintendent within the central unit, has the same powers to impose

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disciplinary sanctions under this part as an assistant commissioner.

7.44 Guidelines

(1) The commissioner may make guidelines relating to the disciplinary process, including—

(a) the way investigations of complaints are to be conducted; and

(b) the way disciplinary proceedings are to be conducted, including matters to which a prescribed officer must have regard when imposing a disciplinary sanction.

(2) Before making guidelines under this section, the commissioner must actively consult with, and have regard to the views of—

(a) the chairperson of the CCC; and

(b) each union that represents officers and recruits.

7.45 Record-keeping

The commissioner must ensure a record is kept of—

(a) each complaint made about an officer; and

(b) disciplinary action taken against an officer; and

(c) any other matter prescribed by regulation for this section.

7.46 Commissioner's powers not to be delegated

Despite section 4.10, the commissioner may not delegate the commissioner's powers as a prescribed officer under this part.

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Part 7A Disciplinary declarations against former officers

7A.1 Power to conduct disciplinary investigation against a former officer

(1) This section applies if—

(a) a ground for disciplinary action arises in relation to a police officer; and

(b) after the ground for disciplinary action arises the employment of the person (the ***former officer***) as a police officer ends for any reason.

(2) A ground for disciplinary action arises when the conduct constituting the ground happens.

(3) The commissioner may continue or start an investigation to decide whether the former officer is liable to disciplinary action in relation to the former officer's conduct at any time when he or she was a police officer.

Note—

Under section 4.10 the commissioner may delegate powers under this part.

(3A) For deciding whether to continue or start an investigation, the commissioner may consider the following matters—

(a) the seriousness of the ground for disciplinary action;

(b) how far advanced the investigation is;

(c) the cost of continuing the investigation;

(d) access to the former officer;

(e) the former officer's disciplinary history;

(f) any benefit to the service in proceeding or not proceeding with the investigation;

(g) whether the matter is being considered or investigated by the CCC or any other authority;

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(h) any offence substantially related to the ground for disciplinary action;

(i) the likelihood of the former officer engaging in future employment for which the officer would be required to disclose the making of a disciplinary declaration;

(j) any other matter the commissioner considers relevant.

(4) The investigation and disciplinary action must be taken within a period of 2 years after the end of the former officer's employment mentioned in subsection (1)(b).

(5) However, subsection (4) does not stop disciplinary action being taken following an appeal or review.

(6) Subsection (4) does not affect—

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

(b) an investigation of a matter for the purpose of notifying the Crime and Corruption Commission of suspected corrupt conduct under the *Crime and Corruption Act 2001*.

(7) In deciding whether to continue or start a disciplinary investigation the commissioner may have regard to the matters the commissioner reasonably considers to be relevant including matters prescribed under a regulation.

7A.2 Disciplinary action that may be taken against a former officer

(1) The commissioner may make a disciplinary finding and take disciplinary action against the former officer.

(2) In disciplining the former officer, the commissioner may make a disciplinary declaration and may not take any other disciplinary action.

(3) The commissioner may only make a disciplinary declaration if the disciplinary action that would have been taken against the former officer if the former officer's employment had not ended would have been—

(a) dismissal; or

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(b) suspension from duty without pay for at least 3 months; or

(c) probation; or

(d) demotion, whether permanently or for a stated period.

(4) The making of a disciplinary declaration against a former officer does not affect the way in which the former officer's employment ends, or any benefits, rights or liabilities arising because the employment ends.

(5) In this section—

disciplinary declaration means a declaration of—

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

(b) the disciplinary action that would have been taken against the officer under part 7 if the former officer's employment had not ended.

7A.3 Procedure

(1) Before making a disciplinary declaration against a former officer, the commissioner must do 1 or both of the following—

(a) give the former officer a written notice stating the alleged ground for disciplinary action and asking the former officer to respond in writing within 28 days;

(b) hold a disciplinary hearing in relation to the ground for disciplinary action after giving the former officer a notice asking the former officer to attend the hearing.

(2) A notice under subsection (1)(b) must be given at least 28 days before the hearing.

(3) The commissioner may take disciplinary action against the former officer after complying with subsection (1) whether or not the former officer responds in writing to the commissioner's notice or attends the disciplinary hearing.

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7A.4 Commissioner to give former officer and the CCC a QCAT information notice

(1) This section applies if the commissioner makes a disciplinary finding or a disciplinary declaration against a former officer.

(2) Within 14 days after making the decision, the commissioner must give the former officer and the CCC a QCAT information notice for the decision.

Part 8 Resignation, retirement, change in status and summary dismissal

Division 1 Resignation, retirement and change of status

8.1 Resignation

(1) Resignation from the service of an officer who holds a position on the basis of a contract that provides for the manner of the officer's resignation must be effected in accordance with the contract.

(2) An officer, other than one referred to in subsection (1), may resign from the service at any time in the manner prescribed by the regulations.

8.2 Retirement

(1) An officer—

(a) may retire from employment in the service upon, or at any time after, attaining the age prescribed by the regulations in relation to officers of the class to which that officer belongs;

(b) may retire from employment in the service when called upon under section 8.3 to retire from the service;

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(c) is to retire from employment in the service upon attaining the age of 60 years.

(2) Subsection (1) does not apply to—

(a) an officer who holds a position on a contract basis; or

(b) a special constable (State officer).

8.3 Unfitness for duty on medical grounds

(1) If the commissioner suspects on reasonable grounds that an officer—

(a) by reason of physical or mental infirmity is incapable of; or

(b) for any other reason pertaining to the officer's health or condition, is unfit for the purpose of;

performing the duties of office, or any other duties as an officer that the commissioner might reasonably direct the officer to perform, the commissioner is to advise the officer, in writing, of the suspicion and if upon receipt of such advice the officer does not accept the truth of the commissioner's suspicion, the commissioner is to obtain medical opinion on the matter.

(2) For the purposes of subsection (1), the commissioner—

(a) may nominate any medical practitioner or medical practitioners to examine the officer concerned and report to the commissioner on the physical or mental health or other relevant condition of the officer, as the case may require; and

(b) may direct the officer concerned to submit to examination by the nominated medical practitioner or medical practitioners.

(2A) If the officer concerned fails without reasonable cause to comply in all respects with a direction given by the commissioner, it is to be conclusively presumed that the commissioner's suspicion is true.

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(3) If, having regard to any medical opinions expressed by medical practitioners (including any such opinions furnished by the officer) on the health or condition of the officer concerned, or because of the presumption prescribed by subsection (2A), the prescribed authority is satisfied that the officer should not continue to be required to perform the duties of office, then, unless the commissioner takes action authorised by subsection (5), the prescribed authority may call upon the officer to retire from the service within a time specified by the prescribed authority.

(4) If the officer called upon to retire does not retire within the time specified, the prescribed authority may dismiss the officer from the service.

(5) If the commissioner believes the officer referred to in subsection (3) is sufficiently fit to perform duties as a staff member, then in lieu of the action authorised by subsections (3) and (4) and without limiting the commissioner's powers in relation to the officer, the commissioner may—

(a) in writing, appoint the officer to a position as a staff member, at a rate of salary not less than that of the officer immediately before such appointment; and

(b) direct the officer to report for and perform duty in the position to which the officer is so appointed.

(6) The person appointed to a position under subsection (5)—

(a) stops being an officer and is relieved of all powers and duties of a constable at common law or under any Act or law; and

(b) becomes a public service employee under the *Public Sector Act 2022*.

(7) In subsections (3) and (4)—

prescribed authority means—

(a) the Governor in Council, in respect of an officer appointed to office by the Governor in Council;

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(b) the commissioner, in respect of an officer appointed to office by the commissioner.

Division 2 Summary dismissal if sentenced to imprisonment

Subdivision 1 Preliminary

8.4 Application of division

This division applies to a person who—

(a) is a police officer or police recruit; and

(b) is sentenced by an Australian court to a period of imprisonment for an offence.

8.5 References to sentence of imprisonment

A reference in this division to a sentence of imprisonment includes a reference to a suspended sentence of imprisonment.

Subdivision 2 Summary dismissal on sentencing

8.6 Dismissal

(1) On being sentenced for the offence, the person is dismissed from the service.

(2) Subsection (1) applies despite any other provision of this Act or another Act.

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Subdivision 3 Appeal after summary dismissal

8.7 Application of subdivision

This subdivision applies if, on appeal, the conviction for the offence is overturned or the sentence is changed to a sentence other than a sentence of imprisonment.

8.8 Reappointment

(1) If the commissioner had appointed the person, the commissioner must within 5 business days after the appeal is decided reappoint the person to, and employ the person in, the same position or a similar position at the same classification level or rank the person held before the person was dismissed.

(2) If the Governor in Council had appointed the person, the Governor in Council must reappoint the person to the same position at the same classification level or rank the person held before the person was dismissed.

(3) If the commissioner reappoints the person under subsection (1), the position must be in the same location as the person was employed before the person was dismissed, unless the person consents to employment in a position in a different location in Queensland.

(4) The person is taken never to have been dismissed under section 8.6.

8.9 Standing down or suspension after reappointment

(1) Upon the person being reappointed, the person is subject to any standing down or suspension from duty under section 6.1, including any conditions of the standing down or suspension, that was in effect immediately before the person was dismissed.

(2) If the person was stood down or suspended from duty under section 6.1 before the person was dismissed, the commissioner must, within 14 days after the person is

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reappointed, decide whether to revoke the standing down or suspension or again stand down or suspend the person from duty under section 6.1.

(3) If the commissioner does not act under subsection (2), the standing down or suspension is revoked at the end of the 14 days after the person is reappointed.

8.10 Salary entitlement, continuous service and service history

(1) The period from dismissal to reappointment of the person is taken to be a period of suspension from duty without an entitlement to be paid salary during the suspension for calculating the person's entitlement to salary and allowances under section 6.3(2)(b) for the period.

(2) Subsection (1) applies regardless of whether the person resumes duty as an officer after reappointment.

(3) To remove any doubt, it is declared that section 8.8(4) applies—

(a) for calculating continuous service of the person; and

(b) for the person's service history.

Subdivision 4 Operation of division

8.11 Interaction between division and pt 7

To remove any doubt, it is declared that—

(a) any action taken under this division is not part of a disciplinary process under part 7; and

(b) nothing in this division limits the operation of part 7.

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Part 9 Review of decisions

9.1A Relationship with Industrial Relations Act 2016

The Industrial Court and the Industrial Relations Commission do not have jurisdiction in relation to a matter that has been, is being, or may be reviewed under this part even though it may be, or be about, or arise out of, an industrial matter within the meaning of the *Industrial Relations Act 2016*.

9.2 Review does not stay decision

An application for review of a decision under this part—

(a) does not affect the operation and effect of the decision pending disposal of the application; and

(b) does not have the effect of deferring the liability of the applicant to implementation of the decision.

9.2A Commissioner for police service reviews

(1) A person is a commissioner for police service reviews—

(a) if the person is nominated under subsection (2)(a)—without further appointment; or

(b) if the person is nominated under subsection (2)(b) to (d)—on appointment by the Governor in Council under subsection (3).

(2) The chairperson of the Crime and Corruption Commission may nominate any of the following persons to be a commissioner for police service reviews—

(a) a commissioner or former commissioner of the Crime and Corruption Commission;

(b) a former member of the Criminal Justice Commission;

(c) a person qualified for appointment as chairperson of the Crime and Corruption Commission;

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(d) a person who has community service experience, or experience of community standards and expectations, relating to public sector officials and public sector administration.

(3) The Governor in Council may appoint as a commissioner for police service reviews a person who—

(a) is nominated for appointment under subsection (2)(b) to (d); and

(b) is not an ineligible person under the *Crime and Corruption Act 2001*.

(4) The person's appointment must be notified by gazette notice.

(5) The appointment is for the term, not longer than 3 years, and on the conditions, including conditions of remuneration, stated in the instrument of appointment.

(6) More than 1 person may hold office as a commissioner for police service reviews at any time.

9.3 Application for review

(1) A police officer who is aggrieved by a decision about—

(a) the selection of an officer for appointment to a police officer position, whether on promotion or transfer, if the selection procedures mentioned in section 5.2(2)(a) were required to be complied with; or

(b) the selection of an officer for transfer to a police officer position, if the selection procedures mentioned in section 5.2(2)(a) were not required to be complied with; or

(c) suspension or standing down of the officer under section 6.1; or

(d) another decision prescribed by regulation as open to review under this part;

may apply to have the decision reviewed by a commissioner for police service reviews.

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Note—

See the *Crime and Corruption Act 2001*, chapter 5, part 3 for review provisions relating to disciplinary decisions made under part 7 or 7A.

(2) An application for the review of a decision mentioned in subsection (1)(a) may only be made by a person who properly applied for appointment to the position concerned and was unsuccessful.

(3) An application for the review of a decision mentioned in subsection (1)(b) may only be made by a police officer who was transferred to the position concerned without applying for the transfer.

(4) Authority is hereby conferred on a commissioner for police service reviews—

(a) to hear and consider all applications for review under this part duly made;

(b) to make recommendations relating to any matters relevant to a review under this part.

9.4 Procedures

(1) An application for review under this part must be made as prescribed by the regulations or, where the regulations do not make any or sufficient provision, in accordance with directions of a commissioner for police service reviews.

(2) A review under this part is to be conducted as prescribed by the regulations or, where the regulations do not make any or sufficient provision, as determined by a commissioner for police service reviews, having regard to the following principles—

(a) a review is an administrative proceeding of a non-adversarial nature;

(b) proceedings on a review should be informal and simple;

(c) legal representation is not permitted to any person concerned in a review.

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9.5 Result of review

(1) Upon conclusion of a review under this part, a commissioner for police service reviews is to make such recommendations as that commissioner considers appropriate to the matter under review to the commissioner of the police service.

(2) The commissioner of the police service, upon consideration of the matter reviewed and having regard to the recommendations made, is to take such action as appears to the commissioner of the police service to be just and fair.

9.6 Effect of rescission of decision

If, following a review of a decision under this part, the decision is rescinded, it is to be taken that the decision was never made or implemented, whether or not any decision is substituted in its stead.

9.7 Protection of commissioners for police service reviews from liability

(1) This section applies to each of the following persons (each a ***protected person***)—

(a) a commissioner for police service reviews;

(b) a person acting under the direction of a commissioner for police service reviews;

(c) a person who was a person of a type mentioned in paragraph (a) or (b) at the time the person engaged in conduct in an official capacity.

(2) A protected person does not incur civil liability for engaging, or for the result of engaging, in conduct in an official capacity.

(3) If subsection (2) prevents liability attaching to a protected person, the liability attaches instead to the State.

(4) If liability attaches to the State under subsection (3), the State may recover contribution from the protected person but only if the conduct was engaged in—

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(a) other than in good faith; and

(b) with gross negligence.

(5) In a proceeding under subsection (4) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.

(6) In this section—

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

(a) a claim based in tort, contract or another form of action in relation to the conduct or result, including, for example, breach of statutory duty or defamation and, for a fatal injury, includes a claim for the deceased's dependants or estate; or

(b) a complaint made under a law that provides a person may complain about the conduct or result to an entity established under the law, other than a complaint to start criminal proceedings, including, for example, a complaint under the *Justices Act 1886*; or

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

Examples of types of liability—

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

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

engage in conduct in an official capacity means engage in conduct as part of, or otherwise in connection with, a person's

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role as a protected person, including, for example, engaging in conduct under or purportedly under this Act.

9.8 Other protection from liability for a review

(1) A person does not incur civil liability for engaging, or for the result of engaging, in any of the following conduct in good faith and without negligence—

(a) applying for or otherwise being involved in a review of a decision under this part;

(b) giving oral, written or other matter to a commissioner for police service reviews, or a person acting at the direction of a commissioner for police service reviews, for a review of a decision under this part.

(2) In this section—

civil claim, in relation to conduct or the result of engaging in conduct—

(a) means a claim based in tort, contract or another form of action in relation to the conduct or result, including, for example, breach of statutory duty or defamation; and

(b) for a fatal injury, includes a claim for the deceased's dependants or estate.

civil liability, in relation to a person, means liability of any type for the payment of an amount by the person because of a civil claim.

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Part 10 Miscellaneous provisions

Division 1 Provisions about use or disclosure of information

Subdivision 1 Use or disclosure of information generally

10.1 Unauthorised use of confidential information

(1) This section applies to a person who—

(a) is or has been—

(i) a member of the service performing functions under or relating to the administration of this Act; or

(ii) another individual engaged to perform functions under or relating to the administration of this Act; or

(iii) an individual engaged by an entity that is engaged to perform functions under or relating to the administration of this Act; and

(b) in that capacity, acquired confidential information or has access to, or custody of, confidential information.

(2) This section also applies to a person who has acquired or has access to confidential information—

(a) whether directly or indirectly, from a person mentioned in subsection (1); or

(b) as authorised under an Act, another law or an arrangement with the service.

(3) The person must not use the confidential information other than under this section.

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Maximum penalty—100 penalty units or 2 years imprisonment.

(4) The person may use the confidential information—

(a) to the extent the use is required or permitted under this Act or another Act or to perform the person's functions under this Act or another Act; or

(b) with the consent of the person to whom the information relates if the information would normally be made available to any member of the public on request; or

(c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or

(d) if the use is otherwise required or permitted under another law.

(5) In this section—

confidential information—

(a) means personal information about an individual 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 individual to whom it relates.

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

use, in relation to information, see section 10.2G.

10.2 Authorisation of disclosure

(1) The commissioner may, in writing, authorise disclosure of information that is in the possession of the police service.

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(2) Subsection (1) does not apply if section 5A.20(4), 5A.21A(4), 5AA.14(3), 10.2A, 10.2B, 10.2CC or 10.2D, or a provision of division 1AA, applies to the information.

(3) Authorisation under subsection (1) must accord with any regulations made in relation to disclosure of such information, and any such authorisation is to be taken as authorising disclosure in accordance with any such regulations.

(4) Also, subject to any regulation made under subsection (3), the commissioner may impose conditions on the disclosure of information under this section.

(5) A person to whom the information is disclosed must not contravene a condition imposed under subsection (4).

Maximum penalty—40 penalty units.

(6) Neither the Crown nor any person incurs any liability in law on account of a disclosure of information made under and in accordance with the commissioner's authorisation.

Subdivision 2 Criminal history disclosure provisions

10.2AA Definitions for sdiv 2

In this subdivision—

criminal history has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

relevant agency means the ACC or the police force or service of another jurisdiction.

10.2A Disclosure of criminal history for employment screening under commercial or other arrangement

(1) This section applies in relation to the disclosure of the criminal history of a person (***relevant person***) if—

(a) the disclosure is to be made to a relevant agency; and

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(b) the purpose of the disclosure is to facilitate the release of the relevant person's criminal history by the relevant agency to someone else (the ***third party***) under an arrangement; and

(c) the arrangement provides for the use of the relevant person's criminal history only for employment screening purposes.

(2) The commissioner may disclose the relevant person's criminal history to the relevant agency as a function of the service.

(3) However, the commissioner may disclose the relevant person's criminal history to the relevant agency for disclosure to the third party only with the person's written consent and only if the commissioner is satisfied the disclosure—

(a) is for a national criminal history check for employment screening purposes under a service provided by the relevant agency; and

(b) is, or is likely to be, of benefit to the community or a section of the community.

(4) In this section—

arrangement includes an intergovernmental arrangement and a commercial arrangement.

employment includes engagement on a voluntary basis.

10.2BA Disclosure of criminal history to assess suitability of records for s 10.2A purposes

(1) For the purpose of enabling disclosure under section 10.2A, the commissioner may disclose a person's criminal history to a relevant agency if—

(a) the criminal history has been given to the ACC under section 10.2I; and

(b) the disclosure is for the purpose of assessing the suitability of records for release under section 10.2A.

(2) To remove any doubt, it is declared that there is no requirement to comply with section 10.2A(3) before the

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commissioner can disclose a person's criminal history under subsection (1).

(3) In this section—

criminal history has the meaning given by section 10.2G.

10.2B Disclosure of criminal history for assessing suitability for diversion program

(1) This section applies for helping a person (the ***decision-maker***) decide whether another person is suitable to take part in a diversion program.

(2) The commissioner may, for the purpose of assessing the person's suitability for the program and with the person's written consent, disclose the person's criminal history to the chief executive officer of the entity responsible for assessing the person's suitability.

(3) The commissioner may disclose the person's criminal history as a function of the service and the relevant chief executive officer may use the information for the purpose of the assessment and, if required, in any report given to a decision-maker on the person's suitability.

(4) In this section—

diversion program means a government-sponsored program for diverting alleged offenders from court proceedings that is prescribed under a regulation under this Act or a regulation under the *Bail Act 1980*, section 11(9).

government-sponsored program means a program that is funded, or partly funded, by the State or Commonwealth government or is otherwise endorsed by the State government.

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Subdivision 2A Disclosure provisions about disciplinary information

10.2CA Information about disciplinary action to be given by commissioner

(1) This section applies if—

(a) the chief executive of a department asks the commissioner for disciplinary information the commissioner has about a person who is or was a member of the service; and

(b) the information is reasonably necessary for the chief executive to make a decision about an appointment or continued employment of the person to the chief executive's department.

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

(3) In this section—

disciplinary information, in relation to a request made of the commissioner about a person who is or was a member of the service, includes the following made or taken against the person—

(a) a disciplinary finding;

(b) disciplinary action, including a disciplinary declaration.

Subdivision 3 Information disclosure to media

10.2CB Definitions for subdivision

In this subdivision—

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accredited media entity means an entity listed as an accredited media entity in the Supreme Court's media accreditation policy.

alleged offender, for an offence, see section 10.2CC(1)(b).

alleged offender information means the following information about an alleged offender for an offence—

(a) the name of the alleged offender;

(b) the charges brought against the alleged offender for the offence;

(c) details of court proceedings for the offence, including the proposed date, location and court file number;

(d) any reference number assigned by the service to the alleged offender in relation to the offence.

10.2CC Requirement to disclose alleged offender information to accredited media entities

(1) This section applies if—

(a) the commissioner publishes a formal public statement (a ***media release***) on the commissioner's website about an offence; and

(b) the media release includes a statement that an adult (the ***alleged offender***) has been charged with the offence by a police officer.

(2) If an accredited media entity asks the commissioner for alleged offender information for the offence, the commissioner must disclose to the entity the alleged offender information that is in the possession of the commissioner.

(3) The commissioner must comply with the requirements prescribed by regulation in relation to the disclosure.

(4) However, the commissioner must not disclose the name of the alleged offender to the extent disclosure is restricted or prohibited under an order of a court.

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(5) The commissioner may enter into an arrangement with the chief executive (justice) for the disclosure of alleged offender information by the chief executive (justice) to an accredited media entity.

(6) If an arrangement mentioned in subsection (5) is in effect—

(a) subsections (2) to (4) apply in relation to the chief executive (justice) as if a reference to the commissioner in those provisions included a reference to the chief executive (justice); and

(b) section 10.2CD applies in relation to the chief executive (justice).

(7) For subsection (6)(a), subsections (2) to (4) apply in relation to alleged offender information in the possession of the chief executive (justice), regardless of whether the chief executive (justice) possesses the information under the arrangement or for another reason.

(8) The accredited media entity may use the alleged offender information disclosed under this section only to the extent necessary to enable the entity to attend a court proceeding relating to the offence.

(9) In this section—

chief executive (justice) means the chief executive of the department in which the *Supreme Court of Queensland Act 1991* is administered.

10.2CD Protection from liability

(1) This section applies if a person, acting honestly and without negligence, discloses alleged offender information to an accredited media entity under section 10.2CC.

(2) The person is not liable civilly, criminally or under an administrative process for disclosing the information.

(3) If subsection (2) prevents civil liability attaching to a person, the liability attaches instead to the State.

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(4) This section does not apply to the extent the person is protected from civil liability under—

(a) section 10.5; or

(b) the *Public Sector Act 2022*, section 269.

10.2CE Further disclosure of alleged offender information prohibited

(1) This section applies in relation to a person who gains, or has access to, alleged offender information disclosed to an accredited media entity under section 10.2CC for an offence.

(2) The person must not—

(a) intentionally disclose the name of the alleged offender to anyone, other than under this section; or

(b) recklessly disclose the name of the alleged offender to anyone.

Maximum penalty—20 penalty units.

(3) However, the person may disclose the name of the alleged offender to another person (the ***recipient***) if—

(a) the recipient is an employee, contractor or agent of the accredited media entity; and

(b) the disclosure is necessary to enable the recipient, or another employee, contractor or agent of the accredited media entity, to attend a court proceeding relating to the offence.

(4) Also, the person may disclose the name of the alleged offender—

(a) if the name of the alleged offender is publicly accessible in connection with the offence; or

(b) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal; or

(c) to the extent the disclosure is otherwise required or permitted under an Act or law.

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10.2D Disclosure of information to the media by direct data feed

(1) This section applies in relation to information about particular incidents involving a response by an officer or officers as part of operational activities of the service.

(2) However, this section applies to the information only if—

(a) the commissioner is satisfied disclosing the information while officers are responding to the incident or soon after the response will not adversely affect operational activities undertaken as part of the response; and

(b) the commissioner considers it is appropriate to disclose the information to electronic or print media organisations (the ***media***) or a section of the media by direct data feed.

(3) The commissioner may, as a function of the service, disclose the information to the media by direct data feed, on the conditions and subject to the restrictions the commissioner considers appropriate.

(4) Without limiting subsection (3), the restrictions the commissioner may impose on the disclosure of the information include restrictions about the nature of the information that is to be disclosed and when it is to be disclosed.

(5) The commissioner discloses the information by ***direct data feed*** by giving the media organisation electronic access to operational information about the police service.

Subdivision 4 Other provisions about information disclosure

10.2E Relationship to other laws

(1) To remove any doubt, it is declared that this division is subject to any other Act that—

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(a) requires or permits the commissioner to disclose information in the possession of the service about a person; or

(b) prevents or restricts the commissioner from disclosing information in the possession of the service about a person.

(2) However, subsection (1)(b) does not apply to a disclosure made to a relevant agency under section 10.2BA.

10.2F Declarations about particular information disclosures

(1) This section applies to a disclosure, made by the commissioner before the commencement of this section, of information of a kind mentioned in section 10.2, 10.2A or 10.2D in the circumstances mentioned in the section.

(2) The disclosure is and always was lawfully made.

Division 1AA National identity matching services

10.2FA Definitions for division

In this division—

face matching services means the following services involving facial biometric matching—

(a) the service (known as the face verification service) enabling the comparison of a facial image associated with an individual against a facial image held on a specific government record associated with the individual to verify the individual's identity;

(b) the service (known as the face identification service) enabling the comparison of a facial image against multiple images held on a database of government records to establish an individual's identity;

(c) the service (known as the one person one licence service) enabling the comparison of an individual's

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facial image against other facial images used on driver licences and other identity documents to identify whether the individual holds multiple licences, in the same or a different identity, in 1 or more jurisdictions.

host agency, for an identity matching service, means the Commonwealth agency responsible for maintaining the service under an agreement between the Commonwealth and the States.

identity document means a document that—

(a) contains or incorporates identity information; and

(b) is capable of being used as evidence of identity.

identity information means information relating to an individual, whether living, dead, real or fictitious, that is capable of being used, alone or in conjunction with other information, to identify or purportedly identify the individual.

Examples—

- a photo of, or other information about, an individual on a drivers licence, passport or other identity document
- other information about an individual submitted to verify the individual's identity

identity matching services means the following services administered by the Commonwealth under an agreement entered into by the Commonwealth and the States—

(a) the service (known as the document verification service) enabling biographical information on identity documents to be verified against corresponding records held by a participating entity for the service;

(b) the service (known as the identity data sharing service) enabling the sharing of identity information between the Commonwealth and the States to ensure the accuracy and integrity of identity-based records;

(c) the face matching services;

(d) any other service prescribed by regulation, to the extent the operation of the service relates only to a permitted purpose within the meaning of section 10.2FF(2).

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information includes a document.

participating entity, in relation to an identity matching service, means an entity—

(a) participating in the service; and

(b) with whom the commissioner has entered into an agreement in relation to the use of the service.

10.2FB Division binds all persons

This division binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

10.2FC Disclosure of identity information by commissioner

For a purpose related to the operation of an identity matching service, the commissioner may disclose identity information lawfully in the commissioner's possession to—

(a) the host agency for the service; or

(b) a participating entity for the service.

10.2FD Collection and use of identity information by commissioner

The commissioner may collect and use identity information, by the operation of an identity matching service, from—

(a) the host agency for the service; or

(b) a participating entity for the service.

10.2FE Collection, use and disclosure by host agency

The host agency may, for a purpose related to the operation of an identity matching service—

(a) collect or use identity information disclosed to it under this division; or

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(b) disclose the identity information to the commissioner or a participating entity for the service.

10.2FF Disclosure, use or collection must be for permitted purpose

(1) Despite sections 10.2FC, 10.2FD and 10.2FE, identity information may be disclosed, collected or used under this division only for a permitted purpose.

(2) Each of the following purposes is a ***permitted purpose***—

(a) preventing, detecting, investigating or prosecuting crimes involving fabricated, manipulated, stolen or otherwise assumed identities;

(b) preventing, detecting, investigating or prosecuting other offences against Commonwealth or State laws;

(c) conducting investigations or gathering intelligence for purposes related to national security within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cwlth);

(d) promoting the security of a participating entity's assets, facilities or personnel;

Examples—

- protecting and managing legally assumed identities
- security or background checking

(e) identifying individuals who are at risk of, or have experienced, physical harm;

Examples—

- investigating individuals reported as missing
- identifying individuals reported as dead, or unidentified human remains
- identifying individuals when addressing significant risks to public health or safety
- identifying individuals in relation to disaster events or major events

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(f) improving road safety, including the detection of unlicensed and disqualified drivers and individuals who hold multiple licences;

(g) verifying an individual's identity with the individual's consent or as authorised or required by law.

10.2FG Inconsistency with other laws

To the extent this division is inconsistent with another law, this division prevails to the extent of the inconsistency.

Division 1A Provisions about exchange of policing information

Subdivision 1 Preliminary

10.2G Definitions for division

In this division—

approved agency means an entity established, or continued in existence, under the law of the Commonwealth or a State prescribed under a regulation as an approved agency.

approved information means information in a QPS database of a kind that is prescribed under a regulation.

condition includes prohibition or restriction.

criminal history, of a person—

(a) means the person's convictions in relation to offences committed in Queensland or elsewhere; and

(b) includes information about—

(i) offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person; and

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(ii) cautions administered to the person under the *Youth Justice Act 1992*, part 2, division 2; and

(iii) referrals of offences to the chief executive of the department in which the *Youth Justice Act 1992* is administered for restorative justice processes under that Act.

end user means the following entities—

(a) an approved agency;

(b) a law enforcement agency;

(c) a police force or service of the Commonwealth or another State.

head, of an entity, means—

(a) for an approved agency or a law enforcement agency—the chief executive officer, however called, of the agency; or

(b) for an IPSP—the chief executive officer of the IPSP; or

(c) for a police force or service of the Commonwealth or another State—the commissioner of the police force or service; or

(d) for Queensland Transport—the chief executive of Queensland Transport; or

(e) for any other entity established under the law of the Commonwealth or a State—the chief executive officer of the entity.

IPSP means—

(a) the ACC; or

(b) an entity established under the law of the Commonwealth or a State prescribed under a regulation as an information processing service provider.

law enforcement agency means an entity established under the law of the Commonwealth or a State prescribed under a regulation as a law enforcement agency.

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law enforcement purpose, in relation to the use of information by an approved agency or law enforcement agency, means a purpose for which the agency is authorised to use the information under a law of the Commonwealth or a State.

member, of an entity, includes a person employed or engaged by the entity.

policing purpose, in relation to the use of information by a police force or service of the Commonwealth or another State, means a purpose substantially similar to a purpose for which the Queensland Police Service is authorised to use the information under an Act.

use, in relation to information, includes the following—

(a) disclose;

(b) give;

(c) give access to;

(d) make available;

(e) publish;

(f) record.

Subdivision 2 Giving of policing information

10.2I Giving information to an IPSP to enable use of approved information by police services and law enforcement agencies for particular purposes

(1) The commissioner may give to the head of an IPSP all or any information in a QPS database for inclusion in a database administered by the IPSP for the purpose of the IPSP giving approved information to—

(a) the head of a police force or service of the Commonwealth or another State to enable the police force or service to use the approved information for a policing purpose; or

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(b) the head of a law enforcement agency to enable the law enforcement agency to use the approved information for a law enforcement purpose.

(1A) The commissioner may use information given under this section to the head of an IPSP for a purpose for which the information may be used under an Act whether or not the purpose is the same purpose for which the information was given under this section to the head of the IPSP.

(1B) The head of an IPSP may transfer information from the database mentioned in subsection (1) administered by the head of the IPSP to another database administered by the head of the IPSP for a purpose permitted under an Act.

(2) To remove any doubt, it is declared that this section does not limit section 10.2J.

10.2J Giving approved information to police services and law enforcement agencies to enable use of approved information for particular purposes

The commissioner may give approved information in a QPS database to—

(a) the head of a police force or service of the Commonwealth or another State to enable the police force or service to use the approved information for a policing purpose; or

(b) the head of a law enforcement agency to enable the law enforcement agency to use the approved information for a law enforcement purpose.

10.2L Giving information to approved agencies to enable use of information for particular purposes

(1) The commissioner may give the head of an approved agency all or any information in a QPS database to enable the approved agency to use the information for a law enforcement purpose.

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(2) Without limiting subsection (1), the commissioner may give the information to the head of the approved agency by allowing an authorised member of the approved agency to have direct access to a QPS database.

(3) In this section—

authorised member, of an approved agency, means a member of the approved agency authorised in writing by the commissioner to have direct access to a QPS database.

10.2M Commissioner may impose conditions

The commissioner may give information to the head of an entity under this subdivision on the conditions the commissioner considers appropriate.

Subdivision 3 Relationship with other provisions

10.2N Use of information permitted despite other provisions

(1) Information may be given to the head of an entity by the commissioner or an IPSP as mentioned in subdivision 2 despite a prescribed provision.

(2) Despite a prescribed provision—

(a) the police force or service of the Commonwealth or another State may use, for a policing purpose, information given to the commissioner of the police force or service by the commissioner or an IPSP as mentioned in subdivision 2; and

(b) the law enforcement agency or an approved agency may use, for a law enforcement purpose, information given to the chief executive officer of the agency by the commissioner or an IPSP as mentioned in subdivision 2.

(3) In this section—

prescribed provision means—

(a) part 5A; or

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(b) part 5AA; or

(c) part 10, division 1; or

(d) any other Act imposing a condition on the use of information.

10.2O Condition imposed under another Act may apply

(1) This section applies in relation to information a member of an end user has because it has been given to the head of the end user by the commissioner or an IPSP as mentioned in subdivision 2.

(2) If the information is subject to a condition on use imposed under another Act when in the possession of the Queensland Police Service, the same condition or a condition of the same kind applies to the information when in the possession of the member.

Examples of conditions on use imposed under another Act—

- *Youth Justice Act 1992*, section 289 (Recording, use or disclosure for authorised purpose)
- *Youth Justice Act 1992*, section 295 (Disclosure by police of information about cautions and restorative justice processes and restorative justice agreements)
- *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)
- *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 7 (Section 6 not applicable in certain cases)

Subdivision 4 General

10.2P Misuse of information given under this division

(1) This section applies in relation to information a member of an entity has because it has been given to the head of the entity by the commissioner or an IPSP as mentioned in subdivision 2.

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(2) The member must not use the information—

(a) for a purpose other than—

(i) the purpose mentioned in subdivision 2 for which the information has been given to the head of the entity by the commissioner or the IPSP; or

(ii) a purpose that is authorised or permitted under an Act; or

Note—

See the *Acts Interpretation Act 1954*, section 6 (References to *Act*).

(b) in contravention of a condition, if any, imposed by the commissioner under section 10.2M.

Maximum penalty—100 penalty units.

(3) Also, if the member has the information because it has been given to the head of an end user by the commissioner or an IPSP as mentioned in subdivision 2, the member must not use the information in contravention of a condition mentioned in section 10.2O(2).

Maximum penalty—100 penalty units.

10.2Q Extra-territorial application of offence provision

A person commits an offence against section 10.2P(2) or (3) even if the person uses the information mentioned in section 10.2P(1) outside the State.

10.2R Protection from liability

(1) This section applies if a person, acting honestly and without negligence, gives information under this division.

(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—

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(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.

Division 1B Provisions about exchange of criminal history for particular employment screening

10.2S Definitions for div 1B

In this division—

approved agency means—

(a) the ACC; or

(b) a police force or service of the Commonwealth or another State.

child-related employment screening means using information about a person in a way that is authorised or required under a law of another State or the Commonwealth that relates to assessing whether a person poses a risk of harm to children.

criminal history, of a person, means—

(a) the person's convictions for offences committed in Queensland or elsewhere; and

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(b) charges against the person for offences alleged to have been committed in Queensland or elsewhere; and

(c) information about a conviction mentioned in paragraph (a) or a charge mentioned in paragraph (b), including, for example, a brief description of the circumstances of the conviction or charge.

disability-related employment screening means using information about a person in a way that is authorised or required under a law of another State or the Commonwealth that relates to assessing whether a person poses a risk of harm to people with a disability.

interstate screening unit means an entity, established under a law of another State or the Commonwealth, that is—

(a) prescribed under a regulation; or

(b) prescribed under the *Crimes Act 1914* (Cwlth), section 85ZZGB, 85ZZGC or 85ZZGD.

10.2T Giving criminal history to interstate screening unit or approved agency for employment screening

The commissioner may give a person's criminal history to—

(a) an interstate screening unit to enable the unit to use the history for child-related employment screening or disability-related employment screening; or

(b) an approved agency for the purpose of the approved agency giving the history to an interstate screening unit to enable the unit to use the history for child-related employment screening or disability-related employment screening.

10.2U Use of criminal history permitted despite other provisions

(1) The commissioner may give a person's criminal history to an interstate screening unit or an approved agency as mentioned in section 10.2T despite a prescribed provision.

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(2) In this section—

prescribed provision means—

(a) part 5A; or

(b) part 5AA; or

(c) part 10, division 1 or 1A; or

(d) the *Criminal Law (Rehabilitation of Offenders) Act 1986*; or

(e) the *Youth Justice Act 1992*, part 9.

10.2V Protection from liability

(1) This section applies if a person, acting honestly and without negligence, uses a person's criminal history under this division.

(2) The person is not liable, civilly, criminally or under an administrative process, for using the history.

(3) Also, merely because the person uses the history, 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 history; and

(b) if the person would otherwise be required to maintain confidentiality about the history 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 using the history; and

(ii) is not liable to disciplinary action for using the history.

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Division 2 Other miscellaneous provisions

10.3 Protection from liability for reports

(1) It is lawful for any officer or staff member to express in a report made in good faith in the execution of duty, matters of opinion, judgment or recommendation (of the person making the report or other person) in addition to matters of fact.

(2) A report is one made in the execution of duty if the person making the report reasonably believes the person to whom it is made to have the duty or authority to receive the report.

(3) Neither the Crown nor any person incurs liability in law on account of a report made in good faith in the execution of duty concerning efficiency, conduct or character of any officer or staff member.

(4) A report, such as is referred to in subsection (3) containing matter that is false, or grossly misleading in a material particular is not one made in good faith unless the defendant proves that the person who made the report reasonably believed the report to be true, and could not have discovered by exercise of reasonable diligence, the falsity or misleading nature of the matter.

(5) Except as prescribed by subsection (4), the burden of proving absence of good faith is upon the person who alleges such absence.

10.4 Rejection of frivolous complaints

(1) This section relates only to a report, complaint or information concerning conduct of an officer that does not amount to misconduct.

(2) The commissioner may reject, and direct that no action be taken in relation to, a report or complaint made, or information furnished, that appears to the commissioner to have been made, or furnished, frivolously or vexatiously.

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(3) A person who has been notified in writing by or on behalf of the commissioner that a report or complaint made, or information furnished, by the person—

(a) appears to concern frivolous matter; or

(b) appears to have been made or furnished vexatiously;

and who again makes a report or complaint, or furnishes information, to the same effect commits an offence against this Act.

Maximum penalty—100 penalty units.

(4) It is a defence to a charge of an offence defined in subsection (3) to prove—

(a) that the report, complaint or information does not concern frivolous matter; or

(b) that the report, complaint or information was not made or furnished vexatiously.

10.5 Civil liability of police officers and others for engaging in conduct in official capacity

(1) This section applies to each of the following—

(a) an officer;

(b) a staff member;

(c) a recruit;

(d) a volunteer;

(e) a person who, at the time the person engaged in conduct in an official capacity, was a person mentioned in any of paragraphs (a) to (d).

(2) A person to whom this section applies does not incur civil liability for engaging, or the result of engaging, in conduct in an official capacity.

(3) If subsection (2) prevents liability attaching to a person, the liability attaches instead to the Crown.

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(4) If liability attaches to the Crown under subsection (3), the Crown may recover contribution from the officer, staff member or recruit or former officer, staff member or recruit who engaged in the conduct, but only if the conduct was engaged in—

(a) other than in good faith; and

(b) with gross negligence.

Note for subsection (4)—

There is to be no contribution from a volunteer or former volunteer.

(5) In a proceeding under subsection (4) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.

(6) In this section—

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

(a) a claim based in tort, contract or another form of action in relation to the conduct or result, including, for example, breach of statutory duty or defamation and, for a fatal injury, includes a claim for the deceased's dependants or estate; or

(b) a complaint made under a law that provides a person may complain about the conduct or result to an entity established under the law, other than a complaint to start criminal proceedings, including, for example, a complaint under the *Justices Act 1886*; or

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

Examples of types of liability—

- a liability because of an agreement or an order under the *Anti-Discrimination Act 1991* or the *Australian Human Rights Commission Act 1986* (Cwlth) requiring payment of an amount to a complainant (however described) under the Act

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- a liability because of an obligation under an agreement to settle a proceeding, or an order of a court or tribunal, to do something that involves paying an amount, including an obligation to publish an apology in a newspaper

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

engage in conduct in an official capacity, by a person to whom this section applies, means engage in conduct as part of, or otherwise in connection with, the person's role as an officer, a staff member, a recruit or a volunteer (as is applicable), including, for example, engaging in conduct under or purportedly under an Act.

volunteer means a person appointed by the commissioner to perform duties for the service on an unpaid voluntary basis on conditions decided by the commissioner but does not include an MRQ volunteer or SES volunteer.

10.7 Provision of legal representation

(1) The commissioner may provide legal representation on behalf of any officer, staff member or recruit against whom any action, claim or demand or proceeding in respect of an offence is brought or made otherwise than by or on behalf of the Crown in any of its capacities on account of any action done or omission made by the officer, staff member or recruit acting, or purporting to act, in the execution of duty.

(2) If it is found, or conceded, in relation to any such action, claim, demand or proceeding that the officer, staff member or recruit, was not acting in the execution of duty in doing the action or making the omission on which the action, claim, demand or proceeding is based, the commissioner may recover from the officer, staff member or recruit the amount of costs and expenses incurred by the commissioner in providing legal representation under subsection (1) in any court of competent jurisdiction as a debt due and payable by the officer, staff member or recruit to the commissioner and unpaid.

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10.8 Compensation for injury or death

If an officer or recruit suffers injury or death in circumstances such that, had the injury or death occurred to a worker employed elsewhere than in the police service, compensation or expenses would have been payable under the *Workers' Compensation and Rehabilitation Act 2003* to or on account of the worker or the worker's dependants, the Crown is to indemnify the officer or recruit and, if the case requires, the dependants of the officer or recruit as if the officer or recruit were a worker covered by a policy under that Act.

10.9 Service and production of documents

(1) Any document that an Act requires or authorises to be given to or served on the commissioner is taken to have been duly so given or served if it is given to the holder of an office nominated by the commissioner for this section.

(1A) The commissioner must, from time to time, notify in the gazette the offices and positions so nominated.

(2) Any member of the service may, with the leave of the court or tribunal concerned, represent the commissioner in that court or tribunal to produce to that court or tribunal any document or thing required to be produced in response to the document referred to in subsection (1) and given or served as prescribed.

10.10 Police establishments

(1) The commissioner may, by gazette notice—

(a) declare any place to be a police establishment or police station;

(b) declare any place to be part of a police establishment or police station;

(c) declare the cessation of any place as a police establishment or police station or as a part thereof;

(d) assign a name to a police establishment or police station and change a name so assigned;

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(e) define the limits of a police establishment or police station as the commissioner thinks fit.

(2) In subsection (1)—

place means a place appropriated to the use of, or used by, the police service for the purpose of performing functions of the service.

10.11 Ownership of official property

For the purpose of any legal proceedings—

(a) every police establishment or police station; or

(b) anything (animate or inanimate), which is not the private property of any person, that is appropriated to the use of, or is used by, the police service or any officer or staff member in the capacity as such;

is taken to be the property of the commissioner for the time being, and may be sufficiently described as the property of the commissioner of the police service.

10.12 Legal proceedings

(1) Any proceedings or any action, claim or demand to which the commissioner for the time being is a party does not abate or terminate by reason that such party has ceased to be the commissioner, but may continue in the name of the successor in office.

(2) In a proceeding, an allegation or statement, in a complaint or another initiating process, or in a pleading or affidavit, of any of the following things is evidence of the thing alleged or stated—

(a) a stated place is a police establishment or police station;

(b) a stated thing is appropriated to the use of, or is used by, the police service or any officer or staff member in the officer's or member's official capacity;

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(c) a stated act, omission, conduct or breach of duty has not been authorised or consented to by the commissioner in relation to anything mentioned in paragraph (a) or (b);

(d) stated property is the property of the commissioner under this Act.

(3) In a proceeding, a document signed by the commissioner and stating any of the following is evidence of the thing stated—

(a) at a stated time or during a stated period a stated person was a police dog handler or mounted police officer;

(b) at a stated time or during a stated period a dog or horse identified in the document was a police dog or police horse;

(c) at a stated time or during a stated period—

(i) a stated officer or staff member was authorised under section 5A.4B to operate a saliva analysing instrument; and

(ii) the authorisation was subject to a stated limitation or condition.

10.13 Surrender of equipment

(1) Upon a person ceasing to be an officer or a protective services officer, it is lawful for the person to retain all items of equipment, gear or accoutrements issued to the person as an officer or a protective services officer, except such items as the person is directed in writing by the commissioner to surrender.

(1A) If the commissioner gives such a direction, the commissioner may specify therein a date by which the items are to be surrendered and the person to whom the direction is given is to comply with the direction.

(2) The person must comply with a direction given to the person under subsection (1).

Maximum penalty—100 penalty units.

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10.16 Charges for police services

(1) A person for whom prescribed police services are provided is liable for payment to the commissioner of charges for those services in an amount determined by the commissioner.

(2) Charges for provision of prescribed police services may be declared by regulation in which event the commissioner is not entitled to payment for the provision of particular services of any amount in excess of the charge so declared for the time being in relation to services of that description.

(3) In a proceeding for the recovery of a service charge for the provision of a prescribed police service, a certificate purporting to be signed by the commissioner and stating that a specified amount is payable to the commissioner by a specified person for a specified police service is evidence of the matter stated.

10.17 Exemption from tolls

(1) Officers who are engaged in the actual performance of duty as officers are exempt from liability for payment of any toll, levy or other charge whatsoever upon—

(a) passing through or over any tollgate, turnpike or road;

(b) crossing any bridge;

(c) using any ferry;

notwithstanding any other Act or law.

(2) The exemption prescribed by subsection (1) extends to—

(a) all prisoners under the officers' charge;

(b) all vehicles, vessels, carriages or horses used on the occasion in question solely for carrying officers, their prisoners and baggage;

(c) a return journey to the officers' operational base undertaken as soon as practicable after the actual performance of duty that has taken the officers away from such base.

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(3) A person engaged in the collection of tolls, levies or other charges who has reasonable grounds for believing that an exemption from payment thereof exists under subsection (1) or (2) and who receives payment in disregard of such exemption commits an offence against this Act.

Maximum penalty—4 penalty units.

10.18 Prohibited use of words suggesting association with police

(1) Except with the commissioner's consent thereto first obtained, a body or association of persons (whether incorporated or not) must not—

(a) have a prescribed expression as, or as part of, its name;

(b) use a prescribed expression in conjunction with its name, in any context.

(2) Except with the commissioner's consent thereto first obtained, a person must not—

(a) have a prescribed expression as, or as part of, a name under which the person conducts business;

(b) use a prescribed expression in conjunction with a name under which the person conducts business, in any context.

(3) In this section a ***prescribed expression*** is any of the following—

(a) commissioner of police;

(b) commissioner of the police service;

(c) member of the police service;

(d) police;

(e) police force;

(f) police officer;

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(g) any expression that resembles any of the expressions mentioned in paragraphs (a) to (f), or that includes words taken from 2 or more of the expressions.

(4) A person who contravenes, or is taken to have contravened subsection (1) or (2) commits an offence against this Act.

Maximum penalty—100 penalty units.

(5) If a contravention of subsection (1) occurs each member of the governing body of the body or association concerned is taken to have committed the contravention and is liable to the prescribed penalty for an offence against this Act.

10.19 Offences relating to police officers

A person—

(a) who has in possession—

(i) a document of a confidential nature brought into existence for the purposes of the police service; or

(ii) anything (animate or inanimate) appropriated to the use of the police service; or

(iii) anything (animate or inanimate) on issue to an officer or to a person who was an officer;

unless the person has a lawful excuse for such possession; or

(b) who assumes the name of an officer with intent to mislead; or

(c) who, being other than an officer lawfully entitled to do so—

(i) assumes the designation or description of an officer or of a class of officer; or

(ii) wears the uniform of an officer, or a colourable imitation thereof;

except in either such case—

(iii) with the consent of the commissioner; or

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(iv) for the purposes of a theatrical, circus or similar entertainment; or

(v) for the purposes of a ball, carnival or similar occasion for wearing fancy dress; or

(d) who, being other than an officer lawfully entitled to do so, for the purposes of, or in connection with, any business, occupation or employment—

(i) assumes or uses the designation 'detective', 'private detective' or other designation that includes the word 'detective' or the name, designation, rank or description of any officer or any class of officer; or

(ii) being a person who was an officer, or a member of the police force, uses the designation, rank or description that was the person's while an officer or such a member; or

(e) who is found on, or having just left, any place appropriated to the use of, or used for the time being by, the police service, unless the person has a lawful excuse for being or having been in or on that place;

commits an offence against this Act.

Maximum penalty—100 penalty units.

10.20 Bribery or corruption of officers or staff members

(1) A person who corruptly gives to, confers on, or procures for any officer or staff member property or a benefit of any kind, or offers, promises or agrees to do so with a view to—

(a) the officer or staff member neglecting the officer's or member's duty; or

(b) influencing the officer or staff member in performance of the officer's or member's duty or exercise of the officer's powers; or

(c) the officer or staff member using or taking advantage of the officer's or member's position in the police service

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to facilitate commission of an offence, or to provide the person with any information, service or advantage whether or not the person would otherwise be entitled thereto;

commits an offence against this Act.

Maximum penalty—100 penalty units.

(2) Liability of a person to be dealt with for an offence under subsection (1) does not affect the person's liability to be dealt with under the Criminal Code for an offence defined therein, which is constituted by the person's conduct.

(3) However, the person is not to be dealt with under both subsection (1) and the Criminal Code in respect of the same conduct.

10.21 False representation causing police investigations

(1) A person who by conduct, by statements (oral or written), or by conduct and statements (oral or written), falsely and with knowledge of the falsity represents that an action has been done or circumstances exist, which action or circumstances, as represented, is or are such as reasonably calls, or call, for investigation by an officer commits an offence against this Act.

Maximum penalty—100 penalty units.

(2) If statements alleged to have been made by a person relate to the conduct of an officer the person can not be convicted in respect thereof on the uncorroborated evidence of an officer, or of officers.

(3) A court by which a person has been found guilty, or before which a person has pleaded guilty, of an offence defined in subsection (1), whether or not it imposes a penalty in respect thereof, may order the person to pay to the Crown a reasonable sum for the expenses of or incidental to any investigation made by an officer as a result of the false representation.

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(4) This section does not apply to a representation relating to an offence, or the circumstances of an offence that has actually been committed.

10.21A Unlawful possession of prescribed articles

(1) A person must not unlawfully possess a prescribed article.

Maximum penalty—40 penalty units.

(2) A person must not unlawfully supply to someone else a prescribed article that is evidence of the commission of an offence.

Maximum penalty—40 penalty units.

(3) Subsection (2) does not prevent a person supplying a print, an audio recording, or a transcript of an audio or video recording, to a person charged with an offence of which the article is evidence or the person's lawyer, for the purpose of enabling the person to defend the charge.

(4) A person must not possess a print, an audio recording, or a transcript of an audio or video recording supplied under subsection (3) after the time allowed for any appeal against a conviction for an offence of which the relevant article is evidence ends, unless the article is kept as part of court records or the records of a lawyer acting for the person charged with the offence.

Maximum penalty—40 penalty units.

(5) In this section—

prescribed article means any of the following that is the property of the commissioner—

(a) a print;

(b) a video recording;

(c) a transcript of an audio or video recording.

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10.21B Unlawfully killing or injuring police dog or police horse

(1) A person must not unlawfully—

(a) kill, maim, wound or otherwise injure a police dog or police horse; or

(b) attempt to kill, maim, wound or otherwise injure a police dog or police horse.

Maximum penalty—40 penalty units or 2 years imprisonment.

(2) A court that finds a person guilty of an offence against subsection (1) may, in addition to any penalty that may be imposed, order the person to pay to the commissioner a reasonable amount for—

(a) the treatment, care, rehabilitation and retraining of the police dog or police horse concerned; or

(b) if it is necessary to replace the police dog or police horse—buying and training its replacement.

10.21BA Wilfully and unlawfully killing or seriously injuring police dog or police horse

(1) A person must not wilfully and unlawfully kill or cause serious injury to a police dog or police horse—

(a) that is being used by a police officer in the performance of the officer's duties; or

(b) because of, or in retaliation for, its use by a police officer in the performance of the officer's duties.

Maximum penalty—5 years imprisonment.

(2) A person must not attempt to commit an offence against subsection (1).

Maximum penalty—5 years imprisonment.

(3) An offence against subsection (1) or (2) is a crime.

(4) A court that finds a person guilty of an offence against subsection (1) or (2) may, in addition to any penalty that may

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be imposed, order the person to pay to the commissioner a reasonable amount for—

(a) the treatment, care, rehabilitation and retraining of the police dog or police horse concerned; or

(b) if it is necessary to replace the police dog or police horse—buying and training its replacement.

(5) In this section—

serious injury see the Criminal Code, section 242(3).

10.21C Local laws do not apply in relation to police dogs or police horses etc.

A local law does not apply in relation to—

(a) a police dog or police horse; or

(b) a police dog handler in connection with the keeping, maintenance or use of any police dog for discharging a function under this Act; or

(c) an officer in connection with the keeping, maintenance or use of any police horse for discharging a function under this Act.

10.22 Impersonating protective services officer

A person must not impersonate a protective services officer.

Maximum penalty—100 penalty units.

10.23 Proceedings for offences—general

(1) Subject to section 10.23A, proceedings for prosecution in respect of an offence against this Act are to be taken in a summary manner under the *Justices Act 1886* on the complaint of any officer.

(2) An allegation or statement in a complaint that the complainant is an officer is sufficient proof of the matter alleged or stated in the absence of evidence to the contrary.

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(3) A proceeding for an offence against this Act, other than section 10.1 or 10.21BA, must start within the later of the following periods to end—

(a) 1 year after the commission of the offence;

(b) 1 month after the offence comes to the complainant's knowledge.

(4) A proceeding for an offence against section 10.1 must start within the later of the following periods to end—

(a) 1 year after the commission of the offence;

(b) 6 months after the offence comes to the complainant's knowledge.

10.23A Proceeding for offence against s 10.21BA

(1) A charge of an offence against section 10.21BA must be heard and decided summarily if the prosecution elects to have the offence heard and decided summarily.

(2) A Magistrates Court that summarily deals with the charge for the offence—

(a) must be constituted by a magistrate; and

(b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose; and

(c) may hear and decide the charge at any place appointed for holding a Magistrates Court within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.

(3) However, a Magistrates Court must abstain from dealing summarily with the charge if satisfied, on an application made by the prosecution and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

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(4) If the Magistrates Court abstains from jurisdiction—

(a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and

(b) the proceeding for the charge must be conducted as a committal proceeding; and

(c) a plea of the defendant at the start of the hearing must be disregarded; and

(d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and

(e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

10.23B Maximum penalty for offence against s 10.21BA dealt with summarily

The maximum penalty that may be imposed on a summary conviction for an offence against section 10.23A is—

(a) if the Magistrates Court is a court constituted by a magistrate imposing a drug and alcohol treatment order under the *Penalties and Sentences Act 1992*, part 8A—100 penalty units or 4 years imprisonment; or

(b) otherwise—100 penalty units or 3 years imprisonment.

10.23C Appeal against decision to decide charge against s 10.21BA summarily

(1) This section applies if a person is summarily convicted or sentenced for an offence against section 10.21BA.

(2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.

(3) The grounds on which the Attorney-General may appeal against the sentence include that the Magistrates Court erred by deciding the sentence summarily.

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(4) On an appeal against the sentence relying on a ground that the Magistrates Court erred by proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

10.24 Representation in court

(1) Any officer or service legal officer may appear for and represent an officer involved in any of the following proceedings in a Magistrates Court or a Childrens Court—

(a) a proceeding for an application made by an officer in the performance of duty under any Act;

(b) a proceeding in which an officer is involved in the performance of duty otherwise than only as a witness;

(c) a proceeding in which the commissioner is involved or of which the commissioner or another officer is required to be given notice.

Example for subsection (1)(a)—

an application for a post-search approval order under the *Police Powers and Responsibilities Act 2000*

(2) Also, any officer or service legal officer may appear and act for the prosecution in a proceeding—

(a) in a Magistrates Court or the Childrens Court for a charge of an offence, even though the officer is not the informant or complainant; or

(b) in a Magistrates Court, brought by a fire officer under the *Disaster Management Act 2003* or a fire service officer under the *Fire Services Act 1990*, for an offence against the Act under which the prosecution is brought.

(3) In this section—

fire officer see the *Disaster Management Act 2003*, schedule.

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service legal officer means a government legal officer, within the meaning of the *Legal Profession Act 2007*, who is a staff member.

10.28 Regulation-making power

(1) The Governor in Council may make regulations for the purposes of this Act.

(1A) A regulation may provide with respect to—

(a) management and control of the affairs of the police service; and

(b) the responsibilities of the commissioner; and

(c) powers, duties, entitlements, obligations and liabilities of officers and recruits; and

(d) powers and duties of staff members; and

(e) the institution and conduct of appeals or reviews about appointments, disciplinary action or related action within the police service.

(2) The regulations may prescribe with respect to any matter, other than duties, obligations or liabilities of members of the police service, by reference to—

(a) determinations or rulings to be made from time to time by the commissioner;

(b) standards to be set or adopted from time to time by the commissioner.

(3) The regulations may provide for offences against the regulations and in respect thereof impose a fine not exceeding 100 penalty units.

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Part 11 Transitional, declaratory and validating provisions

Division 1 Transitional provisions for Police Service Administration Act 1990

11.1 Interpretation of certain references

(1) A reference in any Act or document to—

(a) the Police Force is taken to be a reference to the Police Service; and

(b) the Commissioner of Police is taken to be a reference to the Commissioner of the Police Service; and

(c) a member of the police force, a police officer or a constable is taken to be a reference to an officer; and

(d) a member of the police force, a police officer or a constable holding a rank that does not exist in the Police Service, but did exist in the Police Force, is taken to be a reference to an officer holding a corresponding rank in the Police Service.

(2) A regulation may prescribe a rank in the Police Service to be a corresponding rank to a rank in the Police Force.

11.2 References to repealed Act

A reference in an Act or document to the *Police Act 1937* is taken to be a reference to this Act.

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Division 2 Transitional provision to assist in interpretation

11.3 Relevant information

The commissioner is taken always to have had power to inquire into a person's criminal history and to take into account relevant information for deciding whether the person is suitable to be engaged, or to continue to be engaged, by the service.

11.5 Declaration about s 5.17

(1) To remove doubt it is declared that section 5.17 of this Act is, and always has been, part of part 5 of this Act.

(2) Also, in the first reprint under the *Reprints Act 1992* of this Act as amended by the *Police and Other Legislation Amendment Act 2005*, section 5.17 must be relocated to part 5.

Division 4 Transitional and declaratory provisions for the Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009

11.8 Former officer

For part 7A, a person is a former officer only if the person's employment ends after the commencement of the part.

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Division 5 Transitional provisions for the State Penalties Enforcement and Other Legislation Amendment Act 2009

11.9 Definition for div 5

In this division—

commencement means the commencement of the *State Penalties Enforcement and Other Legislation Amendment Act 2009*, chapter 3.

11.11 Exchange of criminal history for child-related employment screening

To remove any doubt, it is declared that for section 10.2S, definition *criminal history*, a reference to a charge against a person for an offence includes a charge for an offence alleged to have been committed by the person before the commencement.

Division 6 Transitional provisions for Public Service and Other Legislation (Civil Liability) Amendment Act 2014

11.12 Definitions

In this division—

civil liability see new section 10.5(6).

commencement means the commencement of this section.

conduct see new section 10.5(6).

engage in conduct in an official capacity see new section 10.5(6).

new section 10.5 means section 10.5 as in force immediately after the commencement.

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previous sections 10.5 and 10.6 means sections 10.5 and 10.6 as in force immediately before the commencement.

volunteer see new section 10.5(6).

11.13 Application of ss 10.5 and 10.6 to acts and omissions before commencement

(1) If, immediately before the commencement, previous sections 10.5 and 10.6 applied to a tort committed, act done or omission made by an officer, staff member, recruit or volunteer before the commencement, those provisions as in force at the time the tort was committed, act was done or omission was made continue to apply in relation to the tort, act or omission.

(2) If an officer, staff member, recruit or volunteer engaged in conduct in an official capacity after the commencement and the conduct is part of a course of conduct that also includes torts committed, acts done or omissions made before the commencement, new section 10.5 applies to all the conduct forming the course of conduct.

(3) Subsection (1) is subject to subsection (2).

11.14 Relationship of s 10.5 if civil liability dealt with by another Act or provision of this Act

(1) This section applies if—

(a) another Act, or another provision of this Act other than new section 10.5, states a person does not incur civil liability for conduct or the result of conduct (however expressed), including, for example, if the person acts honestly and without negligence; and

(b) the result of the application of the other Act or other provision to conduct, or the result of conduct, engaged in by the person after the commencement is that the person would not be protected from civil liability under the other Act or other provision for the conduct or result; and

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(c) the person would not, under new section 10.5, incur civil liability for the conduct or the result of the conduct but the Crown would be liable in relation to the conduct or result.

(2) New section 10.5 applies in relation to the conduct, or the result of the conduct, despite the other Act or other provision but does not limit the application of the other Act or other provision in relation to any other liability of the person.

Division 7 Transitional provision for Public Safety Business Agency Act 2014

11.15 Application of pt 5AA to particular current employees

(1) This section applies in relation to a person who—

(a) immediately before the commencement, was employed as a public service employee by the department known as the Public Safety Business Agency; and

(b) is a PSBA employee immediately after the commencement.

(2) The relevant sections apply to or in relation to the person as if a requirement in the relevant sections for the person or the relevant CEO to do something before the person is engaged in the service were a reference to the person or relevant CEO being required to do the thing as soon as practicable after the commencement.

(3) In this section—

commencement means the commencement of this section.

relevant section means sections 5AA.5(2) and 5AA.6(2).

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Division 8 Transitional provision for Counter-Terrorism and Other Legislation Amendment Act 2015

11.16 Approved agency and law enforcement agency during interim period

(1) The immigration and border protection department is taken, during the interim period, to have been—

(a) an approved agency under part 10, division 1A; and

(b) a law enforcement agency under part 10, division 1A.

(2) In this section—

immigration and border protection department means the Commonwealth department in which the following laws are administered—

(a) the *Australian Border Force Act 2015* (Cwlth);

(b) the *Customs Act 1901* (Cwlth), other than parts XVB and XVC;

(c) the *Migration Act 1958* (Cwlth).

interim period means the period starting on 1 July 2015 and ending on the commencement of the *Police Legislation Amendment Regulation (No. 1) 2015*.

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

11.17A Liability of commissioners for police service reviews

(1) Current section 9.7 does not apply to conduct, or the result of conduct, engaged in by a protected person before the commencement.

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(2) Previous section 9.7 continues to apply to an act done or omitted to be done by a protected person before the commencement.

(3) Also, the *Public Service Act 2008*, section 26C continues to apply to conduct engaged in by a commissioner for police reviews before the commencement.

(4) However, if a protected person engages in conduct to which current section 9.7 applies after the commencement and the conduct is a part of a course of conduct that also includes conduct engaged in before the commencement, current section 9.7 applies to all of the conduct as if it was all engaged in after the commencement.

(5) A term used in this section in relation to current section 9.7 or previous section 9.7 has the meaning it has under that section.

(6) In this section—

current section 9.7 means section 9.7 as in force from the commencement.

previous section 9.7 means section 9.7 as in force before the commencement.

Division 10 Repeal and transitional provisions for Police Service Administration (Discipline Reform) and Other Legislation Amendment Act 2019

11.18 Definitions for division

(1) In this division—

amending Act means the *Police Service Administration (Discipline Reform) and Other Legislation Amendment Act 2019*.

breach of discipline means a breach of discipline within the meaning of previous section 1.4.

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new, in relation to a provision of this Act, means as in force on the commencement.

previous, in relation to a provision of this Act or the repealed regulations, means as in force from time to time before the commencement.

repealed regulations means the repealed *Police Service (Discipline) Regulations 1990*.

(2) For this division, a disciplinary proceeding against an officer under previous section 7.4 ***started*** when the officer was given a notice stating details of the alleged breach of discipline or misconduct.

11.19 Repeal of Police Service (Discipline) Regulations 1990

The Police Service (Discipline) Regulations 1990 are repealed.

11.20 Existing disciplinary proceedings—saving of previous s 7.4 and repealed regulations

(1) This section applies if—

(a) before the commencement, a disciplinary proceeding against an officer was started; and

(b) immediately before the commencement, the proceeding had not been finally dealt with.

(2) However, this section does not apply if the disciplinary proceeding is withdrawn with the officer's consent.

(3) Previous section 7.4 and the repealed regulations continue to apply, despite their repeal, for the completion of the disciplinary proceeding.

(4) This section applies subject to section 11.21.

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11.21 Existing disciplinary proceedings—application of new pt 7 in particular circumstances

(1) This section applies if the prescribed officer conducting a disciplinary proceeding to which section 11.20 applies—

(a) is a police officer mentioned in section 2.2(a), (b) or (c); and

(b) on or after the commencement, finds that misconduct or a breach of discipline is, or is not, proved against the officer.

(2) Previous section 7.4(2A) and (3) does not apply in relation to the finding.

(3) The finding is taken to be a decision made under new section 7.27(2) about whether the disciplinary charge, or another ground for disciplinary action, is proved.

(4) For subsection (3), new part 7 and the *Crime and Corruption Act 2001*, chapter 5, part 3, apply in relation to the finding as if—

(a) the officer were the subject officer under new part 7; and

(b) the allegation to which the proceeding relates were the disciplinary charge; and

(c) the misconduct or breach of discipline the subject of the finding were a ground for disciplinary action under new section 7.4; and

(d) the requirements under new part 7, division 2 were satisfied in relation to the disciplinary proceeding.

11.22 Alleged misconduct or breaches of discipline occurring before commencement

(1) This section applies if—

(a) misconduct or a breach of discipline is alleged to have occurred before the commencement; and

(b) a disciplinary proceeding for the alleged misconduct or breach of discipline—

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(i) has not been started before the commencement; or

(ii) was started before the commencement but has been or is withdrawn with the officer's consent.

(2) A disciplinary proceeding in relation to the alleged misconduct or breach of discipline may be started under new part 7 as if the misconduct or breach of discipline were a ground for disciplinary action under that part.

(3) The disciplinary proceeding must be started within the later of the following periods to end—

(a) the period mentioned in new section 7.12;

(b) 6 months from the commencement.

11.23 Existing reviews of disciplinary decisions—breaches of discipline

(1) This section applies if—

(a) under previous section 9.3 a review of either of the following was started before the commencement—

(i) action taken under previous section 7.4 or the repealed regulations against an officer for a breach of discipline;

(ii) a disciplinary declaration made against a former officer under previous section 7A.2(2) for a breach of discipline; and

(b) the review was not finally dealt with before the commencement.

(2) Previous section 9.3 continues to apply for the completion of the review of the action or declaration.

Note—

For reviews started before the commencement in relation to action taken under previous section 7.4 for misconduct, see the *Crime and Corruption Act 2001*, section 452.

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11.24 Review of particular disciplinary decisions about breaches of discipline

(1) This section applies if—

(a) either—

(i) a decision was made under previous section 7.4 about an allegation of a breach of discipline; or

(ii) a disciplinary declaration was made under previous section 7A.2(2) for a breach of discipline; and

(b) the period for applying for a review of the decision or declaration under previous section 9.3 had not ended immediately before the commencement.

(2) Also, this section applies if a decision is made under previous section 7.4, as applied by section 11.20, about an allegation of a breach of discipline, except if section 11.21 applies in relation to the decision.

(3) The officer or former officer to whom the decision or declaration relates may apply for review of the decision or declaration under previous section 9.3 as if the amending Act had not commenced.

Note—

For reviews in relation to action taken under previous section 7.4 for misconduct, see the *Crime and Corruption Act 2001*, section 452.

11.25 Existing discipline history

(1) A disciplinary sanction imposed under previous section 7.4 or the repealed regulations continues to have effect as if the amending Act had not commenced.

(2) An entry made in an officer's discipline history under the repealed regulations is taken to be part of the officer's disciplinary history for new part 7.

(3) The giving of managerial guidance, whether in writing or not, before the commencement forms part of an officer's disciplinary history only if, when the guidance was given, the

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officer was advised in writing that the guidance would form part of the officer's discipline history.

11.26 Continued application of previous pt 7A

Previous part 7A continues to apply in relation to a disciplinary ground that arose before the commencement.

Division 11 Transitional provision for Disability Services and Other Legislation (Worker Screening) Amendment Act 2018

11.19 Exchange of criminal history for disability-related employment screening

(1) This section applies in relation to the commissioner giving a person's criminal history to an interstate screening unit or an approved agency as mentioned in section 10.2T for the purpose of disability-related employment screening of the person.

(2) To remove any doubt, it is declared that for section 10.2S, definition *criminal history*, a reference to a charge against the person for an offence includes a charge for an offence alleged to have been committed by the person before the commencement.

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Division 12 Repeal and transitional provisions for the Queensland Future Fund (Titles Registry) Act 2021

Subdivision 1 Repeal

11.20 Repeal

The Public Safety Business Agency Act 2014, No. 17 is repealed.

Subdivision 2 Transitional provisions

11.21 Definitions for subdivision

In this subdivision—

PSBA means the Public Safety Business Agency in existence under the repealed Act immediately before the commencement.

repealed Act means the repealed *Public Safety Business Agency Act 2014* as in force immediately before the commencement.

11.22 Particular terms have meaning given under repealed Act

In this subdivision, a term defined under the repealed Act but not under this Act has the same meanings as it had under the repealed Act.

11.23 Matters relating to PSBA board

(1) The PSBA is dissolved.

(2) Each board member ceases to be a member of the board.

(3) No compensation is payable to a person because of subsections (1) and (2).

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(4) To remove any doubt, it is declared that subsection (2) does not limit or otherwise affect a person's right to a benefit or entitlement that had accrued before the commencement.

11.24 Matters relating to chief operating officer

(1) The appointment of the acting chief operating officer ends.

(2) No compensation is payable to the acting chief operating officer because of subsection (1).

(3) To remove any doubt, it is declared that subsection (2) does not limit or otherwise affect the acting chief operating officer's right to a benefit or entitlement that had accrued before the commencement.

11.25 Matters relating to PSBA staff

(1) This section applies to—

(a) a person who, immediately before the commencement, is employed by the PSBA on a permanent full-time or permanent part-time basis; and

(b) a person who, immediately before the commencement, is seconded to the PSBA on a permanent full-time or permanent part-time basis.

(2) On the commencement—

(a) for a person mentioned in subsection (1)(a)—the person ceases to be an employee of the PSBA and is employed by the notified department; and

(b) for a person mentioned in subsection (1)(b)— the secondment ends.

(3) Nothing in subsection (2)—

(a) interrupts a person's continuity of service; or

(b) prejudices a person's existing or accruing right to long service leave; or

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(c) constitutes a termination of employment by the PSBA, retrenchment or redundancy; or

(d) entitles a person to a payment or other benefit merely because the person is no longer employed by the PSBA; or

(e) limits or otherwise affect the person's right to a benefit or entitlement that had accrued before the commencement.

(4) In this section—

notified department means the department that, before the commencement, the person was notified by the chief operating officer as the department in which the person would be employed in after the commencement.

11.26 State is successor in law of PSBA

(1) The State is the successor in law of the PSBA.

(2) Subsection (1) is not limited by another provision of this subdivision.

11.27 Assets and liabilities

The assets and liabilities of the PSBA immediately before the commencement become assets and liabilities of the State.

11.28 Records and documents

The PSBA's records and other documents held by the PSBA immediately before the commencement become records and other documents of the State.

11.29 Contracts, agreements, undertakings, other arrangements and instruments

(1) This section applies to a contract, agreement, undertaking or other arrangement (a ***current instrument***) to which the PSBA

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was a party, or an instrument (also a ***current instrument***) that applied to the PSBA, immediately before the commencement.

(2) On the commencement, the State becomes a party to the current instrument and the instrument applies to the State, in place of the PSBA.

(3) Without limiting subsection (2)—

(a) any right, title, interest or liability of the PSBA arising under or relating to a current instrument is a right, title, interest or liability of the State; and

(b) a current instrument, including a benefit or right provided by a current instrument, given to, by or in favour of the PSBA before the commencement is taken to have been given to, by or in favour of the State; and

(c) an application relating to a current instrument made in the name of the PSBA before the commencement is taken to have been made in the name of the State; and

(d) a current instrument under which an amount is, or may become, payable to or by the PSBA is taken to be an instrument under which the amount is, or may become, payable to or by the State in the way the amount was, or might have become, payable to or by the PSBA; and

(e) a current instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the PSBA is taken to be an instrument under which property is, or may become liable to be, transferred, conveyed or assigned to or by the State in the way the property was, or might have become, liable to be transferred, conveyed or assigned to or by the PSBA.

11.30 Current proceedings

(1) This section applies to a proceeding that, immediately before the commencement, had not ended and to which the PSBA was a party.

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(2) On the commencement, the State becomes a party to the proceeding in place of the PSBA.

11.31 Proceedings not yet started

(1) This section applies if, immediately before the commencement, a proceeding could have been started by or against the PSBA within a particular period.

(2) The proceeding may be started by or against the State within the period.

11.32 Registering authority to note transfer or other dealing

(1) A registering authority must, on written application by the commissioner or the fire commissioner and without charge, register or record in the appropriate way a transfer of, or other dealing affecting, an asset, liability or instrument under this subdivision.

(2) The commissioner, or fire commissioner, must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer or other dealing.

(3) In this section—

fire commissioner means the person appointed as commissioner under the *Fire and Emergency Services Act 1990*, section 5.

registering authority means the registrar of titles or another entity required or authorised by law to register or record transactions affecting assets, liabilities or instruments.

11.33 Effect on legal relationships

(1) A thing done under this subdivision—

(a) does not make the State liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; and

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(b) does not make the State in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; and

(c) does not fulfil a condition that—

(i) terminates, or allows a person to terminate, an instrument or obligation; or

(ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or

(iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or

(iv) requires any money to be paid before its stated maturity.

(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this subdivision, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

(3) If giving notice to a person would be necessary to do something under this subdivision, the notice is taken to have been given.

(4) A reference in this section to the State includes an employee or agent of the State.

11.34 References to the PSBA

In an Act or document, a reference to the PSBA is, if the context permits, taken to be a reference to the State.

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Division 13 Transitional provisions for Police Service Administration and Other Legislation Amendment Act 2022

11.35 Definitions for division

In this division—

former, for a provision of the repealed Act, means the provision as in force from time to time before the commencement.

repealed Act means the repealed *State Buildings Protective Security Act 1983* as in force from time to time before the commencement.

11.36 Protective security officer

(1) This section applies if, immediately before the commencement, a person held an appointment under former section 7(1)(a) of the repealed Act as a protective security officer.

(2) From the commencement, the person holds an appointment under section 5.19 as a protective services officer with the rank under section 5.20 of protective services officer.

(3) The appointment under section 5.19 is—

(a) on the same terms of appointment that applied to the person immediately before the commencement; and

(b) for the remaining term of the appointment under former section 7(1)(a) of the repealed Act.

(4) If the person took an oath under former section 13 of the repealed Act, the officer is taken to have taken and subscribed to an oath, relating to a protective services officer, under section 5.22.

(5) A reference in an Act or other document to a protective security officer under the repealed Act may, if the context permits, be taken to be a reference to a protective services

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officer with the rank under section 5.20 of protective services officer.

11.37 Senior protective security officer (in training)

(1) This section applies if, immediately before the commencement, a person held an appointment under former section 7(1)(b) of the repealed Act as a senior protective security officer (in training).

(2) From the commencement, the person holds an appointment under section 5.19 as a protective services officer (in training).

(3) The appointment under section 5.19 is—

(a) on the same terms of appointment that applied to the person immediately before the commencement; and

(b) for the remaining term of the appointment under former section 7(1)(b) of the repealed Act.

(4) A reference in an Act or other document to a senior protective security officer (in training) under the repealed Act may, if the context permits, be taken to be a reference to a protective services officer (in training).

11.38 Senior protective security officer

(1) This section applies if, immediately before the commencement, a person held an appointment under former section 8 of the repealed Act as a senior protective security officer.

(2) From the commencement, the person holds an appointment under section 5.19 as a protective services officer with the rank under section 5.20 of senior protective services officer.

(3) The appointment under section 5.19 is—

(a) on the same terms of appointment that applied to the person immediately before the commencement; and

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(b) for the remaining term of the appointment under former section 8 of the repealed Act.

(4) If the person took an oath under former section 14 of the repealed Act, the officer is taken to have taken and subscribed to an oath, relating to a senior protective services officer, under section 5.22.

(5) A reference in an Act or other document to a senior protective security officer under the repealed Act may, if the context permits, be taken to be a reference to a protective services officer with the rank under section 5.20 of senior protective services officer.

11.39 References to repealed Act

A reference in an Act or other document to the repealed Act may, if the context permits, be taken to be a reference to this Act.

Division 14 Transitional provisions for Police Service Administration and Other Legislation Amendment Act 2023

11.40 Staff members appointed under section 8.3(5) before commencement

(1) This section applies to a person who—

(a) before the commencement, was appointed as a staff member under section 8.3(5); and

(b) immediately before the commencement, was employed under this Act.

(2) Despite section 2.5A, from the commencement—

(a) the person continues to be employed under this Act and not the *Public Service Act 2008*; and

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(b) the terms that apply to the person's employment are the same terms that applied to the person immediately before the commencement.

11.41 Application of s 10.1 relating to confidential information acquired or gained before commencement

Section 10.1 applies to a person who acquired confidential information or had access to, or custody of, confidential information under that section whether before or after the commencement.

11.42 Application of pt 7, div 6, sdiv 1 to disciplinary proceedings started before commencement

Part 7, division 6, subdivision 1 does not apply in relation to a disciplinary proceeding started before the commencement.

Division 15 Transitional provision for Police Powers and Responsibilities and Other Legislation Amendment Act (No. 1) 2023

11.43 Current appointments as special constable

(1) This section applies to an appointment under section 5.16 in effect immediately before the commencement.

(2) From the commencement, the appointment is taken to be an appointment as a special constable (associate).

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Division 16 Transitional and validation provisions inserted under Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2023

11.44 Definitions for division

In this division—

affected referral means a referral to which this division applies under section 11.45.

disciplinary sanction see section 7.34.

professional development strategy see section 7.3.

subject officer see section 11.45(1)(a).

11.45 Application of division

(1) This division applies if—

(a) the commissioner referred a complaint about a police officer (the ***subject officer***) under section 7.10 on or after 30 October 2019 but before 8 March 2023; and

(b) the referral mentioned in paragraph (a) was not properly made.

(2) For this division, a referral was not properly made if—

(a) the referral did not specify a particular prescribed officer as the entity to whom the referral was made; or

(b) the referral specified a particular prescribed officer as the entity to whom the referral was made but another officer purported to act as the prescribed officer; or

(c) the referral did not specify a particular prescribed officer by name and rank.

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(3) A reference in subsection (1) to having referred a complaint about a police officer under section 7.10 includes a reference to purportedly having done so.

11.46 Validation of affected referrals and subsequent action

(1) An affected referral, and anything else done under this Act or another law in relation to the referral (***subsequent action***), is, and is taken to have always been, as valid as it would be or would have been if the referral had been properly made.

Examples of subsequent action—

- starting a disciplinary proceeding
- accepting a proposed disciplinary sanction under section 7.21
- imposing a disciplinary sanction or professional development strategy

(2) Subsection (1) applies for all purposes, including a legal proceeding started before the commencement.

(3) To remove any doubt, it is declared that—

(a) an affected referral and subsequent action is taken to have had effect from the day the referral or action would have had effect if the referral had been properly made; and

(b) subject to this division, a disciplinary proceeding related to the affected referral may be commenced, continued or concluded under part 7; and

(c) a disciplinary sanction, or professional development strategy, imposed on the subject officer because of the affected referral is, and is taken to have always been, as valid as it would be or would have been if the referral had been properly made.

(4) No compensation is payable to a person because of the operation of this section.

11.47 Demotions and suspensions affected by validation

(1) This section applies if—

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(a) the imposition of a disciplinary sanction on the subject officer is, as subsequent action, validated under section 11.46; and

(b) the disciplinary sanction is the demotion or suspension of the subject officer.

(2) The performance of duties by the subject officer during the period of the demotion or suspension, and anything else done under this Act or another law in relation to the officer's performance of those duties has the same effect, and is taken to have always had the same effect, as it would have had if the officer had not been demoted or suspended at the relevant time.

(3) Subsection (2) applies for all purposes, including a legal proceeding started before the commencement.

(4) A reference in subsection (2) to the performance of duties includes a reference to the purported performance of duties.

(5) In this section—

duties includes—

(a) higher duties performed by an officer; and

(b) the exercise of a power, or authorisation of an action, by an officer under the *Police Powers and Responsibilities Act 2000* or another law.

higher duties, performed by an officer, means the duties performed by the officer because of a rank held by the officer on a temporary basis.

11.48 New period for starting disciplinary proceedings

(1) This section applies if—

(a) a disciplinary proceeding related to an affected referral had not been started under part 7 before the commencement; and

(b) the disciplinary proceeding can not be started because of a time restriction under section 7.12.

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(2) Despite section 7.12, the disciplinary proceeding may be started within 28 days after the commencement.

(3) Before starting the disciplinary proceeding, the commissioner may specify a new prescribed officer as the entity to whom the affected referral was made, regardless of whether a prescribed officer was properly specified for the referral when first made.

11.49 Continuation of interrupted disciplinary proceedings

(1) This section applies if, before the commencement, a disciplinary proceeding related to an affected referral was started, but not finally dealt with, under part 7.

(2) The disciplinary proceeding may be continued by the prescribed officer repeating the last action taken by the officer under part 7, division 3 or 4.

Example—

If the last action taken by the prescribed officer was to give the subject officer a proposed sanction notice under section 7.28(2), the disciplinary proceeding may be continued by the prescribed officer giving the subject officer a new proposed sanction notice under section 7.28(2).

(3) For subsection (2), a reference to the last action taken by the prescribed officer includes a reference to the last action taken by the officer who purported to be the prescribed officer for the disciplinary proceeding.

(4) Before continuing the disciplinary proceeding, the commissioner may specify a new officer as the prescribed officer to whom the affected referral was made, regardless of whether a prescribed officer was properly specified for the referral when first made.

11.50 Right to review by tribunal

(1) This section applies if, on or after 15 June 2022, a subject officer was given a QCAT information notice for a disciplinary decision relating to an affected referral, unless—

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(a) the officer applied to the tribunal for a review of the decision; and

(b) the tribunal made a decision on the application concluding the review.

(2) Within 14 days after the commencement, the commissioner must give the subject officer and the CCC a new QCAT information notice for the disciplinary decision.

(3) Subsection (4) applies if, after receiving the new QCAT information notice, the subject officer applies to the tribunal for a review of the disciplinary decision.

(4) For the purpose of the tribunal reviewing the disciplinary decision, the *Crime and Corruption Act 2001*, chapter 5, part 3 applies with the following changes—

(a) the subject officer is taken to be the aggrieved person;

(b) the disciplinary decision is taken to be the reviewable decision;

(c) the application for the review must be made within 28 days after the subject officer is given the QCAT information notice under subsection (2).

(5) Also, the tribunal must have regard to the action, if any, taken by the commissioner under section 11.51(2) or (7) in relation to the disciplinary decision.

(6) The giving of a QCAT information notice under subsection (2) does not affect the day the disciplinary decision has effect under section 11.46.

(7) No application fee is payable by the subject officer if, before the commencement, the officer paid an application fee for a review by the tribunal of the same disciplinary decision.

(8) In this section—

application fee means the fee payable under the QCAT Act, section 38 for an application for review by the tribunal of a disciplinary decision.

disciplinary decision means a decision made under section 7.27(2) or 7.30(2).

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11.51 Remedial action by commissioner

(1) This section applies if the imposition of a disciplinary sanction or professional development strategy on a subject officer is, as subsequent action, validated under section 11.46.

(2) The commissioner must take all action (***remedial action***) necessary to impose the disciplinary sanction or professional development strategy from the day it has effect under section 11.46.

(3) Without limiting subsection (2), the commissioner may take the following remedial action—

(a) recover an amount paid to the subject officer that would not have been paid had the disciplinary sanction had effect before the commencement;

(b) exercise the powers of a prescribed officer in imposing the disciplinary sanction under part 7, division 5, including, for example, imposing conditions on probation;

(c) if the disciplinary sanction imposed on the subject officer is a fine—recover the fine in accordance with section 7.40.

(4) An amount may be recovered under subsection (3)(a) by—

(a) deducting the amount from the subject officer's fortnightly salary; or

(b) recovering the amount from the subject officer as a debt payable to the State.

(5) A deduction mentioned in subsection (4)(a) must not be made at a rate of more than 2 penalty units each fortnight without the written consent of the subject officer.

(6) Subsection (3)(a) does not apply to amounts paid to the subject officer for duties actually performed by the officer.

Examples—

- amounts paid to the subject officer for performing the duties of a sergeant during a period after the officer is taken to have been demoted to a senior constable

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- amounts paid to the subject officer for working during the period for which the officer is taken to have been suspended

(7) Despite subsection (2), the commissioner may refrain from taking any or all remedial action if the commissioner is satisfied—

(a) taking the action would cause excessive hardship to the subject officer; and

(b) refraining from taking the action because of the excessive hardship is in the public interest.

(8) The commissioner may only delegate the commissioner's power under subsection (7) to a police officer of the rank of deputy commissioner.

(9) To remove any doubt, it is declared that the commissioner may act under subsection (7) even if that action would, in effect, negate the imposition of the disciplinary sanction.

11.52 Notice before taking remedial action

(1) This section applies if the commissioner proposes to take remedial action in relation to the subject officer under section 11.51.

(2) Before taking the remedial action, the commissioner must give the subject officer a written notice stating the following information—

(a) the remedial action proposed to be taken;

(b) the day the remedial action is proposed to begin;

(c) that, if the officer believes the remedial action would cause the officer excessive hardship, the officer may, within the response period, give the commissioner a written submission about the hardship.

(3) If the subject officer makes a written submission mentioned in subsection (2)(c) within the response period, the commissioner must consider the submission before taking the remedial action.

(4) In this section—

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response period, for a written notice given to a subject officer under subsection (2), means the period of 21 days after the notice is given to the officer.

11.53 Division not affected by other action

(1) This division applies regardless of—

(a) any direction given by the commissioner to the subject officer before the commencement because of the complaint for the affected referral; or

(b) any action taken against the subject officer before the commencement, under this Act or another Act, because of the complaint for the affected referral.

(2) Any of the following notices given to the subject officer by the commissioner or a superior officer before the commencement is of no effect—

(a) a notice stating that the affected referral is invalid (however described);

(b) a notice stating that a disciplinary proceeding related to the affected referral is concluded (however described).

11.54 Judicial review

(1) Unless the Supreme Court decides a decision made under this division is affected by jurisdictional error, the decision—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

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(2) The *Judicial Review Act 1991*, part 5 applies to a decision made under this division to the extent it is affected by jurisdictional error.

Division 17 Transitional provision for Emergency Services Reform Amendment Act 2024

11.55 Advising MRQ and SES members engaged by service of duties of disclosure etc.

(1) This section applies in relation to a person who, on the commencement, is—

(a) an MRQ member or SES member; and

(b) a staff member engaged by the service within the meaning of section 5AA.3.

(2) The commissioner must tell the person the things mentioned in section 5AA.5(1)(a)(i) and (ii) and give the person the guidelines mentioned in section 5AA.5(1)(b) as soon as practicable after the commencement.

(3) However, subsection (2) applies only if the commissioner considers that the terms of the person's engagement by the service require the commissioner to comply with subsection (2).

(4) Section 5AA.5(1) does not apply to the commissioner in relation to the person other than to the extent mentioned in subsection (2).

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Schedule 1 Relevant information

schedule 2, definition *relevant information*

Information about police officers, recruits and applicants to become police officers or recruits

1 Information in a database kept by the ACC about—

- the person's criminal history
- cautions or warnings administered or given to the person
- the person's involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person
- whether the person has had a weapons licence suspended or cancelled.

2 Information in a QPS database or other database kept by the commissioner about—

- the person's criminal history
- the person's traffic history
- warrants issued in relation to the person
- cautions or warnings administered or given to the person
- whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness
- address checks for the person
- the person's driver licence details
- any incidents, including traffic crash occurrences, involving the person
- any offences involving the person

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- any complaints involving the person
- the person's domestic violence history
- the person's drug history
- the person's arrest history
- charges laid against the person
- any detention of the person in custody
- any prosecutions started against the person.

3 Information in a database kept by the chief executive of Queensland Transport about—

- the person's traffic history
- the person's driver licence details.

4 Information about the person supplied to the commissioner by another police service, whether based on a request made after a search of a database kept by the ACC in relation to a person or because of information given by the person.

5 Information about the person supplied to the commissioner by Interpol.

6 If the person is a recommended appointee to a position, information supplied to the commissioner by a police officer in relation to a person.

7 Information about the person kept in a database of criminal intelligence, whether the database is kept by the commissioner or is one to which the commissioner has access.

8 Information about the person that is supplied to the commissioner by the Crime and Corruption Commission.

9 Information about the person that is supplied to the commissioner by the department within which the *Corrective Services Act 2006* is administered.

10 Information about the person in the possession of the commissioner because of inquiries made by the unit of the service known as the Ethical Standards Command.

11 Information about the person supplied by the Australian Defence Force (***ADF***) about the following if the person is

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serving, or has served, as a member of ADF and is an applicant to become a police officer—

- checks made in relation to the person
- the person's conduct as a member of the ADF
- the person's medical history.

12 Information about the person supplied to the commissioner by a police force or service of another State, the Commonwealth, or another country, about the following if the person is serving, or has served, as a police officer in that jurisdiction and is an applicant to become a police officer—

- checks made in relation to the person
- the person's conduct as a police officer
- the person's medical history.

13 Information about the person supplied to the commissioner by a chief executive of a department if the person is or was a public service employee about—

- any disciplinary finding made against the person
- disciplinary action taken against the person, including a disciplinary declaration under the *Public Sector Act 2022*, section 95.

Information about staff members, applicants to become staff members, volunteers and students on work experience (but not including MRQ volunteers, SES local government employees or SES volunteers or applicants to become those persons)

1 Information in a database kept by the ACC about—

- the person's criminal history
- cautions or warnings administered or given to the person
- the person's involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person

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- any known alias of the person.

2 Information in a QPS database or other database kept by the commissioner about—

- the person's criminal history
- if the person is nominated for appointment to a position that involves significant driving duties—the person's Queensland traffic history
- warrants issued in relation to the person
- cautions or warnings administered or given to the person
- whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness
- charges laid against the person in Queensland
- whether the person is wanted for questioning
- any known alias of the person.

3 Information about the person's Queensland traffic history in a database kept by the chief executive of Queensland Transport if the person is nominated for appointment to a position that involves significant driving duties.

4 Information about the person supplied to the commissioner by a declared agency about the following if the person has lived for an extensive period outside Queensland—

- charges laid against the person that have not been decided, dismissed or withdrawn
- any known alias of the person.

5 Information about the person kept in a database of criminal intelligence, whether the database is kept by the commissioner or is one to which the commissioner has access.

6 Information about the person, if the person was employed in a unit of public administration or a local government within the last 10 years, that is supplied to the commissioner by the Crime and Corruption Commission.

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7 For former employees of the service, information in the possession of the commissioner because of inquiries made by the unit of the service known as the Ethical Standards Command.

8 Information about the person that is in the possession of the commissioner and held in the drug occurrence records kept as part of the database known as QPRIME.

9 Information about the person supplied to the commissioner by a chief executive of a department if the person is or was a public service employee about—

- any disciplinary finding made in relation to the person
- disciplinary action taken against the person, including a disciplinary declaration made under the *Public Sector Act 2022*, section 95.

Information about MRQ volunteers, SES local government employees and SES volunteers and applicants to become MRQ volunteers, SES local government employees or SES volunteers

1 Information in a database kept by the ACC about the person's criminal history

2 Information about—

- the suspension or cancellation of the person's working with children authority under the *Working with Children Check Act 2000*
- the issue of a negative notice to the person under the *Working with Children Check Act 2000*.

Persons performing, or seeking to perform, functions for the service under a contract for services

1 Information in a database kept by the ACC about—

- the person's criminal history
- any warrants in relation to the person, in Queensland or interstate, that are outstanding

- the person's involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person
- any restraining orders made against the person
- any known alias of the person.

2 Information in a QPS database or other database kept by the commissioner about—

- the person's Queensland criminal history
- the person's traffic history
- warrants issued in relation to the person
- cautions or warnings administered or given to the person
- whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness
- whether the person is wanted for questioning
- any known alias of the person.

3 Information about the person's traffic history kept by the chief executive of Queensland Transport.

External service providers

1 Information about the external service provider's criminal history.

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Schedule 2 Dictionary

section 1.4

abbreviated process notice, for part 7, see section 7.18(1).

ACC means the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Cwlth), section 7.

accredited media entity, for part 10, division 1, subdivision 3, see section 10.2CB.

alcohol test, for part 5A, see section 5A.2.

alleged offender, for part 10, division 1, subdivision 3, see section 10.2CC(1)(b).

alleged offender information, for part 10, division 1, subdivision 3, see section 10.2CB.

approved agency—

(a) for part 10, division 1A—see section 10.2G; or

(b) for part 10, division 1B—see section 10.2S.

approved form means a form approved by the commissioner for use under this Act.

approved information, for part 10, division 1A, see section 10.2G.

assistant commissioner means the executive officer holding the rank of assistant commissioner.

authorised person, for part 5A, see section 5A.2.

CCC means the Crime and Corruption Commission under the *Crime and Corruption Act 2001*.

child-related employment screening, for part 10, division 1B, see section 10.2S.

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commissioned officer means a person who holds a position in the police service as a commissioned officer.

commissioner means the commissioner of the police service.

commissioner for police service reviews means a commissioner for police service reviews under section 9.2A.

complaint, for part 7, see section 7.3.

comprehensive transfer, for part 7, division 5, see section 7.37.

condition, for part 10, division 1A, see section 10.2G.

constable means a person who holds a position in the police service as a constable.

conviction, for a provision of part 5AA or part 10, division 1B, means a finding of guilt, or the acceptance of a plea of guilty, by a court for an offence—

(a) whether or not a conviction is recorded; and

(b) whether in Queensland or elsewhere; and

(c) whether before or after the commencement of the provision.

corrupt conduct see the *Crime and Corruption Act 2001*, section 15.

criminal history, of a person—

(a) for part 5AA and schedule 1—see section 5AA.1A; or

(b) for part 10, division 1, subdivision 2—see section 10.2AA; or

(c) for part 10, division 1A—see section 10.2G; or

(d) for part 10, division 1B—see section 10.2S.

critical area, for part 5A, see section 5A.2.

critical incident, for part 5A, see section 5A.2.

dangerous drug, for part 5A, see section 5A.2.

declared agency see the *Police Powers and Responsibilities Act 2000*, schedule 6.

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deputy commissioner, for part 5A, see section 5A.2.

disability-related employment screening, for part 10, division 1B, see section 10.2S.

disciplinable conduct, for part 7, see section 7.3.

disciplinary action see section 7.3.

disciplinary charge, for part 7, division 4, see section 7.25(a).

disciplinary declaration—

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

(i) a disciplinary declaration made under—

(A) section 7A.2(2); or

(B) the *Public Sector Act 2022*, section 95; or

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

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

(b) otherwise, means a disciplinary declaration made under section 7A.2(2).

disciplinary finding means a finding that a ground for disciplinary action exists.

disciplinary history, of an officer, for part 7, see section 7.3.

disciplinary proceeding see section 7.3.

disciplinary proceeding notice, for part 7, see section 7.25.

disciplinary sanction, for part 7, see section 7.34.

end user, for part 10, division 1A, see section 10.2G.

engaged by the service see section 5AA.3.

evidence, for part 5A, see section 5A.2.

executive officer means a person who holds a position in the police service as an executive officer.

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external service provider, for part 5AA, means a person or class of persons—

(a) who is employed or engaged in an entity other than the service; and

(b) whose functions include, or may include, performing direct corporate service support for the service that allows the person access to corporate or operational information in the possession of the commissioner; and

(c) who is declared by regulation to be an external service provider for this part.

face matching services, for part 10, division 1AA, see section 10.2FA.

finally dealt with, in relation to a proceeding, see section 7.3.

fire service officer see the *Fire Services Act 1990*, schedule 2.

former officer, for part 7A and any reference to a disciplinary declaration, see section 7A.1(1)(b).

general alcohol limit, for part 5A, see section 5A.2.

ground for disciplinary action see section 7.3.

handler, of a police dog, means an officer whose duties include handling a police dog.

head, for part 10, division 1A, see section10.2G.

host agency, for an identity matching service, for part 10, division 1AA, see section 10.2FA.

identity document, for part 10, division 1AA, see section 10.2FA.

identity information, for part 10, division 1AA, see section 10.2FA.

identity matching services, for part 10, division 1AA, see section 10.2FA.

industrial authority means the industrial commission or Industrial Court.

industrial instrument means an industrial instrument under the *Industrial Relations Act 2016*.

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information, for part 10, division 1AA, see section 10.2FA.

interstate screening unit, for part 10, division 1B, see section 10.2S.

IPSP, for part 10, division 1A, see section 10.2G.

law enforcement agency, for part 10, division 1A, see section 10.2G.

law enforcement purpose, for part 10, division 1A, see section 10.2G.

local transfer, for part 7, division 5, see section 7.38.

low alcohol limit, for part 5A, see section 5A.2.

marked print means a print of a photograph, marked in a way that highlights—

(a) features or aspects of the subject of the print; or

(b) points of similarity between the subject of the print and the subject of another print.

medical examination, for part 5A, see section 5A.2.

member, for part 10, division 1A, see section10.2G.

member of the service see section 2.2.

misconduct means conduct that—

(a) is disgraceful, improper or unbecoming an officer; or

(b) shows unfitness to be or continue as an officer; or

(c) does not meet the standard of conduct the community reasonably expects of a police officer.

MRQ member see the *Marine Rescue Queensland Act 2024*, schedule 1.

MRQ volunteer see the *Marine Rescue Queensland Act 2024*, schedule 1.

new prescribed officer see section 7.42B(1).

no alcohol limit, for part 5A, see section 5A.2.

noncommissioned officer means a person who holds a position in the police service as a noncommissioned officer.

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officer—

(a) generally, means a police officer; and

(b) for part 7, see section 7.3.

operative see section 5A.2.

original prescribed officer see section 7.42A(a).

over the limit, for part 5A, see section 5A.2.

participating entity, in relation to an identity matching service, for part 10, division 1AA, see section 10.2FA.

place means any, or any part of any, land, water, building, structure, vehicle, vessel, aircraft or carriage.

police dog means a dog kept by the commissioner for helping police officers perform the duties of police officers.

Example—

a dog trained as a sniffer dog to help find illegal drugs

police horse means a horse kept by the commissioner for use by officers when performing the duties of police officers.

police officer means a person declared under section 2.2(2) to be a police officer.

police recruit means a person who holds a position in the police service as a police recruit.

policing purpose, for part 10, division 1A, see section 10.2G.

prescribed officer see section 7.3.

prescribed responsibility means the responsibility of the commissioner for the matters mentioned in section 4.8(1)(a) and (b).

print means a print of a photograph or part of a photograph, and includes a marked print and an audio recording of an interview.

professional development strategy, for part 7, see section 7.3.

proposed sanction notice, for part 7, see section 7.28(2).

proposed sanction or strategy—

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(a) for part 7, division 3, see section 7.18(1)(c); or

(b) for part 7, division 4, see section 7.28(2)(c).

protective services officer means a person appointed by the commissioner under section 5.19(1)(a).

protective services officer (in training) means a person appointed by the commissioner under section 5.19(1)(b).

public sector disciplinary law means—

(a) this Act or any repealed Act regulating police; or

(b) the *Public Sector Act 2022*; or

(c) the *Misconduct Tribunals Act 1997* or QCAT Act; or

(d) a disciplinary provision of an industrial instrument under the *Industrial Relations Act 2016*; or

(e) another Act prescribed under a regulation.

QCAT information notice, for a decision, means a notice complying with the QCAT Act, section 157(2) for the decision.

QPS database means any of the following—

(a) the database known as QPRIME;

(b) the register of enforcement acts kept under the *Police Powers and Responsibilities Act 2000*;

(c) another database kept by or on behalf of the commissioner.

Queensland Transport means the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

random alcohol test, for part 5A, see section 5A.2.

recruit means a police recruit.

relevant information, about a person, for part 5AA, means information about the person of a kind mentioned in schedule 1 for the person.

relevant person, for part 5A, see section 5A.3.

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required period, for part 7, division 3, subdivision 3, see section 7.20.

saliva analysing instrument, for part 5A, see section 5A.2.

senior officer, in relation to another officer (the ***subordinate***), means—

(a) an officer designated as the subordinate's senior officer in accordance with established administrative arrangements or policies; or

(b) if there is no officer mentioned in paragraph (a)—

(i) an officer holding a higher rank than the subordinate as prescribed by regulation; or

(ii) an officer holding the same rank as the subordinate but who has held that rank for a longer period; or

(iii) an officer holding the same rank as the subordinate for the same period but who has the longer period of continuous service as an officer.

Note—

In relation to special constables (State officer), see section 5.16A(5).

service means the police service.

service history, of an officer, see section 7.3.

SES local government employee means an SES employee under the *State Emergency Service Act 2024* who—

(a) performs an SES function as an employee of a local government; and

(b) does not also perform an SES function as an employee of the State.

SES function see the *State Emergency Service Act 2024*, schedule 1.

SES member see the *State Emergency Service Act 2024*, schedule 1.

SES volunteer—

(a) generally—see the *State Emergency Service Act 2024*, schedule 1; and

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(b) for part 5A or schedule 1—does not include a person who also performs an SES function as an employee of the State.

special constable means a person who holds a position as a special constable.

special constable (associate) means a person holding appointment as a special constable (associate) under section 5.16.

special constable (State officer) means a person holding appointment as a special constable (State officer) under section 5.16.

staff member means a person who is a staff member of the police service under section 2.5(1).

state building see the *Police Powers and Responsibilities Act 2000*, section 549.

subject officer, for part 7, see section 7.2.

targeted substance, for part 5A, see section 5A.2.

targeted substance test, for part 5A, see section 5A.2.

tenure not limited by time see section 1.5.

transfer of a police officer to a position has the meaning given by section 5.2(1).

unlawfully means without authorisation, justification or excuse by law.

use, for part 10, division 1A, see section 10.2G.

watch-house officer means a staff member who is appointed by the commissioner to be a watch-house officer.

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