



Inspector of Detention Services Bill 2021



Queensland

Inspector of Detention Services Bill 2021

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2021

A Bill

for

An Act to provide for an inspector of detention services, and to amend this Act, the *Corrective Services Act 2006*, the *Crime and Corruption Act 2001*, the *Hospital and Health Boards Act 2011*, the *Mental Health Act 2016*, the *Ombudsman Act 2001*, the *Parliament of Queensland Act 2001* and the *Youth Justice Act 1992* for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
1 Short title	3
This Act may be cited as the <i>Inspector of Detention Services Act 2021</i> .	4 5
2 Commencement	6
This Act commences on a day to be fixed by proclamation.	7
3 Main purpose	8
(1) The main purpose of this Act is to promote the improvement of detention services and places of detention with a focus on—	9 10 11
(a) promoting and upholding the humane treatment of detainees, including humane conditions of their detention; and	12 13 14
(b) preventing detainees from being subjected to harm, including torture and cruel, inhuman or degrading treatment.	15 16 17
(2) The main purpose is to be achieved by providing a framework for—	18 19
(a) the review of detention services and inspection of places of detention; and	20 21
(b) independent and transparent reporting.	22
4 Definitions	23
The dictionary in schedule 1 defines particular words used in this Act.	24 25

5	Meaning of <i>detention service</i>	1
(1)	Each of the following is a <i>detention service</i> —	2
(a)	the operation, management, direction, control or security of a place of detention;	3 4
(b)	the security, management, control, safety, care or wellbeing (including health care and education) of a detainee at a place of detention;	5 6 7
(c)	the transport of a detainee while in the custody of a relevant custodial entity—	8 9
(i)	from any place of detention; or	10
(ii)	to a place of detention other than a watch-house; or	11
(iii)	to a watch-house from a court in which the detainee has appeared or another watch-house or place of detention.	12 13 14
(2)	However, a <i>detention service</i> does not include the transport of a person by an authorised person under the <i>Mental Health Act 2016</i> , section 359 between a place of detention and an authorised mental health service or public sector health service facility for the purposes of that Act.	15 16 17 18 19
(3)	In this section—	20
	<i>authorised mental health service</i> see the <i>Mental Health Act 2016</i> , schedule 3.	21 22
	<i>public sector health service facility</i> see the <i>Mental Health Act 2016</i> , schedule 3.	23 24
6	Meaning of <i>place of detention</i>	25
	Each of the following is a <i>place of detention</i> —	26
(a)	a community corrections centre;	27
(b)	a prison;	28
(c)	a watch-house;	29
(d)	a work camp;	30

[s 7]

- (e) a youth detention centre. 1

Part 2 Inspector of detention services 2

Division 1 Establishment 3

7 Inspector of detention services 4

- (1) There is to be an inspector of detention services. 5
(2) The inspector is an officer of the Parliament. 6

Division 2 Functions 7

8 Functions 8

- (1) The functions of the inspector are— 9
- (a) to review or monitor a detention service at any time; and 10
 - (b) to inspect a place of detention at any time; and 11
 - (c) without limiting paragraph (b)— 12
 - (i) to inspect each youth detention centre at least once 13
every year; and 14
 - (ii) to inspect each prison that is a secure facility at 15
least once every 5 years; and 16
 - (iii) to inspect all or a part of a particular place of 17
detention prescribed by regulation at least once 18
every 5 years; and 19
 - (d) to prepare and publish standards in relation to carrying 20
out inspections; and 21
 - (e) to report to the Legislative Assembly on— 22
 - (i) each review carried out by the inspector; and 23

-
- (ii) each inspection carried out by the inspector under paragraph (c); and 1
2
- (iii) other inspections carried out by the inspector, as the inspector considers appropriate; and 3
4
- (f) to report to the Legislative Assembly on any matter relating to the functions of the inspector if, in the inspector's opinion, it is in the interest of any person or in the public interest to do so; and 5
6
7
8
- (g) to include in any report to the Legislative Assembly advice or recommendations the inspector considers appropriate about a detention service or place of detention; and 9
10
11
12
- (h) any other functions conferred on the inspector under this Act or any other Act. 13
14
- (2) In carrying out a review or inspection mentioned in subsection (1)(a), (b) or (c), the inspector must have regard to the cultural background or vulnerability of detainees to whom the review or inspection is relevant. 15
16
17
18
- (3) The inspector may perform any function on the inspector's own initiative. 19
20
- (4) The inspector may, but is not required to, perform a function mentioned in subsection (1)(a), (b), (d), (e)(iii), (f), (g) or (h) at the request of— 21
22
23
- (a) the Minister; or 24
- (b) a responsible Minister in relation to a relevant matter of interest for the Minister. 25
26
- (5) In this section— 27
- secure facility* see the *Corrective Services Act 2006*, schedule 4. 28
29
- 9 Arranging for suitable person to help carry out review or inspection** 30
31
- (1) This section applies if— 32
-

[s 9]

- (a) the inspector is carrying out a review of a detention service or an inspection of a place of detention; and
- (b) the review or inspection is relevant to a detainee.
- (2) The inspector must, if appropriate and practicable, arrange for a person, whom the inspector considers is a suitable person, to help the inspector carry out the review or inspection.
- (3) Without limiting subsection (2), in considering who is a suitable person for the subsection, the inspector may have regard to—
- (a) the cultural background or vulnerability of the detainee; or
- (b) any views or wishes expressed by the detainee about who may be a suitable person to help the inspector carry out the review or inspection.
- Examples of arranging for suitable persons for subsections (2) and (3)—*
- 1 For a review relating to a detainee with a disability, it may be appropriate for the inspector to consult with a parent, legal guardian or close friend of the detainee or a representative from an advocacy services agency whom the inspector considers can help the detainee communicate the detainee’s views or wishes relevant to the review.
- 2 For an inspection involving interviewing a detainee who is unable to speak with reasonable fluency in English, it may be appropriate for the inspector to engage an interpreter who can communicate with the detainee to translate during the interview.
- (4) Subsection (5) applies if the review or inspection relates to a detainee who identifies as an Aboriginal person or Torres Strait Islander.
- (5) Without limiting subsection (2), the inspector must arrange for an appropriate representative for the detainee to help the inspector carry out the review or inspection.
- (6) Subsection (7) applies if the review or inspection relates to the detention of a child.
- (7) Without limiting subsection (2), the inspector must arrange for a person whom the inspector considers has appropriate expertise in the areas of child trauma and the prevention and

identification of child sexual abuse to help the inspector carry out the review or inspection. 1
2

(8) In this section— 3

appropriate representative, for a detainee who identifies as an Aboriginal person or Torres Strait Islander, means a person who— 4
5
6

(a) identifies as an Aboriginal person or Torres Strait Islander; and 7
8

(b) has appropriate authority to speak about Aboriginal tradition or Island custom in relation to the detainee. 9
10

arrange, for a person to help carry out a review or inspection, includes— 11
12

(a) engage the person to help carry out the review or inspection; and 13
14

(b) consult with the person about a matter relevant to the review or inspection. 15
16

trauma includes— 17

(a) trauma related to— 18

(i) sexual abuse or suspected sexual abuse; or 19

(ii) violent crime; or 20

(iii) domestic violence; or 21

(iv) neglect; and 22

(b) suspected trauma. 23

10 Inspector not subject to direction 24

Subject to any other Act or law, the inspector is not subject to direction by any person about the way the inspector performs the inspector's functions under this Act. 25
26
27

[s 11]

Division 3	Powers	1
11	General and other powers	2
(1)	The inspector has the power to do all things that are necessary or convenient to be done for or in connection with the performance of the inspector’s functions under this Act.	3 4 5
(2)	Without limiting subsection (1), the inspector has the other powers given to the inspector under this Act or another Act.	6 7
12	Requiring information or attendance of person for review or inspection	8 9
(1)	This section applies if the inspector—	10
(a)	is carrying out a review of a detention service or has carried out, or proposes to carry out, an inspection of a place of detention; and	11 12 13
(b)	believes a person can give information relevant to the review or inspection.	14 15
(2)	The inspector may, by notice given to the person, require the person to do either or both of the following—	16 17
(a)	give the inspector the information within a stated reasonable time and in a stated reasonable way;	18 19
(b)	if the person is employed or engaged to provide a detention service for a place of detention—	20 21
(i)	attend before the inspector at a stated reasonable place and time; and	22 23
(ii)	answer questions relevant to the review or inspection the inspector reasonably requires to be answered.	24 25 26
(3)	A person of whom a requirement is made under subsection (2) must comply with the requirement unless the person has a reasonable excuse.	27 28 29
	Maximum penalty—100 penalty units.	30

-
- (4) It is not a reasonable excuse for the person to fail to comply with the requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 49.

13 Requesting particular information from particular persons

- (1) This section applies if the inspector—
- (a) is carrying out a review of a detention service provided for a place of detention; or
 - (b) has carried out, or proposes to carry out, an inspection of a place of detention.
- (2) The inspector may ask the responsible officer for the place of detention to give the inspector relevant information about the detention service or place of detention.
- (3) The inspector may ask the health service chief executive of a Hospital and Health Service or the chief executive of the health department to give the inspector relevant information relating to a health service provided by or for the Service or department to a detainee at the place of detention.
- (4) The inspector may ask a person who has provided a service relating to the education of a detainee while the detainee was detained at the place of detention to give the inspector relevant information relating to the service.
- (5) Subsection (4) applies whether the service was provided at, or away from, the place of detention.
- (6) A person of whom a request is made under subsection (2), (3) or (4) must comply with the request unless the person has a reasonable excuse.
- (7) This section does not limit section 12.
- (8) In this section—

[s 14]

<i>detainee</i> includes a former detainee.	1
<i>relevant</i> , in relation to information, means information the inspector believes is relevant to the review or inspection.	2 3
14 Entering and accessing place of detention	4
(1) The inspector may, at any time, enter a place of detention to—	5
(a) carry out a review of a detention service provided for the place of detention; or	6 7
(b) carry out an inspection of the place of detention.	8
(2) The inspector need not notify the person in charge of the place of detention or any other person of the proposed entry.	9 10
(3) The inspector may require the person in charge of the place of detention or a person involved in providing a detention service for the place of detention to ensure—	11 12 13
(a) the inspector is given access to—	14
(i) all parts of the place of detention; and	15
(ii) any vehicle, equipment or other thing used at the place of detention or for providing a detention service; and	16 17 18
(b) the inspector is able to talk to any detainee at the place of detention at any time.	19 20
(4) A person of whom a requirement is made under subsection (3) must comply with the requirement unless the person has a reasonable excuse.	21 22 23
Maximum penalty—100 penalty units.	24
15 Carrying out review or inspection	25
(1) For carrying out a review of a detention service provided for a place of detention or an inspection of a place of detention, the inspector may—	26 27 28
(a) inspect or film—	29

-
- (i) any part of the place of detention; or 1
- (ii) any vehicle, equipment or other thing used for 2
providing the detention service; and 3
- (b) speak to, or privately interview— 4
- (i) a detainee; or 5
- (ii) a person involved in providing a detention service 6
for the place of detention; or 7
- Examples of types of persons for subparagraph (ii)—* 8
- a health worker providing a health service to a 9
detainee 10
 - a contractor providing an educational service to a 11
detainee 12
- (iii) for a place of detention that is a community 13
corrections centre, prison or work camp—an 14
official visitor who is assigned to visit the place of 15
detention under the *Corrective Services Act 2006*, 16
section 286; or 17
- (iv) another person at the place of detention; and 18
- (c) inspect any document relating to— 19
- (i) a detainee at the place of detention; or 20
- (ii) a person who was a detainee at the place of 21
detention; or 22
- (iii) the provision of a detention service for the place of 23
detention; and 24
- (d) inspect any document or other thing required to be kept 25
by the responsible officer for the place of detention; and 26
- (e) take an extract from, or copy, a document that may be 27
inspected under paragraph (c) or (d) and remove and 28
keep the extract or copy; and 29
- (f) produce an image or writing from an electronic 30
document that may be inspected under paragraph (c) or 31
(d); and 32

[s 16]

- (g) take to, into or onto the place of detention a person mentioned in section 9 or 38 to help the inspector carry out the review or inspection and enable the person to give the help as arranged with the inspector; and
- (h) take to, into or onto the place of detention and use any person, equipment or other thing the inspector reasonably requires for exercising the inspector's powers under this section; and
- Examples of types of equipment for paragraph (h)—*
- a camera
 - a recording device
 - a document scanner
 - an electronic device including software for helping a detainee communicate with the inspector
- (i) remain at the place of detention for the time necessary to carry out the review or inspection.
- (2) Subsection (1)(b)(ii) or (iii) does not prevent the inspector from speaking to a person mentioned in the subparagraph at a place other than the place of detention.
- (3) In this section—
- film* includes photograph, videotape and record an image in another way.
- privately interview*, a person, means to speak to the person in the absence of, and out of the hearing of, anyone else other than someone who is present with the person's consent.

16 Power to require reasonable help for review or inspection

- (1) This section applies if the inspector is carrying out a review of a detention service provided for a place of detention or an inspection of a place of detention.
- (2) The inspector may require a person involved in providing a detention service for the place of detention to give the inspector reasonable help to exercise a power for carrying out

the review or inspection, including, for example, to give
information. 1
2

- (3) A person of whom a requirement is made under subsection (2)
must comply with the requirement unless the person has a
reasonable excuse. 3
4
5

Maximum penalty—100 penalty units. 6

- (4) For a requirement to give information, it is not a reasonable
excuse for the person to fail to comply with the requirement
on the basis that complying with the requirement might tend
to incriminate the person or expose the person to a penalty. 7
8
9
10

Note— 11

See, however, section 49. 12

17 Referral of particular matters to responsible Minister 13

- (1) This section applies if the inspector suspects on reasonable
grounds— 14
15

(a) there is, or has been, a serious risk to the security,
management, control, safety, care or wellbeing of a
detainee at a place of detention (a *relevant matter*); or 16
17
18

(b) a detainee is being, or has been, subjected to torture or
cruel, inhuman or degrading treatment at a place of
detention (also a *relevant matter*). 19
20
21

- (2) The inspector must give the responsible officer for the place
of detention a notice stating— 22
23

(a) that the inspector proposes to refer the relevant matter to
a stated responsible Minister (the *relevant responsible
Minister*); and 24
25
26

(b) details of the facts and circumstances of the relevant
matter; and 27
28

(c) that the responsible officer must, within a stated period
of at least 3 days (the *show cause period*), show why the
inspector should not refer the relevant matter to the
relevant responsible Minister. 29
30
31
32

[s 18]

- (3) The responsible officer for the place of detention must, within the show cause period, make oral or written submissions or provide evidence about the relevant matter. 1
2
3
- (4) The inspector must consider any submissions made or evidence provided under subsection (3). 4
5
- (5) After the show cause period has finished, the inspector may— 6
- (a) decide to take no further action about the proposed referral; or 7
8
- (b) if the inspector still has a reasonable suspicion about the relevant matter—refer the relevant matter to the relevant responsible Minister. 9
10
11
- (6) The inspector must give the responsible officer for the place of detention notice of the decision under subsection (5). 12
13
- (7) If the inspector refers the relevant matter to the relevant responsible Minister under subsection (5)(b), the inspector must give advice or make recommendations to the relevant responsible Minister, as the inspector considers appropriate, about the relevant matter. 14
15
16
17
18
- (8) In this section— 19
detainee includes a former detainee. 20

Division 4 Relationship with other entities 21

18 Relationship with service providers 22

- (1) The inspector may enter into an arrangement with a service provider about the performance of a function of the inspector in relation to a detention service or another service provided by or for the service provider. 23
24
25
26
- (2) In this section— 27
service provider means— 28
- (a) the chief executive (corrective services); or 29
- (b) the commissioner of the police service; or 30

(c)	the chief executive of the department in which the <i>Youth Justice Act 1992</i> is administered; or	1 2
(d)	the person in charge of another entity responsible for providing a service to a detainee.	3 4
	<i>Examples of a person for paragraph (d)—</i>	5
	• the health service chief executive of a Hospital and Health Service	6 7
	• the chief executive of the health department	8
	• the chief executive of the department in which the <i>Education (General Provisions) Act 2006</i> is administered	9 10
19	Relationship to functions under other particular laws	11
(1)	The inspector must ensure the inspector’s functions are performed in a way that does not delay, interfere with or duplicate—	12 13 14
(a)	an inspector under the <i>Corrective Services Act 2006</i> performing a function under section 294(2) of that Act; or	15 16 17
(b)	a police officer investigating a criminal offence; or	18
(c)	a person performing a function under any of the following Acts—	19 20
	(i) the <i>Auditor-General Act 2009</i> ;	21
	(ii) the <i>Coroners Act 2003</i> ;	22
	(iii) the <i>Crime and Corruption Act 2001</i> ;	23
	(iv) the <i>Family and Child Commission Act 2014</i> ;	24
	(v) the <i>Guardianship and Administration Act 2000</i> ;	25
	(vi) the <i>Health Ombudsman Act 2013</i> ;	26
	(vii) the <i>Hospital and Health Boards Act 2011</i> ;	27
	(viii) the <i>Human Rights Act 2019</i> ;	28
	(ix) the <i>Mental Health Act 2016</i> ;	29
	(x) the <i>Ombudsman Act 2001</i> ;	30

[s 20]

- (xi) the *Public Guardian Act 2014*. 1
- (2) The inspector may enter into an arrangement with a person 2
mentioned in subsection (1)(a), (b) or (c) to help avoid delay 3
and unnecessary duplication of statutory functions of the 4
parties to the arrangement. 5
- 20 Referral of matter to referral entity 6**
- (1) The inspector may enter into an arrangement with a referral 7
entity relating to— 8
- (a) matters the subject of an action under the entity’s 9
authorising Act about which the entity will notify the 10
inspector; and 11
- (b) matters about which the inspector will notify the entity 12
that could be made the subject of an action under the 13
entity’s authorising Act; and 14
- (c) the handling of a review, inspection or other matter by 15
the inspector that could be dealt with by the entity under 16
the entity’s authorising Act. 17
- (2) Subject to subsection (5), the inspector and the referral 18
entity may perform their functions in accordance with an 19
arrangement entered into under subsection (1). 20
- (3) Subsection (4) applies if the inspector considers a matter can 21
be more appropriately dealt with by a referral entity other than 22
the inspector. 23
- (4) The inspector may decide not to perform a function in relation 24
to the matter and refer the matter to the referral entity. 25
- (5) If the inspector considers the matter may be dealt with by the 26
referral entity as a complaint under the referral entity’s 27
authorising Act, the inspector may refer the matter under 28
subsection (4) only with the consent of the person who would 29
be the complainant if the referral entity dealt with the matter. 30
- (6) Nothing in this section requires a referral entity to deal with a 31
matter referred under subsection (4). 32
- (7) In this section— 33

-
- action** includes a complaint, inquiry and investigation. 1
- authorising Act**, of a referral entity, means the Act in relation 2
to which the referral entity is mentioned in the definition 3
referral entity, paragraphs (a) to (d). 4
- referral entity** means— 5
- (a) the health ombudsman under the *Health Ombudsman 6
Act 2013*; or 7
 - (b) the human rights commissioner acting under the *Human 8
Rights Act 2019*; or 9
 - (c) the ombudsman under the *Ombudsman Act 2001*; or 10
 - (d) the public guardian under the *Public Guardian Act 11
2014*. 12

Part 3 Reporting 13

Division 1 Annual reporting 14

21 Reporting annually on operations 15

- (1) As soon as practicable after the end of each financial year, but 16
no later than 31 October, the inspector must give the Speaker 17
and the Minister a report about the inspector’s operations 18
during the preceding financial year (the **reporting period**). 19
- (2) The report must include— 20
 - (a) a description of the functions performed by the 21
inspector during the reporting period; and 22
 - (b) any recommendations for changes in the law of the State 23
the inspector considers should be made, or for 24
administrative action the inspector considers should be 25
taken, as a result of the performance of the inspector’s 26
functions; and 27
 - (c) for each recommendation made by the inspector 28
whether during the reporting period or previously—an 29

[s 22]

- evaluation of any action taken in response to the recommendation during the reporting period; and 1
2
- (d) for a ministerial request made during the reporting period or made previously but not finally dealt with by the inspector— 3
4
5
- (i) a description of the request; and 6
- (ii) a description of any action the inspector has taken in response to the request during the reporting period; and 7
8
9
- (iii) if the inspector has decided not to take any action or further action in response to the request—a statement of the reasons for the decision; and 10
11
12
- (e) a description of any referral of a relevant matter to a responsible Minister under section 17(5)(b) made during the reporting period. 13
14
15
- (3) The Speaker must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report. 16
17
- (4) In this section— 18
- ministerial request* means a request made by a Minister under section 8(4) for the inspector to perform a function. 19
20

Division 2 Other reports to Parliament 21

22 Preparing reports for Speaker 22

- (1) The inspector must prepare the following reports for the Speaker— 23
24
- (a) a report about each review of a detention service that is carried out; 25
26
- (b) a report about each mandatory inspection of a place of detention that is carried out. 27
28
- (2) The inspector may prepare a report for the Speaker about— 29

-
- (a) an inspection, other than a mandatory inspection, that is carried out; or
- (b) the performance of another function as the inspector considers appropriate.
- (3) A report prepared under subsection (1) or (2)—
- (a) may address—
- (i) a review of 1 or more detention services relating to 1 or more places of detention; and
- (ii) a review of a matter relating to 1 or more detention services or places of detention; and
- (b) must include any recommendations of the inspector relating to—
- (i) taking action to promote the improvement of detention services and places of detention; or
- (ii) changing a law of the State, or administrative actions relevant to detention services or places of detention; or
- (iii) changing infrastructure at particular places of detention.
- (4) In this section—
- mandatory inspection* means an inspection mentioned in section 8(1)(c)(i), (ii) or (iii).

23 Public interest considerations

- (1) For preparing a report under section 22(1) or (2), the inspector must consider whether any information in the report must be kept confidential because—
- (a) there are public interest considerations against disclosing the information; and
- (b) those considerations outweigh the public interest in favour of disclosing the information.

[s 23]

- (2) There is a public interest against disclosing the information if disclosing it could reasonably be expected to have any of the following effects—
- (a) undermining security or good order at a place of detention;
 - (b) helping anyone in escaping or attempting to escape from detention;
 - (c) prejudicing national security;
 - (d) revealing or tending to reveal the identity of a person disclosing information to the inspector or undermining the future supply of information to the inspector;
 - (e) identifying or allowing the identification of—
 - (i) any person who is, or was, detained at a place of detention; or
 - (ii) a relative of a person mentioned in subparagraph (i);
 - (f) undermining any system or procedure for protecting the life, health or safety of a detainee at a place of detention;
 - (g) identifying or allowing the identification of a corrective services officer, police officer (including a watch-house manager), watch-house officer, youth justice staff member or another person who is, or was, working at a place of detention;
 - (h) undermining any system or procedure for protecting the life, health or safety of a person mentioned in paragraph (g) who is working at a place of detention.
- (3) The following matters must not be taken into account in deciding whether there is a public interest against disclosing the information—
- (a) causing embarrassment to, or a loss of confidence in, the Government;
 - (b) the possibility that the information may be misunderstood or misinterpreted by a person.

-
- (4) In this section— 1
- corrective services officer* see the *Corrective Services Act 2006*, schedule 4. 2
3
- national security* means national security within the meaning 4
of the *National Security Information (Criminal and Civil 5
Proceedings) Act 2004* (Cwlth). 6
- youth justice staff member* see the *Youth Justice Act 1992*, 7
section 59B. 8
- 24 Draft report to notifiable entities 9**
- (1) This section applies if the inspector prepares a report under 10
section 22(1) or (2). 11
- (2) At least 6 weeks before giving the report to the Speaker under 12
section 25, the inspector must give each notifiable entity for 13
the report— 14
- (a) a copy of the draft report; and 15
- (b) a notice stating— 16
- (i) that the person may make submissions under 17
subsection (4); and 18
- (ii) a reasonable period (the *submission period*) in 19
which the person must make any submissions to 20
the inspector under subsection (4). 21
- (3) The inspector may also give a copy of the draft report to 22
another person the inspector considers has an interest in the 23
subject matter of the report. 24
- (4) A notifiable entity given a copy of the draft report under 25
subsection (2) may make written submissions to the inspector 26
in response to the report in the submission period. 27
- (5) If a notifiable entity makes submissions under subsection (4), 28
the inspector must— 29
- (a) consider the submissions; and 30
- (b) reproduce the submissions, or include a statement 31
reflecting the submissions, in the final report. 32

[s 25]

- (6) The inspector may, if the inspector considers it appropriate, amend the report in response to a submission made under subsection (4). 1
2
3
- (7) In this section— 4
notifiable entity, for a report prepared under section 22(1) or 5
(2), means each of the following— 6
- (a) the Minister; 7
- (b) for a report relating to a relevant matter of interest for a responsible Minister—the responsible Minister; 8
9
- (c) for a report relating to a matter relevant to a place of detention that is a community corrections centre, prison or work camp, or a detention service provided for the place of detention—the chief executive (corrective services); 10
11
12
13
14
- (d) for a report relating to a matter relevant to a watch-house or a detention service provided for a watch-house—the commissioner of the police service; 15
16
17
- (e) for a report relating to a matter relevant to a youth detention centre or a detention service provided for a youth detention centre—the chief executive of the department in which the *Youth Justice Act 1992* is administered; 18
19
20
21
22
- (f) for a report disclosing information or setting out an opinion that is expressly or impliedly critical of another person or public sector entity—that person or entity. 23
24
25
- 25 Giving final report to Speaker 26**
- The inspector must— 27
- (a) give a report prepared under section 22(1) or (2) to the Speaker; and 28
29
- (b) give a copy of the report to each notifiable entity for the report. 30
31

26	Tabling of report	1
(1)	The Speaker must table a report given under section 25 in the Legislative Assembly on the next sitting day after the Speaker receives the report.	2 3 4
(2)	If the Speaker receives the report when the Legislative Assembly is not sitting, the Speaker must deliver the report to the Clerk of the Parliament.	5 6 7
(3)	The Clerk must authorise the report to be published.	8
(4)	A report published under subsection (3) is taken, for all purposes, to have been tabled in and published by order of the Legislative Assembly and is to be granted all the immunities and privileges of a report so tabled and published.	9 10 11 12
Part 4	Disclosure of information	13
Division 1	Disclosure of information to inspector	14 15
27	Authorisation to disclose relevant information	16
(1)	A person is authorised to disclose to the inspector any information that is relevant to the inspector performing a function under this Act.	17 18 19
(2)	Without limiting subsection (1)—	20
(a)	an informed person within the meaning of the <i>Corrective Services Act 2006</i> , section 341(1), including, for example, an official visitor, may disclose confidential information within the meaning of section 341 of that Act to the inspector; and	21 22 23 24 25
(b)	a person mentioned in the <i>Police Service Administration Act 1990</i> , section 10.1 may disclose information mentioned in that section to the inspector; and	26 27 28

[s 28]

- (c) a person mentioned in the *Youth Justice Act 1992*, section 287 may disclose confidential information within the meaning of part 9 of that Act to the inspector; and
- (d) a person mentioned in the *Public Guardian Act 2014*, section 140(2) may disclose confidential information within the meaning of that Act to the inspector.
- (3) Also, without limiting subsection (1)—
- (a) the inspector may ask a person to whom the *Police Service Administration Act 1990*, section 5AA.14(1)(a)(i) and (b) applies to disclose relevant information about someone else; and
- (b) the person may disclose the relevant information to the inspector.
- Note—*
- See also the *Hospital and Health Boards Act 2011*, section 157A, the *Mental Health Act 2016*, section 785A and the *Ombudsman Act 2001*, section 91A.
- (4) In this section—
- relevant information*** see the *Police Service Administration Act 1990*, section 1.4.

28 Disclosure of particular matters not required

- (1) This Act does not require or authorise a person—
- (a) to give any information or answer any question relating to proceedings of Cabinet or a committee of Cabinet; or
- (b) to produce or inspect a document to the extent it relates to proceedings mentioned in paragraph (a).
- (2) For subsection (1), a certificate issued by the chief executive of a department administered by the Premier, with the Premier's approval, certifying that any information or question, or any document or part of a document, relates to any proceedings mentioned in subsection (1) is conclusive of the fact so certified.

-
- (3) The inspector must not require any information or answer to be given, or any document or thing to be produced, if the Attorney-General certifies in writing that the giving of the information or answer, or the production of the document or thing, might prejudice the security of the State or the investigation or detection of offences.
- (4) In this section—
information does not include a document.

Division 2 Disclosure of information obtained by or for inspector

29 Definition for division

- In this division—
confidential information—
- (a) includes—
- (i) generally, information about a person’s affairs; and
 - (ii) information that is confidential information under—
 - (A) the *Corrective Services Act 2006*, section 341; or
 - (B) the *Hospital and Health Boards Act 2011*, section 139; or
 - (C) the *Youth Justice Act 1992*, section 284; and
 - (iii) information mentioned in the *Police Powers and Responsibilities Act 2000*, section 803(2); and
 - (iv) personal information under the *Mental Health Act 2016*, section 776; but
- (b) does not include—

[s 30]

- (i) information already publicly disclosed unless further disclosure of the information is prohibited by law; or 1
2
3
- (ii) statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates. 4
5
6
7

30 Confidentiality 8

- (1) This section applies to a person who— 9
 - (a) is, or has been, any of the following persons— 10
 - (i) the inspector; 11
 - (ii) an officer of the ombudsman involved in the administration of this Act (a *relevant officer of the ombudsman*); 12
13
14
 - (iii) a person mentioned in section 9 whom the inspector has arranged to help carry out a review or inspection; 15
16
17
 - (iv) a person mentioned in section 38 whom the inspector has consulted with or engaged to help the inspector perform the inspector’s functions; and 18
19
20
 - (b) in that capacity, has acquired or has had access to confidential information. 21
22
- (2) The person must not disclose the confidential information to anyone else, or use the information, other than under this section. 23
24
25

Maximum penalty—100 penalty units. 26
- (3) Subject to section 32, a person mentioned in subsection (1) may disclose or use the confidential information to the extent the disclosure or use is— 27
28
29
 - (a) necessary to perform the person’s functions under or relating to this Act; or 30
31

-
- (b) otherwise required or permitted under this Act or another law. 1
2
- (4) Also, the inspector or a relevant officer of the ombudsman may disclose or use the confidential information— 3
4
- (a) for confidential information about a person who is an adult— 5
6
- (i) with the person’s consent; or 7
- (ii) if the person is unable to consent—with the consent of a legal guardian of the person; or 8
9
- (b) for confidential information about a child— 10
- (i) with the consent of the child, if the child has been told— 11
12
- (A) the information to be disclosed or used; and 13
- (B) the reason for the disclosure or use; and 14
- (C) for disclosure of the information—to whom it is to be disclosed; or 15
16
- (ii) with the consent of a parent or legal guardian of the child. 17
18
- (5) Further, the inspector may disclose the confidential information— 19
20
- (a) to a person mentioned in section 9 for helping the inspector carry out a review or inspection, to the extent the disclosure is necessary to help carry out the review or inspection; or 21
22
23
24
- (b) to a referral entity for— 25
- (i) performing a function of the inspector in accordance with an arrangement entered into with the entity under section 20(1); or 26
27
28
- (ii) referring a matter to the entity under section 20(4); or 29
30
- (c) for disclosing information in the public interest under section 31; or 31
32

[s 31]

- (d) to a person mentioned in section 38 for helping the inspector perform a function, to the extent the disclosure is necessary to help perform the function. 1
2
3
- (6) A person mentioned in subsection (1), other than a person who is the inspector or a relevant officer of the ombudsman, may also disclose or use the confidential information under subsection (4)(a) or (b), but only with the consent of the inspector or a relevant officer of the ombudsman. 4
5
6
7
8
- 31 Disclosure of information in public interest 9**
- (1) The inspector may disclose information to any person or the public in relation to the performance of a function of the inspector if the inspector believes on reasonable grounds disclosing the information is in the interests of any person or is otherwise in the public interest. 10
11
12
13
14
- (2) For deciding whether to disclose information under subsection (1), the inspector must consider whether all or part of the information must be kept confidential because— 15
16
17
- (a) there are public interest considerations against disclosing the information; and 18
19
- (b) those considerations outweigh the public interest in favour of disclosing the information. 20
21
- (3) Section 23(2) and (3) applies for deciding whether there are public interest considerations against disclosing the information. 22
23
24
- (4) If the information to be disclosed under subsection (1) includes an opinion that is expressly or impliedly critical of a person or a public sector entity (each an *affected entity*), the inspector must notify the affected entity before disclosing the information, if practicable to do so. 25
26
27
28
29
- (5) Subsection (4) does not apply if— 30
- (a) the information is disclosed in a report prepared under section 22(1) or (2); and 31
32

-
- (b) the affected entity is a notifiable entity for the report; 1
and 2
- (c) the inspector has given the affected entity a copy of the 3
draft report under section 24(2). 4
- 32 Limits on use of confidential information and derived 5
evidence 6**
- (1) This section applies in relation to— 7
- (a) confidential information that a person mentioned in 8
section 30(1)(a) has acquired, or to which the person has 9
had access, under section 30(1)(b); or 10
- (b) any information or other thing obtained as a direct or 11
indirect result of confidential information to which 12
paragraph (a) applies (*derived evidence*). 13
- (2) The confidential information or derived evidence— 14
- (a) can not be accessed under any order, whether of a 15
judicial or administrative nature; and 16
- (b) is not admissible in any proceeding. 17
- (3) A person can not be compelled to produce the confidential 18
information or derived evidence, or give evidence relating to 19
the confidential information or derived evidence— 20
- (a) in any proceeding; or 21
- (b) in compliance with a requirement under an Act or legal 22
process. 23
- (4) In this section— 24
- order* includes— 25
- (a) a direction; and 26
- (b) a decision on an application under an Act for access to 27
information; and 28
- Example of an application for paragraph (b)— 29*
- an application under the *Right to Information Act 2009* 30
- (c) another process. 31

[s 33]

Part 5	Administration	1
33	Appointment of inspector	2
	The ombudsman is appointed as the inspector of detention services under the <i>Ombudsman Act 2001</i> , section 58(2) for the term mentioned in section 61 of that Act.	3 4 5
	<i>Note—</i>	6
	The <i>Ombudsman Act 2001</i> , part 7 provides for matters relating to the appointment of the inspector.	7 8
34	Control of part of ombudsman office	9
	The inspector controls the ombudsman office to the extent that officers of the ombudsman are involved, and other resources of the office are used, exclusively in the administration of this Act.	10 11 12 13
35	Administrative support for inspector	14
	The ombudsman office must give the inspector the administrative support services the inspector requires to perform the inspector’s functions effectively.	15 16 17
	<i>Note—</i>	18
	The <i>Ombudsman Act 2001</i> , part 8 provides for other matters relating to the administration of the ombudsman office.	19 20
36	Delegation	21
(1)	The inspector may delegate the inspector’s functions under this Act to an appropriately qualified officer of the ombudsman.	22 23 24
(2)	However—	25
(a)	the inspector may not delegate a function mentioned in section 8(1)(e), (f) or (g); and	26 27

-
- (b) the inspector may not delegate a function to an officer of the ombudsman to whom the ombudsman has delegated a function under the *Ombudsman Act 2001*. 1
2
3
- (3) For delegating functions to persons under subsection (1), the inspector must take into account the desirability of delegates— 4
5
6
- (a) having a range of knowledge, experience or skills relevant to the performance of the functions of the inspector; and 7
8
9
- (b) reflecting the social and cultural diversity of, and vulnerabilities within, the population of detainees in the State, including representing persons who identify as Aboriginal persons or Torres Strait Islanders. 10
11
12
13
- 37 Officer subject to direction of inspector** 14
- (1) An officer of the ombudsman to whom a function is delegated under section 36 is subject to the direction of the inspector in performing the function or exercising a power under this Act. 15
16
17
- (2) An officer of the ombudsman, other than an officer mentioned in subsection (1), is subject to the direction of the inspector to the extent the officer is involved in the administration of this Act. 18
19
20
21
- 38 Consulting with or engaging professionals and others** 22
- To help the inspector perform the inspector’s functions, the inspector may consult with or engage— 23
24
- (a) a person who has professional skills or expertise the inspector considers appropriate; or 25
26
- Examples of a person for paragraph (a)—* 27
- a lawyer 28
 - a medical practitioner 29
 - a person who has professional experience of working with vulnerable persons, including, for example, children 30
31

[s 39]

- (b) a person who has other skills or experience the inspector considers appropriate. 1
2
- Example of a person for paragraph (b)—* 3
- a person who has experience of the effects of detention as a former detainee, or as a family member or close friend of a former detainee, and whom the inspector considers can use that experience to— 4
5
6
7
- (a) communicate appropriately and effectively with detainees; 8
and 9
- (b) give the inspector insight into the effects of detention on detainees and their communities 10
11

Part 6 Miscellaneous 12

Division 1 Offences 13

39 Definition for division 14

In this division— 15

official means— 16

- (a) the inspector; or 17
- (b) an officer of the ombudsman involved in the administration of this Act. 18
19

40 Reprisal and grounds for reprisals 20

- (1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, any person has provided or may provide information or other assistance to an official. 21
22
23
24
- (2) An attempt to cause detriment includes an attempt to induce a person to cause detriment. 25
26
- (3) A contravention of subsection (1) is a reprisal or the taking of a reprisal. 27
28

-
- (4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal. 1
2
- (5) For the contravention mentioned in subsection (3) to happen, 3
it is sufficient if the unlawful ground is a substantial ground 4
for the act or omission that is the reprisal, even if there is 5
another ground for the act or omission. 6
- (6) In this section— 7
detriment, to a person, includes— 8
- (a) prejudice to the person’s safety; and 9
- (b) prejudice to the person’s career, including, for example, 10
dismissal of the person from the person’s employment. 11
- 41 Offence for taking reprisal 12**
- A person who takes a reprisal commits an offence. 13
- Maximum penalty—100 penalty units. 14
- 42 Giving official false or misleading information 15**
- (1) A person must not, in relation to the administration of this 16
Act, give an official information that the person knows is false 17
or misleading in a material particular. 18
- Maximum penalty—100 penalty units. 19
- (2) Subsection (1) applies to information whether or not the 20
information was given in response to a specific power under 21
this Act. 22
- (3) Subsection (1) does not apply to a person if the person, when 23
giving information in a document— 24
- (a) tells the official, to the best of the person’s ability, how 25
the document is false or misleading; and 26
- (b) if the person has, or can reasonably obtain, the correct 27
information—gives the correct information. 28

[s 43]

43	Obstructing official	1
(1)	A person must not obstruct an official exercising a power, or someone helping an official exercising a power, unless the person has a reasonable excuse.	2 3 4
	Maximum penalty—100 penalty units.	5
(2)	If a person has obstructed an official, or someone helping an official, and the official decides to proceed with the exercise of the power, the official must warn the person that—	6 7 8
(a)	it is an offence to cause an obstruction unless the person has a reasonable excuse; and	9 10
(b)	the official considers the person’s conduct an obstruction.	11 12
(3)	In this section—	13
	<i>obstruct</i> includes hinder, resist, attempt to obstruct and threaten to obstruct.	14 15
 Division 2		
	Identity cards	16
44	Definition for division	17
	In this division—	18
	<i>officer</i> means an officer of the ombudsman involved in performing a function mentioned in section 8(1)(a), (b) or (c).	19 20
45	Issue of identity card	21
(1)	The inspector must issue an identity card to each officer.	22
(2)	The identity card must—	23
(a)	contain a recent photograph of the officer; and	24
(b)	contain a copy of the officer’s signature; and	25
(c)	identify the person as an officer under this division; and	26
(d)	state an expiry date for the card.	27

46	Production or display of identity card	1
(1)	In exercising a power in relation to another person in the other person's presence, an officer must—	2 3
(a)	produce the officer's identity card for the other person's inspection before exercising the power; or	4 5
(b)	have the identity card displayed so it is clearly visible to the other person when exercising the power.	6 7
(2)	However, if it is not practicable to comply with subsection (1), the officer must produce the identity card for the other person's inspection at the first reasonable opportunity.	8 9 10
47	Return of identity card	11
	If the appointment of a person as an officer ends, the person must return the person's identity card to the inspector within 14 days after the appointment ends unless the person has a reasonable excuse.	12 13 14 15
	Maximum penalty—10 penalty units.	16
Division 3	Other provisions	17
48	Security and safety considerations	18
	When performing a function under this Act at, or relating to, a place of detention, a person must have regard to—	19 20
(a)	the good order and security of the place of detention; and	21 22
(b)	the safety of any person at, or whose work is connected with, the place of detention.	23 24

[s 49]

49	Evidential immunity for individuals complying with particular requirements	1 2
(1)	Subsection (2) applies if an individual gives information to the inspector in response to a requirement made by the inspector under section 12(2) or 16(2).	3 4 5
(2)	Evidence of the information, and other evidence directly or indirectly derived from the information, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.	6 7 8 9 10
(3)	Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in which the false or misleading nature of the information is relevant evidence.	11 12 13 14
50	Review of Act	15
(1)	The Minister must, as soon as practicable after the day that is 5 years after the commencement, review this Act to determine whether—	16 17 18
(a)	the policy objectives of the Act remain valid; and	19
(b)	the provisions of the Act remain appropriate for achieving the objectives.	20 21
(2)	As soon as practicable after finishing the review, the Minister must table a report about its outcome in the Legislative Assembly.	22 23 24
51	Regulation-making power	25
	The Governor in Council may make regulations under this Act.	26 27

Part 7	Amendment of Acts	1
Division 1	Amendment of this Act	2
52	Act amended	3
	This division amends this Act.	4
53	Amendment of long title	5
	Long title, from ‘, and to amend’—	6
	<i>omit.</i>	7
Division 2	Amendment of Corrective Services Act 2006	8
		9
54	Act amended	10
	This division amends the <i>Corrective Services Act 2006</i> .	11
55	Amendment of s 52 (Recording or monitoring prisoner communication)	12
	Section 52(2)—	13
	<i>insert—</i>	14
	(e) the inspector of detention services.	15
		16
56	Amendment of s 132 (Interviewing and photographing prisoner etc.)	17
	(1) Section 132(2)—	18
	<i>insert—</i>	19
	(ca) the inspector of detention services; or	20
		21
	(2) Section 132(2)(ca) and (d)—	22
		22

[s 57]

	<i>renumber</i> as section 132(2)(d) and (e).	1
57	Amendment of sch 4 (Dictionary)	2
	(1) Schedule 4—	3
	<i>insert</i> —	4
	<i>inspector of detention services</i> means the inspector of detention services under the <i>Inspector of Detention Services Act 2021</i> .	5 6 7
	(2) Schedule 4, definition <i>accredited visitor</i> —	8
	<i>insert</i> —	9
	(fa) the inspector of detention services; or	10
	(3) Schedule 4, definition <i>accredited visitor</i> , paragraphs (fa) to (i)—	11 12
	<i>renumber</i> as paragraphs (g) to (j).	13
Division 3	Amendment of Crime and Corruption Act 2001	14 15
58	Act amended	16
	This division amends the <i>Crime and Corruption Act 2001</i> .	17
59	Amendment of sch 2 (Dictionary)	18
	Schedule 2, definition <i>public official</i> —	19
	<i>insert</i> —	20
	(d) the inspector of detention services under the <i>Inspector of Detention Services Act 2021</i> .	21 22

Division 4	Amendment of Hospital and Health Boards Act 2011	1 2
60	Act amended	3
	This division amends the <i>Hospital and Health Boards Act 2011</i> .	4 5
61	Insertion of new s 157A	6
	After section 157—	7
	<i>insert—</i>	8
	157A Disclosure to inspector of detention services	9
	(1) A designated person may disclose confidential information to the inspector of detention services if—	10 11 12
	(a) the information is relevant to the inspector of detention services performing a function under the <i>Inspector of Detention Services Act 2021</i> ; and	13 14 15 16
	(b) the inspector of detention services has asked for the information under section 13 of that Act; and	17 18 19
	(c) either—	20
	(i) the designated person has made a reasonable attempt to obtain the consent of the relevant person for the disclosure under section 144(a), (b) or (c); or	21 22 23 24 25
	(ii) it is not practicable for the designated person to obtain the consent of the relevant person for the disclosure under section 144(a), (b) or (c).	26 27 28 29
	(2) In this section—	30

[s 62]

inspector of detention services means the 1
inspector of detention services under the 2
Inspector of Detention Services Act 2021. 3

relevant person, for the disclosure of confidential 4
information, means the person who may consent 5
to the disclosure of the information under section 6
144(a), (b)(ii) or (c)(ii). 7

Division 5 **Amendment of Mental Health Act** 8
2016 9

62 **Act amended** 10

This division amends the *Mental Health Act 2016*. 11

63 **Insertion of new s 785A** 12

After section 785— 13

insert— 14

785A Disclosure to inspector of detention services 15

(1) A designated person may disclose personal 16
information to the inspector of detention services 17
if— 18

(a) the information is relevant to the inspector 19
of detention services performing a function 20
under the *Inspector of Detention Services* 21
Act 2021; and 22

(b) the inspector of detention services has asked 23
for the information under section 13 of that 24
Act; and 25

(c) either— 26

(i) the designated person has made a 27
reasonable attempt to obtain the 28
consent of the person to whom the 29
information relates; or 30

	(ii) it is not practicable for the designated person to obtain the consent of the person to whom the information relates.	1 2 3 4
	(2) In this section—	5
	<i>inspector of detention services</i> means the inspector of detention services under the <i>Inspector of Detention Services Act 2021</i> .	6 7 8
Division 6	Amendment of Ombudsman Act 2001	9 10
64 Act amended	This division amends the <i>Ombudsman Act 2001</i> .	11 12
65 Amendment of pt 7, hdg (Particular provisions about the ombudsman)	Part 7, heading, after ‘ombudsman’— <i>insert—</i> and inspector of detention services	13 14 15 16 17
66 Replacement of s 58 (Appointment)	Section 58— <i>omit, insert—</i> 58 Appointment as ombudsman and inspector of detention services	18 19 20 21 22
	(1) The ombudsman is appointed by the Governor in Council.	23 24
	(2) The ombudsman is also appointed by the Governor in Council to be the inspector of detention services.	25 26 27

[s 67]

	(3) The ombudsman and the inspector of detention services are appointed under this Act and not under the <i>Public Service Act 2008</i> .	1 2 3
	(4) If a person stops holding office as the ombudsman, the person also stops holding office as the inspector of detention services.	4 5 6
	(5) If a person stops holding office as the inspector of detention services, the person also stops holding office as the ombudsman.	7 8 9
67	Amendment of s 59 (Procedure before appointment)	10
	Section 59, ‘as ombudsman’—	11
	<i>omit, insert</i> —	12
	as the ombudsman and the inspector of detention services	13 14
68	Amendment of s 60 (Ineligibility for appointment)	15
	Section 60, ‘as ombudsman’—	16
	<i>omit, insert</i> —	17
	as the ombudsman or the inspector of detention services	18 19
69	Replacement of s 61 (Term of appointment)	20
	Section 61—	21
	<i>omit, insert</i> —	22
	61 Term of appointment	23
	(1) The ombudsman holds office as ombudsman for the term, of no more than 5 years, stated in the instrument of appointment.	24 25 26
	(2) The ombudsman holds office as inspector of detention services for the term, of no more than 5 years, stated in the instrument of appointment.	27 28 29

	(3) A person may be reappointed as the ombudsman and the inspector of detention services.	1 2
	(4) However, a person must not be reappointed if the total of the person's terms of appointment as the ombudsman would be more than 10 years.	3 4 5
70	Amendment of s 62 (Remuneration and conditions)	6
	(1) Section 62(1), 'ombudsman is'— <i>omit, insert</i> — ombudsman, as the ombudsman and the inspector of detention services, is	7 8 9 10
	(2) Section 62(2), 'to the ombudsman'— <i>omit, insert</i> — under subsection (1)	11 12 13
	(3) Section 62(3), 'ombudsman is'— <i>omit, insert</i> — ombudsman, as the ombudsman and the inspector of detention services, is	14 15 16 17
71	Amendment of s 63 (Oath before performing duties)	18
	(1) Section 63(1), 'of office'— <i>omit, insert</i> — of office as the ombudsman and the inspector of detention services	19 20 21 22
	(2) Section 63(1), 'the office'— <i>omit, insert</i> — each office	23 24 25
72	Amendment of s 63A (Declaration of interests)	26
	Section 63A(1), after 'appointment'—	27

[s 73]

<i>insert—</i>	1
as the ombudsman or the inspector of detention services	2 3
73 Amendment of s 63B (Conflicts of interest)	4
(1) Section 63B, before subsection (1)—	5
<i>insert—</i>	6
(1AA) This section applies to the ombudsman in relation to the ombudsman’s official responsibilities as the ombudsman and the inspector of detention services.	7 8 9 10
(2) Section 63B(1AA) to (3)—	11
<i>renumber</i> as section 63B(1) to (4).	12
74 Amendment of s 64 (Restriction on outside employment)	13
(1) Section 64(1)(a)—	14
<i>omit, insert—</i>	15
(a) hold any offices of profit other than those of the ombudsman and the inspector of detention services; or	16 17 18
(2) Section 64(1)(b), ‘the office’—	19
<i>omit, insert—</i>	20
each office	21
75 Replacement of s 65 (Acting ombudsman)	22
Section 65—	23
<i>omit, insert—</i>	24
65 Acting ombudsman and inspector of detention services	25 26
(1) The Governor in Council may appoint a person to	27

	act as the ombudsman and the inspector of detention services—	1 2
	(a) during a vacancy as the ombudsman or inspector of detention services; or	3 4
	(b) during any period when the ombudsman—	5
	(i) is absent from duty as the ombudsman or inspector of detention services; or	6 7
	(ii) is unable, for another reason, to perform the duties of the ombudsman or inspector of detention services.	8 9 10
	(2) The person appointed under subsection (1) to act as the ombudsman and the inspector of detention services must be eligible for appointment as the ombudsman and inspector of detention services.	11 12 13 14
	(3) The person appointed as the acting ombudsman and the acting inspector of detention services is appointed under this Act and not the <i>Public Service Act 2008</i> .	15 16 17 18
	(4) The <i>Acts Interpretation Act 1954</i> , section 25(1)(b)(iv) and (v) does not apply to the offices of the acting ombudsman and the acting inspector of detention services.	19 20 21 22
76	Replacement of pt 7, div 2, hdg (Ombudsman may be removed or suspended from office)	23 24
	Part 7, division 2, heading—	25
	<i>omit, insert—</i>	26
	Division 2 Removal or suspension from office	27 28
77	Amendment of s 66 (Grounds for removal or suspension from office)	29 30
	Section 66, after ‘office’—	31

[s 78]

<i>insert—</i>	1
as the ombudsman and inspector of detention services	2 3
78 Amendment of s 67 (Removal of ombudsman on address)	4
(1) Section 67, heading, after ‘ombudsman’—	5
<i>insert—</i>	6
and inspector of detention services	7
(2) Section 67(1), after ‘office’—	8
<i>insert—</i>	9
as the ombudsman and inspector of detention services	10 11
79 Amendment of s 68 (Suspension of ombudsman on address)	12 13
(1) Section 68, heading, after ‘ombudsman’—	14
<i>insert—</i>	15
and inspector of detention services	16
(2) Section 68(1), after ‘office’—	17
<i>insert—</i>	18
as the ombudsman and inspector of detention services	19 20
(3) Section 68(4), after ‘paid salary and allowances’—	21
<i>insert—</i>	22
as the ombudsman and inspector of detention services	23 24
(4) Section 68(4)(a) and (b), ‘salary’—	25
<i>omit, insert—</i>	26
the salary	27

80	Amendment of s 69 (Suspension of ombudsman if Assembly not sitting)	1
		2
	(1) Section 69, heading, after ‘ombudsman’—	3
	<i>insert</i> —	4
	and inspector of detention services	5
	(2) Section 69(1), after ‘office’—	6
	<i>insert</i> —	7
	as the ombudsman and inspector of detention services	8
		9
	(3) Section 69(4)(b), from ‘suspended’ to ‘Assembly’—	10
	<i>omit, insert</i> —	11
	removed or suspended from office on an address from the Assembly under section 67 or 68	12
		13
	(4) Section 69(5), after ‘allowances’—	14
	<i>insert</i> —	15
	as the ombudsman and inspector of detention services	16
		17
81	Amendment of s 70 (Acts Interpretation Act 1954)	18
	Section 70, after ‘ombudsman’—	19
	<i>insert</i> —	20
	or the inspector of detention services	21
82	Amendment of s 71 (Resignation)	22
	Section 71, ‘as ombudsman’—	23
	<i>omit, insert</i> —	24
	as the ombudsman and the inspector of detention services	25
		26

[s 83]

83	Amendment of s 72 (Vacation of office)	1
	Section 72, ‘as ombudsman’—	2
	<i>omit, insert</i> —	3
	as the ombudsman and the inspector of detention services	4 5
84	Amendment of s 73 (Office of the Ombudsman)	6
	Section 73(2)—	7
	<i>omit, insert</i> —	8
	(2) The ombudsman office consists of the ombudsman, the inspector of detention services and the officers of the ombudsman.	9 10 11
	(3) The functions of the ombudsman office are—	12
	(a) to help the ombudsman perform the ombudsman’s functions under this Act; and	13 14
	(b) to help the inspector of detention services perform the inspector’s functions under the <i>Inspector of Detention Services Act 2021</i> .	15 16 17
85	Replacement of s 74 (Control of office)	18
	Section 74—	19
	<i>omit, insert</i> —	20
	74 Control of ombudsman office	21
	(1) The ombudsman controls the ombudsman office.	22
	(2) Subsection (1) applies subject to the <i>Inspector of Detention Services Act 2021</i> , section 34.	23 24
86	Amendment of s 75 (Officers not subject to outside direction)	25 26
	(1) Section 75—	27

<i>insert—</i>	1
(c) the way the powers of the inspector of detention services are to be exercised.	2 3
(2) Section 75—	4
<i>insert—</i>	5
(2) Subsection (1)(c) applies subject to the <i>Inspector of Detention Services Act 2021</i> , section 37.	6 7
87 Amendment of s 76 (Officers)	8
Section 76(3), ‘this Act’—	9
<i>omit, insert—</i>	10
this Act, the <i>Inspector of Detention Services Act 2021</i>	11 12
88 Amendment of s 78 (Temporary and casual employees)	13
Section 78(1) and (2)—	14
<i>omit, insert—</i>	15
(1) The ombudsman may employ the temporary and casual employees whom—	16 17
(a) the ombudsman considers are necessary for this Act; and	18 19
(b) the ombudsman as the inspector of detention services considers are necessary for the <i>Inspector of Detention Services Act 2021</i> .	20 21 22
(2) The ombudsman may decide the terms of employment of an employee mentioned in subsection (1).	23 24 25
89 Amendment of s 78C (Confidentiality of criminal history information)	26 27
(1) Section 78C(1), ‘the ombudsman or’—	28

[s 90]

	<i>omit, insert—</i>	1
	the ombudsman, the inspector of detention services or	2 3
(2)	Section 78C(3)(a), after ‘this Act’—	4
	<i>insert—</i>	5
	or the <i>Inspector of Detention Services Act 2021</i>	6
(3)	Section 78C(4), ‘The ombudsman’—	7
	<i>omit, insert—</i>	8
	The person	9
90	Amendment of s 79 (Preservation of rights if public service officer appointed)	10 11
	Section 79(1), from ‘who’ to ‘Act’—	12
	<i>omit, insert—</i>	13
	who is appointed, under this Act, to an office	14
91	Amendment of s 80 (Preservation of rights if person becomes public service officer)	15 16
(1)	Section 80(1), ‘ombudsman office under this Act’—	17
	<i>omit, insert—</i>	18
	ombudsman office	19
(2)	Section 80(2)—	20
	<i>omit, insert—</i>	21
	(2) Subsection (1) does not apply to a person holding office as the ombudsman, inspector of detention services, acting ombudsman or acting inspector of detention services if the person is guilty of misconduct in the office.	22 23 24 25 26

92	Amendment of s 81 (Preservation of ombudsman’s rights if not previously public service officer)	1 2
(1)	Section 81(1), ‘office as ombudsman’—	3
	<i>omit, insert—</i>	4
	office as the ombudsman and the inspector of detention services	5 6
(2)	Section 81(2), ‘in the office of ombudsman under this Act’—	7
	<i>omit, insert—</i>	8
	as the ombudsman and the inspector of detention services	9 10
(3)	Section 81(3), ‘as ombudsman’—	11
	<i>omit, insert—</i>	12
	as the ombudsman or the inspector of detention services	13 14
(4)	Section 81(4)—	15
	<i>omit, insert—</i>	16
	(4) In this section—	17
	<i>inspector of detention services</i> includes the acting inspector of detention services.	18 19
	<i>ombudsman</i> includes the acting ombudsman.	20
93	Amendment of s 83 (Strategic review of ombudsman office)	21 22
(1)	Section 83(9), definition <i>strategic review</i> , paragraph (a)—	23
	<i>omit, insert—</i>	24
	(a) a review of the functions of the ombudsman and the inspector of detention services; and	25 26
(2)	Section 83(9), definition <i>strategic review</i> , paragraph (b), ‘ombudsman’s’—	27 28
	<i>omit.</i>	29

[s 94]

94	Amendment of s 86 (Delegation)	1
(1)	Section 86—	2
	<i>insert</i> —	3
	(1A) However, the ombudsman may not delegate a function under this Act to an officer of the ombudsman if the ombudsman as the inspector of detention services has delegated a function to the officer under the <i>Inspector of Detention Services Act 2021</i> .	4 5 6 7 8 9
(2)	Section 86(1A) and (2)—	10
	<i>renumber</i> as section 86(2) and (3).	11
95	Amendment of s 88 (Estimates)	12
(1)	Section 88(1), ‘to the ombudsman’—	13
	<i>omit, insert</i> —	14
	to the ombudsman office	15
(2)	Section 88(3), ‘ombudsman’—	16
	<i>omit, insert</i> —	17
	ombudsman office	18
96	Replacement of s 89 (Functions)	19
	Section 89—	20
	<i>omit, insert</i> —	21
	89 Functions	22
	The parliamentary committee has the following functions—	23 24
	(a) to monitor and review the performance by the ombudsman of the ombudsman’s functions under this Act;	25 26 27
	(b) to monitor and review the performance by the inspector of detention services of the	28 29

	inspector’s functions under the <i>Inspector of Detention Services Act 2021</i> ;	1 2
(c)	to report to the Assembly on any matter the committee considers should be drawn to the Assembly’s attention relating to—	3 4 5
	(i) the ombudsman; or	6
	(ii) the functions, or the performance of the functions, of the ombudsman; or	7 8
	(iii) the inspector of detention services; or	9
	(iv) the functions, or the performance of the functions, of the inspector of detention services, including, in particular, the function of inspecting places of detention under the <i>Inspector of Detention Services Act 2021</i> , section 8(1)(c);	10 11 12 13 14 15 16
(d)	to examine each annual report tabled in the Assembly under this Act and any report tabled under the <i>Inspector of Detention Services Act 2021</i> , section 21(3) and, if appropriate, to comment on any aspect of the report;	17 18 19 20 21 22
(e)	to report to the Assembly any changes to the functions, structures and procedures of the ombudsman or the inspector of detention services that the committee considers desirable for the more effective operation of this Act or the <i>Inspector of Detention Services Act 2021</i> ;	23 24 25 26 27 28 29
(f)	the other functions conferred on the parliamentary committee by this Act.	30 31
97	Amendment of s 92A (Protection in particular proceedings)	32 33
	(1) Section 92A(1), after ‘this Act’—	34

[s 98]

<i>insert—</i>	1
or the <i>Inspector of Detention Services Act 2021</i>	2
(2) Section 92A(3), definition <i>officer of the ombudsman—</i>	3
<i>omit, insert—</i>	4
<i>officer of the ombudsman</i> includes the ombudsman holding office as the ombudsman and the inspector of detention services.	5 6 7
(3) Section 92A(3), definition <i>relevant offence</i> , paragraph (a), after ‘this Act’—	8 9
<i>insert—</i>	10
or the <i>Inspector of Detention Services Act 2021</i>	11
98 Amendment of s 93 (Protection from liability)	12
Section 93(1)—	13
<i>insert—</i>	14
<i>Note—</i>	15
For protection from civil liability in relation to the ombudsman as the inspector of detention services, or another officer of the ombudsman performing a function under the <i>Inspector of Detention Services Act 2021</i> , see the <i>Public Service Act 2008</i> , section 26C.	16 17 18 19 20
99 Insertion of new pt 12, div 5	21
Part 12—	22
<i>insert—</i>	23
Division 5 Provision for Inspector of Detention Services Act 2021	24 25 26
112 Application of s 59	27
Section 59 does not apply in relation to the	28

	appointment of the inspector of detention services that is in effect on the commencement.	1 2
100	Amendment of sch 3 (Dictionary)	3
	Schedule 3—	4
	<i>insert—</i>	5
	<i>inspector of detention services</i> means the inspector of detention services under the <i>Inspector of Detention Services Act 2021</i> .	6 7 8
Division 7	Amendment of Parliament of Queensland Act 2001	9 10
101	Act amended	11
	This division amends the <i>Parliament of Queensland Act 2001</i> .	12
102	Amendment of s 67 (Resignation of particular office holders on becoming candidates)	13 14
	(1) Section 67(1)—	15
	<i>insert—</i>	16
	(ka) inspector of detention services;	17
	(2) Section 67(1)(ka) to (r)—	18
	<i>renumber</i> as section 67(1)(l) to (s).	19
Division 8	Amendment of Youth Justice Act 1992	20 21
103	Act amended	22
	This division amends the <i>Youth Justice Act 1992</i> .	23

[s 104]

104	Amendment of s 263A (Recordings in detention centres and use of body-worn cameras)	1
		2
	Section 263A(3)—	3
	<i>insert</i> —	4
	(g) the inspector of detention services.	5
105	Amendment of s 272 (Ordinary visitor)	6
	Section 272(1), from ‘(child)’—	7
	<i>omit, insert</i> —	8
	(child), a child advocacy officer or the inspector	9
	of detention services.	10
106	Amendment of s 277 (Complaints generally)	11
	Section 277(6), from ‘(child)’—	12
	<i>omit, insert</i> —	13
	(child), a child advocacy officer or the inspector	14
	of detention services.	15
107	Amendment of sch 4 (Dictionary)	16
	Schedule 4—	17
	<i>insert</i> —	18
	<i>inspector of detention services</i> means the	19
	inspector of detention services under the	20
	<i>Inspector of Detention Services Act 2021</i> .	21

Schedule 1	Dictionary	1
	section 4	2
	<i>community corrections centre</i> see the <i>Corrective Services Act 2006</i> , schedule 4.	3 4
	<i>confidential information</i> , for part 4, division 2, see section 29.	5 6
	<i>detainee</i> —	7
	(a) generally means a person who is detained in the custody of a relevant custodial entity at a place of detention; and	8 9
	(b) includes a person being transported to or from a place of detention while in the custody of a relevant custodial entity.	10 11 12
	<i>detention service</i> see section 5.	13
	<i>disclose</i> includes give access to.	14
	<i>health department</i> means the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.	15 16
	<i>health service</i> means a health service under the <i>Hospital and Health Boards Act 2011</i> , section 15.	17 18
	<i>health service chief executive</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	19 20
	<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	21 22 23
	<i>information</i> includes a document.	24
	<i>inspection</i> , of a place of detention, means an inspection of the place of detention under section 8(1)(b) or (c).	25 26
	<i>inspector</i> means the inspector of detention services under this Act.	27 28
	<i>notice</i> means written notice.	29

Schedule 1

<i>notifiable entity</i> , for a report prepared under section 22(1) or (2), see section 24(7).	1 2
<i>officer</i> , for part 6, division 2, see section 44.	3
<i>officer of the ombudsman</i> see the <i>Ombudsman Act 2001</i> , schedule 3.	4 5
<i>official</i> , for part 6, division 1, see section 39.	6
<i>official visitor</i> see the <i>Corrective Services Act 2006</i> , schedule 4.	7 8
<i>ombudsman office</i> means the Office of the Ombudsman established under the <i>Ombudsman Act 2001</i> , section 73.	9 10
<i>place of detention</i> see section 6.	11
<i>prison</i> see the <i>Corrective Services Act 2006</i> , schedule 4.	12
<i>public sector entity</i> means—	13
(a) a department or part of a department; or	14
(b) a government owned corporation; or	15
(c) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose.	16 17 18
<i>relevant custodial entity</i> means—	19
(a) the chief executive (corrective services); or	20
(b) the chief executive of the department in which the <i>Youth Justice Act 1992</i> is administered; or	21 22
(c) the commissioner of the police service; or	23
(d) a police officer, including a watch-house manager; or	24
(e) a watch-house officer.	25
<i>relevant matter of interest</i> , for a responsible Minister, means—	26 27
(a) for the responsible Minister administering the <i>Corrective Services Act 2006</i> —a matter relating to a place of detention that is a community corrections centre, prison or work camp or to a detention service provided for the place of detention; or	28 29 30 31 32

- (b) for the responsible Minister administering the *Police Service Administration Act 1990*—a matter relating to a watch-house or to a detention service provided for a watch-house; or 1
2
3
4
- (c) for the responsible Minister administering the *Youth Justice Act 1992*—a matter relating to a youth detention centre or to a detention service provided for a youth detention centre. 5
6
7
8
- responsible Minister** means— 9
- (a) the Minister administering the *Corrective Services Act 2006*; or 10
11
- (b) the Minister administering the *Police Service Administration Act 1990*; or 12
13
- (c) the Minister administering the *Youth Justice Act 1992*. 14
- responsible officer**, for a place of detention, means— 15
- (a) for a place of detention that is a community corrections centre, prison or work camp—the chief executive (corrective services); or 16
17
18
- (b) for a place of detention that is a watch-house—the commissioner of the police service; or 19
20
- (c) for a place of detention that is a youth detention centre—the chief executive of the department in which the *Youth Justice Act 1992* is administered. 21
22
23
- review**, of a detention service, means a review of the detention service under section 8(1)(a). 24
25
- watch-house manager** see the *Police Powers and Responsibilities Act 2000*, schedule 6. 26
27
- watch-house officer** means a person who is appointed to be a watch-house officer under the *Police Service Administration Act 1990*, section 5.18. 28
29
30
- work camp** see the *Corrective Services Act 2006*, schedule 4. 31
- youth detention centre** means a detention centre established under the *Youth Justice Act 1992*, section 262. 32
33

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