

# **PARLIAMENTARY COMMITTEES BILL 1995**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objective of the legislation**

The objective of the Parliamentary Committees Bill 1995 is to establish a new system of committees for the Legislative Assembly.

#### **Reasons why the proposed legislation is necessary**

In 1989 the Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (the Fitzgerald Report) recommended that an Electoral and Administrative Review Commission (EARC) should be established. The Fitzgerald Report recommended that one of EARC's duties should be to advise Parliament on the setting up of a "comprehensive system of Parliamentary Committees to monitor the efficiency of Government".

EARC presented its Report on Review of Parliamentary Committees (Serial No.92/R4) in October 1992. The Parliamentary Committee for Electoral and Administrative Review (PCEAR) considered EARC's Report and presented its own Report on Review of Parliamentary Committees (Report No.19) in October 1993. EARC and PCEAR both recommended the enactment of legislation establishing a new system of Parliamentary committees for the Legislative Assembly.

The establishment of the Parliamentary committees provided for in the Parliamentary Committees Bill 1995 will assist the Legislative Assembly to make laws and monitor Government.

## **General description of the proposed Parliamentary Committee system**

The Parliamentary Committees Bill 1995 provides for the establishment of six permanent statutory committees. These committees are the:

- Legal, Constitutional and Administrative Review Committee,
- Members' Ethics and Parliamentary Privileges Committee,
- Public Accounts Committee,
- Public Works Committee,
- Scrutiny of Legislation Committee, and the
- Standing Orders Committee.

The Bill does not prevent other committees being established by resolution of the Legislative Assembly (that is, the method by which the Estimates Committees, which examine the Government's proposed expenditure for the next year, are established). Further, the Bill does not affect the power of Parliament to create other committees by other Acts of Parliament.

## **Role of Committees**

The roles of the statutory committees are set out in Parts 3 and 4 of the Bill. Part 3 makes a general statement about the work of the committees. The committees will mainly be considering issues which fall within their areas of responsibility. However, the committees will also have to deal with issues which the Legislative Assembly refers to them, even if those issues do not fall within their areas of responsibility as set out in the Bill. Part 3 also provides a guide to how the committees may deal with issues, stating that the committees have authority to consider issues, report on them and make recommendations.

Part 4 sets out the specific areas of responsibility held by each committee. The **Legal, Constitutional and Administrative Review Committee** has responsibility for issues related to administrative review reform, the constitution of the State, the electoral system and legal reform. The Committee also takes over the responsibility of PCEAR to review the reports of the Electoral and Administrative Review Commission which PCEAR has not yet reviewed.

The Committee's responsibility for considering administrative review reform issues includes, but is not limited to, legislation dealing with freedom of information, the review of administrative decisions, anti-discrimination and equal employment opportunity. However, the Bill makes it clear that it is not the Committee's role to consider or review particular cases that are determined by the Information Commissioner, the Parliamentary Commissioner for Administrative Investigations (Ombudsman), the Anti-Discrimination Commission or other review bodies.

The Committee will have authority to consider any proposed law which expressly or impliedly amends the constitution of Queensland, and will have responsibility for monitoring generally the conduct of elections and the Electoral Commission's capacity to conduct elections.

The Committee's responsibility for legal reform includes, but is not limited to, recognition under Queensland law of Aboriginal tradition and Island custom, and proposed national scheme legislation (referred to the Committee by the Legislative Assembly).

The Bill provides that the Committee must be consulted by the responsible Minister about appointments to the positions of Ombudsman and Electoral Commissioner (and the other members of the Electoral Commission), and must be consulted about the suspension or removal of the Ombudsman and the annual estimates of expenditure and the terms of reference for the strategic review of the Ombudsman's office. The provisions concerning the Ombudsman recognise the special position of the Ombudsman as an officer of the Parliament and are based on similar arrangements established for the Auditor-General under the *Financial Administration and Audit Act 1977*.

The Bill also amends the *Criminal Justice Act 1989* to replace the Parliamentary Criminal Justice Committee with the Legal, Constitutional and Administrative Review Committee as the Parliamentary Committee responsible for overseeing the Criminal Justice Commission. The Bill provides that, in overseeing the CJC, the Legal, Constitutional and Administrative Review Committee will have all the functions and responsibilities of the Parliamentary Criminal Justice Committee.

The **Members' Ethics and Parliamentary Privileges Committee** is responsible for issues about the ethical conduct of Members of the Legislative Assembly (MLAs) and for questions relating to Parliamentary

privilege. A part of these responsibilities is the monitoring of the arrangements for the registration of MLAs' interests. The Committee will also be required to develop a code of conduct for MLAs and procedures for the code's implementation, and to consider alleged breaches by MLAs of the code. The Committee will have exclusive jurisdiction to consider such alleged misconduct by MLAs except where it is alleged or suspected that a criminal offence has been committed. The Criminal Justice Commission and the Police Service will appropriately be able to investigate alleged criminal activity.

The **Public Accounts Committee** will have responsibility to ensure that the Legislative Assembly has sufficient information to hold the Government accountable for the management of public resources. The Committee may examine Government financial documents (including annual financial statements and annual reports of agencies) and the reports of the Auditor-General, and may ask the Auditor-General to consider issues which come to the Committee's attention through its work. In common with the existing Public Accounts Committee, the new Committee must be consulted by the responsible Minister in regard to the appointment and suspension or removal of the Auditor-General, and the annual estimates of expenditure and the terms of reference for the strategic review of the Audit Office.

The **Public Works Committee** will have responsibility to ensure that the Legislative Assembly has sufficient information to hold government accountable for its use of public resources in developing and managing public works. The Public Works Committee will be responsible for monitoring and reviewing proposed works (for example the building of roads and the construction of new schools) in which the State has or will have any financial interest or liability, or to which State resources are to be devoted, and of which the State has, will or may acquire sole ownership. The Committee will be able to consider works by a Government Owned Corporation (GOC) which is carrying out a work to meet a community service obligation, and will be able to examine any GOC work referred to it by the Legislative Assembly, whether or not it relates to a community service obligation.

The **Scrutiny of Legislation Committee** will replace and expand the role of the Subordinate Legislation Committee. The Subordinate Legislation Committee examines all subordinate legislation for compliance with the *Statutory Instruments Act 1992* and the fundamental legislative

principles set out in the *Legislative Standards Act 1992*. These principles require legislation to have regard, for example, to the rights and liberties of individuals and to the institution of Parliament, including the conformity of the subordinate legislation with the primary legislation (that is, the Act) under which the subordinate legislation is made. In addition to performing this function, the Scrutiny of Legislation Committee will scrutinise all proposed primary legislation (that is, Bills) for compliance with fundamental legislative principles. The Committee will also oversee the operation of provisions of the *Legislative Standards Act 1992* and the *Statutory Instruments Act 1992* to determine whether these provisions are contributing as intended to the maintenance of a proper standard of legislation.

The Committee's role is to monitor legislation. The Committee may raise issues (such as breaches of fundamental legislative principles) with the responsible Minister, or with a Member sponsoring a private Member's Bill, prior to pursuing issues, where appropriate, in the Assembly.

It would breach the principles of responsible government for the Committee to raise policy issues about Government legislation with agencies, including the Office of the Parliamentary Counsel.

The Parliamentary Counsel must also observe legal professional privilege in respect of drafting instructions received from client Ministers and private Members, and cannot discuss legislation with the Committee without the client's approval.

The **Standing Orders Committee** will monitor and recommend reforms to the standing rules and orders of the Legislative Assembly. The standing rules and orders set out the procedures governing the conduct of the business of the Legislative Assembly (for example, the Assembly's rules of debate).

## **Powers and procedures of the Committees**

The Bill sets out a number of powers and procedures, some of which apply to all the statutory committees in the Bill and some of which apply specifically to the Public Works Committee.

**Powers and procedures applying to all Committees in the Bill**

The powers and procedures applying to all the statutory committees in the Bill deal with:

- responses by Ministers to the reports of committees (clause 24); and
- the power of committees to call for persons, documents and other things (clause 25).

The provision to witness of privilege against self-incrimination (clause 26) applies to all committees except the Legal, Constitutional and Administrative Review Committee when it is exercising its powers under the *Criminal Justice Act 1989*.

**Responses by Ministers to the reports of Committees**

EARC and PCEAR considered that when a committee presents a report to the Legislative Assembly recommending action by the Government, the responsible Minister should be required to table a response to the report within three months of the tabling of the report. EARC and PCEAR considered that this requirement was necessary to ensure that an appropriate response was made by the Government within a reasonable time.

Clause 24 of the Bill requires the Minister to respond to a committee's report when the committee has recommended action by the Government. In a provision not recommended by EARC or PCEAR, the clause also requires the Minister to respond when a committee's report recommends that the Government not take action on an issue.

Clause 24 provides that the Minister must table the response within three months of the tabling of the committee's report. However, it is possible that a committee's report may not be able to be analysed and considered appropriately by the Government within three months of the committee tabling the report (for example, because the report is very complex). Consequently, clause 24 provides that:

- the Minister's response may be tabled within six months, rather than three months, of the committee tabling its report; and
- if this applies, the Minister must table an interim response within three months of the tabling of the report, together with reasons for not tabling the response within those three months.

To demonstrate that the Government has considered the issues raised in the committee's report, the Minister is required to state:

- which recommendations, if any, have been accepted by the Government and the method and timing of their implementation; and
- which recommendations, if any, have been rejected by the Government and the reasons for their rejection.

Clause 24(1) provides that the Minister need not respond to a report of the Scrutiny of Legislation Committee. This provision has been included because the strict time limits applying to the Committee's review of Bills will not enable Ministers to respond in the manner envisaged by clause 24. Ministers would generally respond to the Committee's reports during Parliamentary debate on the legislation. However, clause 24(7) makes it clear that Ministers are not prevented from making a formal response to the Committee's reports when it is practicable to do so.

### **The Power of Committees to call for Persons, Documents and other Things**

Clause 25 of the Bill provides that the Public Accounts Committee and the Public Works Committee have the power to call for persons, documents and other things. It further provides that the Legislative Assembly may by resolution give other committees this power. This maintains the effect of the Legislative Assembly's Standing Orders which provide that the "House may give a Committee power to send for persons, papers and records", and is authorised by the *Constitution Act 1867*. For a committee not given the power under the Bill, this power would be conferred on the committee in the resolution appointing members of the committee passed at the beginning of every Parliament.

Schedule 1 of the Bill amends the *Criminal Justice Act 1989* to make it clear that, when undertaking its functions under that Act, the Legal, Constitutional and Administrative Review Committee has the power to call for persons, documents and other things. This power was available to the Parliamentary Criminal Justice Committee.

**Provision to Witnesses of Privilege Against Self-Incrimination**

Clause 26 of the Bill limits the power to compel witnesses to give answers to questions which might tend to be self-incriminating (that is an answer by the witness which might implicate the witness in the commission of a criminal offence). This limitation has applied to the existing Parliamentary Committee of Public Accounts and the Parliamentary Committee of Public Works under their enabling legislation since 1988 and 1989 respectively, and the Bill extends this to all committees established under the Bill with one exception. The privilege will not be available to witnesses appearing before the Legal, Constitutional and Administrative Review Committee when it is exercising its powers under the *Criminal Justice Act 1989*.

Clause 26 seeks to balance the competing demands of two fundamental legislative principles: the need to have regard to the rights and liberties of individuals (specifically, appropriate protection against self-incrimination) and the need to have regard to the institution of Parliament; in particular the capacity of Parliamentary committees to undertake their investigations unhindered. Clause 26 provides that if a witness does not answer a question asked by the committee, or produce a document or other thing as requested by the committee, the committee may insist that the answer be given or the document or other thing produced. The person, however, cannot be compelled by the committee to answer or produce the document or other thing if the person would be entitled to claim privilege against self-incrimination in a Supreme Court action.

However, if a witness' claim of privilege is not accepted by a committee and the witness continues to refuse to answer the question or produce a document or other thing, the committee may take further action by informing the Legislative Assembly of the witness' refusal to co-operate. The Legislative Assembly may order the person to answer all questions and produce any documents or other things relevant to an issue which is being considered by the committee.

The Bill provides that when the Legislative Assembly is deciding whether a witness should be required to answer questions or produce evidence before a committee, it must have regard to the public interest in:

- having the question answered or the document or thing produced to the committee, and



- providing appropriate protection to individuals against self-incrimination.

The Bill acknowledges that the interests of the individual witness may conflict with the interests of a Parliamentary committee in obtaining information. The Bill enables the Legislative Assembly to decide which of these interests should prevail in particular circumstances.

It also provides the Legislative Assembly with the capacity to order that classes of persons who may appear as witnesses before a committee cannot claim the privilege against self-incrimination. For example, the Legislative Assembly could decide that Members of the Legislative Assembly are a class of persons that may not claim privilege when appearing before the Members' Ethics and Parliamentary Privileges Committee. Any such exemption from the privilege is a matter solely for the Assembly to determine.

It should be noted that the powers and procedures which apply to the statutory committees established by the Bill also apply to any committee that the Legislative Assembly establishes by resolution, if the Assembly makes it clear in the resolution that the committee is to have compulsive powers. However, these powers and procedures do not apply to a committee established by an Act of Parliament unless the Act provides that those powers and procedures apply to the committee.

### **Powers and procedures applying to the Public Works Committee**

Part 7 of the Bill provides for the powers and procedures to be used or followed by the Public Works Committee when considering a work. These powers and procedures affect:

- the Committee's entry and inspection of places (to ensure that owners and occupiers of places have fair warning of the Committee's intention to enter and inspect places, and that places are safe for the Committee to enter);
- the restriction on procurement (of materials, for example) for a work (the Legislative Assembly must have referred the work to the Committee and directed that procurement cannot commence until the Committee has reported to the Assembly—this is less restrictive of possible Committee activity than the equivalent provision in the *Public Works Committee Act 1989*, that enables

the Governor in Council, in addition to the Assembly, to refer a work to the Parliamentary Committee of Public Works); and

- the Committee's handling of commercially sensitive information relating to GOCs and joint ventures involving the private sector (the Committee must deal with the information in private session and can only report the information to the Assembly if it considers that the public interest requires it to make the information known to the Assembly).

### **Estimated Cost of Implementing the Legislation**

It is difficult to estimate the long term financial effect of the scheme on the public sector. Agencies may face some additional costs in establishing and maintaining procedures for handling issues raised by the Civil Rights Committee with Ministers or in the Legislative Assembly in regard to Bills and regulatory impact statements.

### **Consultation**

EARC and PCEAR consulted widely in the course of their reviews of Parliamentary Committees.

EARC received 39 public submissions which are listed in Appendix B of its Report. Submissions were received from persons and organisations including Mr Arnold Sandell, Mr Jim Elliott of The University of Queensland, the Aboriginal and Torres Strait Islander Commission, various State Government Departments, the Clerk of the Senate, Mr Harry Evans, the Australian Society of CPAs and the Regulation Review Committee of the Parliament of New South Wales.

PCEAR received 18 public submissions which are listed in Appendix B of its Report. Submissions were received from persons and organisations including the Auditor-General, Mr Barrie Rollason, Mr Clem Campbell MLA, Mr Tom Gilmore MLA, Mr Michael Cope of the Queensland Council for Civil Liberties, Mr Clive Bubb, General Manager of the Queensland Confederation of Industry, Mr Rob O'Regan, Chairman of the Criminal Justice Commission, and Mr Robert Doyle, Clerk of the Parliament.

EARC also conducted a public seminar which included contributions from Mr Mike Ahern, former Premier of Queensland, Mr Scott Prasser of The University of Southern Queensland, Dr David Watson MLA, and Professors Enid Campbell and Bill Russell of Monash University.

In considering EARC's and PCEAR's recommendations the Government consulted with the Parliamentary Service, the Ombudsman, and public sector agencies.

## **NOTES ON CLAUSES**

### **PART 1—PRELIMINARY**

*Clause 1* provides the Act's short title.

*Clause 2* declares the Act's legislative objective.

*Clause 3* indicates that certain terms used in the Bill are defined in the Bill's Dictionary in Schedule 2.

### **PART 2—COMMITTEES OF THE LEGISLATIVE ASSEMBLY**

*Clause 4* establishes six statutory committees: the Legal, Constitutional and Administrative Review Committee, the Members' Ethics and Parliamentary Privileges Committee, the Public Accounts Committee, the Public Works Committee, the Scrutiny of Legislation Committee and the Standing Orders Committee.

*Clause 5* provides that the Act does not limit the Assembly's capacity to establish other committees.

*Clause 6* provides that clauses 24, 25, and 26 apply to other committees established by resolution of the Legislative Assembly unless the Assembly resolves to the contrary. It also clarifies that the Bill does not apply to the Legal, Constitutional and Administrative Review Committee when it is acting pursuant to the *Criminal Justice Act 1989*.

### **PART 3—ROLE OF THE STATUTORY COMMITTEES**

*Clause 7* states the purpose of Parts 3 and 4.

*Clause 8* sets out the role of statutory committees.

### **PART 4—AREAS OF RESPONSIBILITY OF STATUTORY COMMITTEES**

#### ***Division 1—Legal, Constitutional and Administrative Review Committee***

*Clause 9* sets out the areas of responsibility of the Legal, Constitutional and Administrative Review Committee. These areas are:

- administrative review reform,
- constitutional reform,
- electoral reform, and
- legal reform.

*Clause 10* states that the Legal, Constitutional and Administrative Review Committee's responsibility for administrative review reform enables it to examine legislation which deals with access to information (for example, the *Freedom of Information Act 1992*), the review of administrative decisions (for example, the *Judicial Review Act 1991* and the *Parliamentary Commissioner Act 1974*), anti-discrimination (for example, the *Anti-Discrimination Act 1991*) and equal employment opportunity (for example, the *Equal Opportunity in Public Employment Act 1992*). The clause also provides that the Committee may not review or reconsider decisions made by review bodies such as the of Information Commissioner, the Anti-Discrimination Commission or the Parliamentary

Commissioner for Administrative Investigations. This is to ensure that review bodies can operate independently in carrying out their statutory duties to investigate particular cases, while enabling the Committee to examine the overall effectiveness of their legislation.

*Clause 11* provides that the Legal, Constitutional and Administrative Review Committee's responsibility for constitutional reform includes any Bill impliedly or expressly repealing any law affecting the State's constitution.

*Clause 12* provides that the Legal, Constitutional and Administrative Review Committee's responsibility for electoral reform includes the ability to monitor generally the conduct of elections under the *Electoral Act 1992* and the Electoral Commission's capacity to conduct elections.

*Clause 13* provides that the Legal, Constitutional and Administrative Review Committee's responsibility for legal reform includes the recognition of Aboriginal tradition or Island custom under Queensland law and any proposed legislation referred to the Committee by the Legislative Assembly which would establish law that is uniform with that of other jurisdictions. However, the Committee's responsibility for legal reform matters is not limited by this clause. The Committee has power to review any legal issue that falls within the purview of the Parliament of Queensland.

### ***Division 2—Members' Ethics and Parliamentary Privileges Committee***

*Clause 14* provides that the Members' Ethics and Parliamentary Privileges Committee has responsibility for ethical conduct of Members of the Legislative Assembly (MLAs) and for Parliamentary privilege.

*Clause 15* sets out the Committee's responsibilities in regard to the registration of MLAs interests.

*Clause 16* sets out the Committee's responsibilities in regard to the development and implementation of a code of conduct for MLAs. The Committee has exclusive jurisdiction to investigate alleged or suspected breaches by MLAs of the code of conduct, except where there is alleged or

suspected criminal misconduct by an MLA. Where criminal misconduct is alleged or suspected, courts, tribunals and other entities such as the Criminal Justice Commission and the Police Service will have jurisdiction.

*Clause 17* sets out the Committee's responsibilities in regard to Parliamentary privileges.

### ***Division 3—Public Accounts Committee***

*Clause 18* sets out the area of responsibility of the Public Accounts Committee. The Public Accounts Committee will examine Government financial documents and the reports of the Auditor-General.

*Clause 19* provides that the Public Accounts Committee may refer issues arising out of Clause 18 to the Auditor-General.

### ***Division 4—Public Works Committee***

*Clause 20* sets out the works which the Public Works Committee may examine. The Public Works Committee may examine works which are the responsibility of a constructing authority (see clause 21), or which are being carried out by a Government Owned Corporation and have been referred to the Public Works Committee by the Assembly. The clause also sets out issues to which the Public Works Committee may have regard when examining those works, such as the necessity for, and the advisability of carrying out, the work and procurement methods for the work.

*Clause 21* defines what is a constructing authority for a work.

### ***Division 5—Scrutiny of Legislation Committee***

*Clause 22* sets out the area of responsibility of the Scrutiny of Legislation Committee, in particular that the Committee is to scrutinise the application to Bills and subordinate legislation of the fundamental legislative principles set out in the *Legislative Standards Act 1992* and the lawfulness of subordinate legislation. The Scrutiny of Legislation Committee also has

responsibility for overseeing the general operation of certain provisions of the *Legislative Standards Act 1992* and the *Statutory Instruments Act 1992*.

### ***Division 6—Standing Orders Committee***

*Clause 23* provides that the Standing Orders Committee has responsibility for the standing rules and orders which set out the procedures for the conduct of business in the Legislative Assembly.

## **PART 5—MINISTERIAL RESPONSE TO REPORTS BY COMMITTEES**

*Clause 24* sets out the procedures to be followed in the preparation of, and the content to be included in, responses by Ministers to the reports of committees. Ministers have a maximum of 6 months to respond to the reports of committees. The clause provides that Ministers do not have to respond to reports of the Scrutiny of Legislation Committee except when it is practicable to do so.

## **PART 6—GENERAL POWERS OF COMMITTEES**

*Clause 25* provides that the Public Accounts Committee and the Public Works Committee have the power to call for persons, documents and other things. It further provides that other committees may be given the power by resolution of the Legislative Assembly.

*Clause 26* provides for privilege against self-incrimination for witnesses appearing before committees. However, the Legislative Assembly may ultimately compel a witness to answer a question or produce a document or other thing, regardless of any claim of privilege against self-incrimination. The Assembly may also order that a class of persons, including persons who have not yet appeared as witnesses, may not claim privilege against self incrimination.

*Clause 26(9)* ensures that evidence given before a committee is not admissible before any other forum, except as provided by clause 26(10) where such evidence may be considered by the Legislative Assembly or a committee of the Assembly, or a criminal proceeding concerning the alleged falsity or misleading nature of any evidence.

This provision does not alter the existing privilege of Parliament established under the Bill of Rights of 1688 that “freedom of speech and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament”.

## **PART 7—PROVISIONS ABOUT PUBLIC WORKS COMMITTEE**

*Clause 27* provides that when considering a work the Public Works Committee may have regard to the issues mentioned in clause 20.

*Clause 28* sets out the procedures to be followed by the Public Works Committee when seeking to gain entry to places for inspection. The provision ensures that owners and occupiers of places are given fair warning of the committee’s intention to enter and inspect a place (for example, a building or building site).

*Clause 29* provides that, if the Legislative Assembly has so resolved, the procurement for a work referred to the Public Works Committee by the Assembly may not commence until the committee has reported on the work to the Assembly.

*Clause 30* provides that the Public Works Committee must hear commercially sensitive information in private session.

*Clause 31* provides that the Public Works Committee may report commercially sensitive information to the Legislative Assembly only if the Committee considers that it is in the public interest to do so.



## **PART 8—OTHER PROVISIONS ABOUT STATUTORY COMMITTEES**

*Clause 32* provides that when a committee's membership changes, the newly appointed committee may take up issues which had been dealt with by the committee under its previous membership.

*Clause 33* requires the committees to produce annual reports detailing their activities, expenditure and responses by Ministers to recommendations they have made in other reports.

## **PART 9—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS**

*Clause 34* provides for the repeal of the legislation about the Electoral and Administrative Review Commission (EARC—which completed its work in 1993) and the *Public Accounts Committee Act 1988* and the *Public Works Committee Act 1989*.

*Clause 35* states that Schedule 1 to the Bill amends certain Acts as set out in Schedule 1.

*Clause 36* provides that the Legal, Constitutional and Administrative Review Committee is to consider and report on any EARC reports not reviewed and reported on by the Parliamentary Committee for Electoral and Administrative Review, which is abolished upon the repeal of the EARC legislation.

*Clause 37* provides that the Legal, Constitutional and Administrative Review Committee may take over any unfinished issues from the Parliamentary Criminal Justice Committee.

*Clause 38* provides that the Public Accounts Committee may take over any unfinished reviews being conducted by the Parliamentary Committee of Public Accounts at the time of its abolition.

*Clause 39* provides that the Public Works Committee may take over any unfinished reviews being conducted by the Parliamentary Committee of Public Works at the time of its abolition.

*Clause 40* provides that the Scrutiny of Legislation Committee may take over any unfinished reviews being conducted by the Committee of Subordinate Legislation at the time of its abolition.

*Clause 41* states that Part 9 expires one year after its commencement.

## **SCHEDULE 1**

### **ACTS AMENDED**

#### **CRIMINAL JUSTICE ACT 1989**

This Act is amended to abolish the Parliamentary Criminal Justice Committee and replace it with the Legal, Constitutional and Administrative Review Committee. The latter Committee will have the functions and powers of its predecessor.

The amendments clarify that, when undertaking its functions under the *Criminal Justice Act 1989*, the Legal, Constitutional and Administrative Review Committee has the power to call for persons, papers and other things. This power was previously conferred on the Parliamentary Criminal Justice Committee by resolution.

#### **ELECTORAL ACT 1992**

This Act is amended to require that the responsible Minister consult the Legal, Constitutional and Administrative Review Committee about the selection processes for, and the appointments of, persons as the chairperson (who must be a judge) and as a member (non-judicial) of the Electoral Commission. The Act is also amended to require that the responsible Minister consult with the Committee about the selection process for, and the appointment of, a person as the Electoral Commissioner.

#### **FINANCIAL ADMINISTRATION AND AUDIT ACT 1977**

This Act is amended to clarify that the new Public Accounts Committee has the same functions as the existing Parliamentary Committee of Public Accounts to oversee the work of the Auditor-General and the Queensland Audit Office.

**FREEDOM OF INFORMATION ACT 1992**

This Act is amended so that the Legal, Constitutional and Administrative Review Committee is the Parliamentary committee with responsibilities under the Act to:

- consider the annual operational reports of the Information Commissioner, and,
- where the Committee considers it necessary, require the Information Commissioner to report on any particular aspect of the Commissioner's functions.

**LEGISLATIVE STANDARDS ACT 1992**

This Act is amended to provide expressly that communications between the Office of the Parliamentary Counsel and its clients are subject to legal professional privilege. The Office of the Parliamentary Counsel may not disclose those communications without the permission of its clients.

**PARLIAMENTARY COMMISSIONER ACT 1974**

This Act is amended to provide that the Legal, Constitutional and Administrative Review Committee has a role in overseeing the Parliamentary Commissioner for Administrative Investigations (Ombudsman).

This oversight role includes the Committee being consulted on:

- the selection process for, and appointment of, a person as Ombudsman,
- the proposed suspension and removal of the Ombudsman,
- the annual estimates of expenditure for the Ombudsman's office, and
- the terms of reference for the (at least five yearly) strategic review of the Ombudsman's office.

The amendment also provides that the Commissioner is not subject to direction by any person. The Assembly and the Committee may still refer a matter to the Ombudsman for investigation and report. However, clause 10(2) of the Bill provides that the Committee may not perform the

functions of the Ombudsman, review the Ombudsman's decisions in regard to a matter, or reconsider reports that the Ombudsman has made to the Assembly on an agency's failure to act on a recommendation made by the Ombudsman.

## **PARLIAMENTARY SERVICE ACT 1988**

The Act is amended to transfer the responsibilities of the Parliamentary Service Commission, which oversees the Parliamentary Service, to the Speaker of the Legislative Assembly. Further details may be obtained from the Second Reading Speech.

## **SCHEDULE 2**

## **DICTIONARY**

The dictionary defines certain terms in the Act.