

Parliament of Queensland (Reform and Modernisation) Amendment Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the Parliament of Queensland (Reform and Modernisation) Amendment Bill 2011.

Policy objectives and the reasons for them

The policy objectives of the Bill are to reform and modernise the Queensland parliamentary committee system to strengthen and support the role of the Legislative Assembly in scrutinising legislation and executive government.

In August 2009, the Government released the *Integrity and Accountability in Queensland* discussion paper to promote public discussion on improving Queensland's integrity and accountability framework.

The discussion paper consultation highlighted the importance of Parliament possessing and maintaining a high standard of scrutiny over the legislative process.

In response to this feedback, the Government committed to creating the bipartisan Parliamentary Committee System Review Committee (the Review Committee) to review the role of parliamentary committees in evaluating and examining legislative proposals.

On 25 February 2010, the Review Committee was established as a select committee by a resolution of the Parliament to conduct this inquiry. The Review Committee considered parliamentary committee systems in other Australian and international jurisdictions and timely and cost-effective ways in which the Queensland parliamentary committees could more effectively evaluate legislative proposals.

On 15 December 2010, the Review Committee tabled its report titled *Review of the Queensland Parliamentary Committee System* (the Report). The Report recommended significant changes to the parliamentary

committee system, centred around a proposal to fundamentally reform the existing system in favour of portfolio-based committees. The Report also made recommendations on the committees responsible for the operations of the Parliament, in particular, the creation of a Committee of the Legislative Assembly.

The Government responded to the Report on 9 March 2011. The Government supported the majority of the recommendations made by the Review Committee and this Bill gives legislative effect to certain aspects of the Government's response.

Achievement of policy objectives

The Bill provides for a restructure of the parliamentary committee system.

The proposed new structure is designed to create a parliamentary committee system that:

- contributes to the development of best practice policy and legislation;
- provides enhanced parliamentary oversight of the expenditure and activities of the government; and
- maintains the standards and operational requirements of Parliament, as a legislature and as a public sector organisation.

The Bill replaces a number of the existing statutory committees with a Committee of the Legislative Assembly, portfolio committees and an Ethics Committee. The existing Parliamentary Crime and Misconduct Committee is to be retained.

The Bill provides that the portfolio committees' areas of responsibility are to collectively cover all areas of government activity. These committees will be established and defined within Standing Rules and Orders.

The Bill primarily amends the *Parliament of Queensland Act 2001*. Other consequential amendments will be made to the:

- *Auditor-General Act 2009*;
- *Criminal Organisation Act 2009*;
- *Electoral Act 1992*;
- *Information Privacy Act 2009*;
- *Integrity Act 2009*;

- *Legislative Standards Act 1992*;
- *Ombudsman Act 2001*; and
- *Right to Information Act 2009*.

Alternative ways of achieving policy objectives

There is no alternative method of achieving the policy objectives as changing the statutory committees requires amendment of existing legislation.

Estimated cost for government implementation

The Bill does not directly result in additional expenditure and as a result the Bill will not initially require allocation of significant additional funds for its implementation. A significant element of the cost of the reforms will be determined by the number of portfolio committees and the manner in which they conduct their operations. These are matters that will be resolved by the Assembly when they are established in the Standing Rules and Orders.

Any additional funding for committees will be considered in light of Queensland's budgetary situation. The Government will consider the funding of the reforms in the framing of future budgets and will tailor funding to Parliament accordingly.

Consistency with fundamental legislative principles

The Bill is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*. While there are some minor provisions that will apply from 10 March 2011, the date on which the Parliament resolved to establish a Committee of the Legislative Assembly, the legislation does not adversely affect rights and liberties of, or retrospectively impose obligations on, individuals.

Consultation

The Review Committee conducted consultation in the development of the Report. This Bill implements recommendations which resulted from this consultation. Additionally the Committee of the Legislative Assembly, the Clerk of the Parliament and the Crime and Misconduct Commission have been consulted during the drafting of this Bill.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland. However, it draws on practices that exist in parliaments in other Australian and international jurisdictions.

Notes on Provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Bill.

Clause 2 provides that certain provisions relating to the establishment of the Committee of the Legislative Assembly and recognition of the “Manager of Opposition Business” commence from 10 March 2011.

The clause notes that the remainder of the provisions will commence on proclamation, apart from amendments to establish the Committee of the Legislative Assembly, amendments to the *Legislative Standards Act 1992* and other minor matters that will commence upon Assent.

Part 2 Amendment of Legislative Standards Act 1992

Clause 3 notes that this part amends the *Legislative Standards Act 1992*.

Clause 4 amends section 22 of the *Legislative Standards Act 1992* to refer to subordinate legislation rather than only to significant subordinate legislation. This provides that when subordinate legislation is tabled in the Legislative Assembly, it is to be accompanied by an Explanatory Note.

Clause 5 amends section 24 of the *Legislative Standards Act 1992* to set out the requirements for the content of explanatory notes for subordinate legislation.

Part 3 Amendment of Parliament of Queensland Act 2001

Division 1 Preliminary

Clause 6 notes that this part amends the *Parliament of Queensland Act 2001*.

Division 2 Amendments commencing on Assent

Clause 7 inserts a new Chapter 5, part 1A that establishes the Committee of the Legislative Assembly, which is to commence on assent.

The clause states that the members of the Committee are the:

- Leader of the House or alternate;
- Premier or alternate;
- Deputy Premier or alternate;
- Manager of Opposition Business or alternate;
- Leader of the Opposition or alternate;
- Deputy Leader of the Opposition or alternate; and
- Speaker, when the Committee is dealing with a matter relating to the Standing Rules and Orders.

The clause states that an “alternate” is another Member of the Queensland Parliament nominated by the first Member to perform the first Member’s role as a member of the Committee.

The clause provides that the Leader of the House is the chairperson of the Committee of the Legislative Assembly.

The clause outlines the requirements of a quorum and voting proceedings of meetings, including that:

- four members, other than the Speaker, must be present to form a quorum;

- a question before the committee is decided by a majority of members present and voting; and
- that each member has one vote. In addition, the chairperson can exercise a casting vote if the vote is tied.

The clause inserts a new section 79E that outlines the Committee of the Legislative Assembly's areas of responsibility, which are:

- the ethical conduct of Members, except for matters that are considered by the Integrity, Ethics and Parliamentary Privileges Committee;
- parliamentary powers, rights and immunities;
- Standing Rules and Orders about the conduct of business of the Parliament and its committees; and
- any other matters given to it under the Standing Rules and Orders.

The clause inserts a new section 79F that details the Committee of the Legislative Assembly's responsibilities in regard to the registration of Members' interests. This new section relocates existing provisions of the *Parliament of Queensland Act 2001*.

The clause inserts a new section 79G that sets out the Committee of the Legislative Assembly's responsibilities with regard to publishing and reviewing a code of ethical standards for Members and the reform of legislation and Standing Rules and Orders about the ethical conduct of Members. This new section relocates existing provisions of the *Parliament of Queensland Act 2001*.

The clause inserts a new section 79H that provides that the Committee of the Legislative Assembly's responsibilities also include the powers, rights and immunities of the Assembly and its committees and Members. This new section relocates existing provisions of the *Parliament of Queensland Act 2001*.

Clause 8 amends section 80 of the *Parliament of Queensland Act 2001* to remove reference to the Standing Orders Committee as this committee will no longer exist.

Clause 9 amends section 83 of the *Parliament of Queensland Act 2001* dealing with the role of parliamentary committees, to note that the areas of responsibility of the Committee of the Legislative Assembly are set out in Part 1A, division 2 of the Act.

Clause 10 removes the responsibility for parliamentary powers, rights and immunities from the Integrity, Ethics and Parliamentary Privileges Committee as this responsibility is being moved to the Committee of the Legislative Assembly.

Clause 11 removes the responsibility for ethical conduct-registration of interests from the Integrity, Ethics and Parliamentary Privileges Committee as this responsibility has transferred to the Committee of the Legislative Assembly.

Clause 12 provides that the responsibility for the consideration of complaints about the failure to comply with the code of ethical conduct remains with the Integrity, Ethics and Parliamentary Privileges Committee. This is an interim measure until this responsibility transfers to the Ethics Committee, as outlined in clause 41 when that section of Act is proclaimed into force.

Clause 13 omits section 93 of the *Parliament of Queensland Act 2001* as the responsibility for parliamentary powers, rights and immunities is now to rest with the Committee of the Legislative Assembly rather than the Integrity, Ethics and Parliamentary Privileges Committee.

Clause 14 omits Chapter 5, part 4, division 5 from the *Parliament of Queensland Act 2001* as the Standing Orders Committee will no longer exist.

Clause 15 amends section 107 of the *Parliament of Queensland Act 2001* to provide that the provisions for ministerial responses to committee reports apply to the Committee of the Legislative Assembly.

Clause 16 amends section 112 of the *Parliament of Queensland Act 2001* to remove reference to the Standing Orders Committee as it will no longer exist.

Clause 17 amends the schedule (Dictionary) to provide for a new definition of statutory committee.

Division 3 Other amendments

Clause 18 notes that the long title of the *Parliament of Queensland Act 2001* will be amended to reflect the establishment of particular committees.

Clause 19 removes a reference to the Public Accounts and Public Works Committee in the example in section 9 of the *Parliament of Queensland Act 2001* and replaces it with a reference to a portfolio committee.

Clause 20 amends section 11(2) to include a provision that Standing Rules and Orders may provide for the referral of Bills, subordinate legislation or other matters to portfolio committees for consideration and report. The clause also renumbers other sections accordingly.

The clause also inserts a note referencing that Section 88 provides for the establishment of portfolio committees under the Standing Rules and Orders.

Clause 21 amends section 65(5) to provide that the copy of a waiver, which allows a Member to waive a reward, is to be provided to the Registrar of Members' Interests rather than the Speaker. This amendment implements the Government's response to recommendation 7 of Report 109 of the Integrity, Ethics and Parliamentary Privileges Committee titled *Mid-Term Review: Registration of Interests*, which was tabled on 2 September 2010.

The Registrar of Members' Interests (the Clerk of the Parliament) raised with the Integrity, Ethics and Parliamentary Privileges Committee an administrative issue in that section 65 of the *Parliament of Queensland Act 2001* provides for the Speaker to maintain a register of any written waivers by Members to any entitlements to rewards for holding a public appointment. The Registrar proposed that to reduce duplication, such waivers should be kept with the Register of Interests. The Integrity, Ethics and Parliamentary Privileges Committee agreed that it made good administrative sense and recommended the Premier consider presenting to the House amendments to section 65 to achieve that aim at the next appropriate juncture.

Clause 22 amends section 69C, which sets out the Registrar's obligations with regard to maintaining the Register of Members' Interests and the Register of Related Persons' Interests. This clause inserts an additional requirement that a copy of the waiver of a reward is included in the Register of Members' Interests.

Clause 23 amends section 78(2) to reflect the reformed parliamentary committee structure. The clause provides that this reformed structure is achieved by:

- establishing a Committee of the Legislative Assembly to be responsible for the conduct of the Assembly and the ethical conduct of Members;
- providing for the establishment of portfolio committees to cover all areas of government activity; and
- establishing the Ethics Committee to consider complaints about the ethical conduct of Members and breaches of parliamentary privilege.

Clause 24 amends section 79 to remove the definition of “proposed national scheme legislation” as the term is no longer used. The clause also makes minor consequential amendments to section numbers.

Clause 25 amends section 79E of the *Parliament of Queensland Act 2001* to clarify that a complaint about a particular member not complying with the code of ethical conduct for Members may be considered only by the Assembly or the Ethics Committee.

Clause 26 omits Chapter 5, part 2 which establishes and defines the membership of the existing statutory committees which are to no longer exist.

Clause 27 is a consequential amendment which renumbers Chapter 5, part 1A to Chapter 5, part 2.

Clause 28 is a consequential amendment which renumbers sections 79A to 79H to sections 80 to 87. This renumbers provisions regarding the Committee of the Legislative Assembly once the portfolio committee provisions commence on proclamation.

Clause 29 omits Chapter 5, part 3 which defines the roles of the existing statutory committees including the:

- Law, Justice and Safety Committee;
- Integrity, Ethics and Parliamentary Privileges Committee;
- Public Accounts and Public Works Committee;
- Scrutiny of Legislation Committee; and
- Standing Orders Committee.

The clause inserts a new Chapter 5, part 3 to provide for the establishment and operation of the portfolio committees to ensure that the Legislative Assembly must, by Standing Rules and Orders:

- establish portfolio committees;

- ensure each of the portfolio committees has a name, a primary area of responsibility and an even number of members but no fewer than six;
- ensure that all government departments or parts of departments are covered by a portfolio committee;
- ensure the Standing Rules and Orders are adjusted as soon as practicable after the Administrative Arrangements Order is changed to reflect any alterations to the portfolio committees' responsibilities; and
- allow portfolio committees to be able to cover statutory authorities and other government entities within their portfolio responsibilities.

The clause inserts a provision for the Leader of the House to nominate half the members and the Leader of the Opposition to nominate the remaining half.

The clause further states that the chairperson of each portfolio committee is to be a member of the committee nominated as chairperson by the Leader of the House.

The clause states that for a meeting of a portfolio committee:

- a quorum is half the number of members plus one;
- a question before the portfolio committee is decided by a majority of members present and voting; and
- that each member has one vote. In addition, the chairperson can exercise a casting vote if the vote is tied.

The clause outlines the general role of portfolio committees. It provides that portfolio committees may consider matters within their portfolio areas such as:

- Appropriation Bills;
- other proposed legislation; and
- public accounts and public works.

Portfolio committees must also deal with any other matter referred to the relevant committee by the Assembly or under another Act, whether or not the issue falls within its portfolio area.

The clause provides that portfolio committees may deal with a matter by:

- considering the matter; and

- reporting and making recommendations regarding the matter to the Assembly.

The clause ensures that portfolio committees have responsibility for examining the policy to be given effect by legislation. The clause also provides portfolio committees with the current responsibilities that rest with the Scrutiny of Legislation Committee.

Clause 30 removes the divisions which relate to the Law, Justice and Safety Committee and the Integrity, Ethics and Parliamentary Privileges Committee as these committees are to be abolished under the reformed committee system.

The heading for the Public Accounts and Public Works Committee is also removed as these powers and responsibilities are to be vested with portfolio committees.

Clause 31 amends section 95 of the *Parliament of Queensland Act 2001* to provide that the responsibilities of the Public Accounts and Public Works Committee will be undertaken by the portfolio committees with respect to the portfolios allocated under Standing Orders to each committee.

Clause 32 amends section 96 to provide that reference of issues to the Auditor-General relating to the work of the Public Accounts and Public Works Committee will be undertaken by the portfolio committees.

Clause 33 amends section 97 to clarify that the committee referred to in this section is a portfolio committee.

Clause 34 amends section 98 to omit a reference to the abolished Public Accounts and Public Works Committee and insert a reference to a portfolio committee.

Clause 35 amends section 99 to provide portfolio committees with the existing powers of the Public Accounts and Public Works Committee with respect to authorising the entry and inspection of places where works are proposed or being carried out.

The Bill reflects the Scrutiny of Legislation Committee's comments in Legislation Alert 01/11 Neighbourhood Disputes Resolution Bill 2010. Accordingly, the clause also contains safeguards to protect fundamental legislative principles in relation to restricting powers of entry. The clause ensures that if an authorised person enters a place in the occupier's absence, the owner or occupier must be supplied with details relating to the entry. It also excludes the application of these provisions to residential premises.

Clause 36 amends section 100 to provide portfolio committees with the existing powers provided to the Public Accounts and Public Works Committee under this section.

Clause 37 amends section 101 to provide portfolio committees with the existing obligations regarding dealing with commercially sensitive information that are currently imposed upon the Public Accounts and Public Works Committee under this section.

Clause 38 amends section 102 to provide portfolio committees with the existing obligations regarding reporting to the Assembly commercially sensitive information that are currently imposed on the Public Accounts and Public Works Committee under this section.

Clause 39 renumbers sections 95 to 102 to sections 94 to 101 as required.

Clause 40 removes Chapter 5, part 4, division 4 which relates to the Scrutiny of Legislation Committee as this committee will no longer exist under the reformed committee system.

Clause 41 inserts a new Chapter 5, part 4 that establishes an Ethics Committee.

The clause inserts a provision that the Ethics Committee will comprise of six members and for the Leader of the House to nominate three of the members and the Leader of the Opposition to nominate the remaining three members.

The clause further states that the chairperson of the committee is to be a member of the committee nominated as chairperson by the Leader of the House.

The clause further states that:

- four members must be present to form a quorum;
- a question before the committee is decided by a majority of members present and voting; and
- that each member has one vote. In addition, the chairperson can exercise a casting vote if the vote is tied.

The clause states that the Ethics Committee is responsible for:

- dealing with complaints about the ethical conduct of particular Members; and

- dealing with breaches of parliamentary privilege by Members of the Assembly and other persons.

The clause also outlines the Ethics Committee's responsibilities in dealing with complaints about the ethical conduct of particular members.

Clause 42 makes minor amendments to section 107 which relates to ministerial responses to committee reports by removing redundant references to the abolished Scrutiny of Legislation Committee and Members' Ethics and Parliamentary Privileges Committee and makes the necessary insertion of reference to the Ethics Committee.

Clause 43 inserts the office of Manager of Opposition Business as an office entitled to an additional salary. The clause clarifies that an alternate performing the role of a member of the Committee of the Legislative Assembly is entitled to an additional salary as a member of a committee. The clause also makes a minor drafting amendment to standardise the title of the office of Deputy Premier.

Clause 44 inserts a new Chapter 10, part 5, which provides for the transitional provisions in the Bill.

The clause defines the terms "commencement" and "repealed" for the purposes of Part 5.

The clause also allows for the Committee of the Legislative Assembly, which was established by a resolution of the Assembly on 10 March 2011, to continue.

The clause also allows for the Integrity, Ethics and Parliamentary Privileges Committee to continue until the Ethics Committee is appointed.

The clause further states that the Scrutiny of Legislation Committee will continue until 30 June 2011 with its functions as they relate to the consideration of fundamental legislative principles and its current inquiries.

The clause further allows that existing committees may give the Clerk of the Parliament material and documents relating to the committee work and the Clerk may make that material available to the relevant new committee.

This clause also allows for Manager of Opposition Business to receive an additional salary which will be fixed by the Governor in Council by gazette notice, and provides that the gazette notice has retrospective operation from commencement of the Committee of the Legislative Assembly on 10 March 2011. Further, any future salary variations will occur through the legislative mechanism as set out in section 115.

The clause further states that the amount of an additional salary payable to committee chairpersons must be published in the gazette. Further, any future salary variations will occur through the legislative mechanism as set out in section 115.

The clause also provides for transitional provisions regarding waivers of Members' interests.

Clause 45 inserts a number of definitions into the Schedule.

Part 4 Consequential and associated amendments of other Acts

Division 1 Amendment of Auditor-General Act 2009

Clause 46 notes that this division amends the *Auditor-General Act 2009*.

Clause 47 updates a reference to parliamentary committees to take account of the legislative changes.

Clause 48 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 2 Amendment of Criminal Organisation Act 2009

Clause 49 notes that this division amends the *Criminal Organisation Act 2009*.

Clauses 50 and *51* replace references to the Law, Justice and Safety Committee with the term "parliamentary committee".

Clause 52 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 3 Amendment of Electoral Act 1992

Clause 53 notes that this division amends the *Electoral Act 1992*.

Clause 54 inserts a number of definitions in section 3, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 4 Amendment of Information Privacy Act 2009

Clause 55 notes that this division amends the *Information Privacy Act 2009*.

Clause 56 omits the section 195 note on the functions of the parliamentary committee as this relates to the Law, Justice and Safety Committee which is to be abolished.

Clause 57 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 5 Amendment of Integrity Act 2009

Clause 58 notes that this division amends the *Integrity Act 2009*.

Clause 59 updates a reference to parliamentary committees to take account of the legislative changes.

Clause 60 inserts a note that the parliamentary committee may have other functions under other legislation.

Clause 61 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 6 Amendment of Ombudsman Act 2001

Clause 62 notes that this division amends the *Ombudsman Act 2001*.

Clause 63 updates a reference to a section as a result of these legislative amendments.

Clause 64 omits a note referring to the Law, Justice and Safety Committee which is to be abolished.

Clause 65 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.

Division 7 Amendment of Right to Information Act 2009

Clause 66 notes that this division amends the *Right to Information Act 2009*.

Clause 67 updates a reference to a section as a result of these legislative amendments.

Clause 68 removes a note containing a reference to functions of the Law, Justice and Safety Committee which is to be abolished.

Clause 69 inserts a number of definitions into the Schedule, which have the effect of replacing the reference to the existing statutory committee with a committee as determined by the Legislative Assembly.