

OMBUDSMAN BILL 2001

EXPLANATORY NOTES

Title of the Bill:

Ombudsman Bill 2001.

Objective of the legislation:

The policy objective of the Ombudsman Bill 2001 (the Bill) is to replace and update the *Parliamentary Commissioner Act 1974* (the PC Act) to provide improved processes for citizens to seek review of administrative actions by Government agencies. The Bill will:

- support implementation of recent reviews of the office of the Ombudsman;
- clarify the Ombudsman's jurisdiction over certain matters;
- replace the existing *Commissions of Inquiry Act 1950* powers with stand-alone powers;
- make the Ombudsman more accessible to people who do not speak English, are illiterate or have a disability;
- fulfil the Government's 1998 pre-election commitment to modernise the legislation; and
- make further miscellaneous amendments and consequential amendments to other legislation.

Reasons for the objective and how it will be achieved:

In 1998, the Government made a pre-election commitment to work with the Ombudsman and citizen groups to rethink and revamp the Ombudsman's function, and that new, modern legislation would re-establish an Ombudsman service for all Queenslanders.

A strategic review (the Wiltshire report) and a strategic management review (the Consultancy Bureau report) of the Ombudsman's office have recently been conducted. The Wiltshire report was tabled in Parliament on

6 May 1998. On 15 July 1999, the Legal, Constitutional and Administrative Review Committee (LCARC) tabled its review of the Wiltshire report and the Government's response to the LCARC report was tabled in Parliament on 26 October 1999. The Consultancy Bureau report was tabled in Parliament on 21 June 2000.

In general, the reviews found that the Ombudsman's office succeeded in giving Queenslanders administrative justice in individual cases, but the office should be more proactive in improving the quality of public administration, rather than focusing exclusively on complaint investigation. Furthermore, the office should be more informal and timely, and less formal and legalistic, in investigating complaints. The reviews made comprehensive recommendations that were mostly of a managerial nature. As the Ombudsman is an officer of the Parliament, the implementation of those recommendations is largely a matter for the Ombudsman. However, the Bill supports the reviews' recommendations by introducing greater flexibility to the Ombudsman's operations.

The reviews also made some recommendations for legislative amendment which are implemented in the Bill. For example, the Bill recognises the Ombudsman's existing practice of making recommendations for improving the quality of systematic administrative practice in agencies and of resolving complaints without formal investigation. The Bill implements recommendations in LCARC's report no 14, *Review of the Report of the Strategic Review of the Queensland Ombudsman* (the LCARC report) by making a name change to Ombudsman, providing a ten year cap on a person's appointment as Ombudsman and establishing LCARC's specific functions in relation to the Ombudsman.

The Bill clarifies a number of jurisdictional issues. For example, the Bill clarifies that non-operational and non-disciplinary actions of a police officer are within the Ombudsman's jurisdiction. The exemption of statutory trustees has been removed and out of respect for the independence of the judiciary, courts and registry actions relating to judicial functions will be out of the Ombudsman's jurisdiction.

The Ombudsman's existing *Commissions of Inquiry Act 1950* powers in the PC Act are replaced with stand-alone powers in the Bill. These powers have been tailored appropriately to the office's functions and will improve public understanding of the Ombudsman's powers.

The Bill makes the Ombudsman more accessible to people who do not speak English, are illiterate or have a disability by allowing complaints to

be received orally and requiring the use of interpreter and other appropriate assistance.

In other respects, the Bill modernises and restructures the PC Act. The intention is not to make substantive policy changes, but to make the legislation more readily intelligible. The notes on provisions indicate the source provisions from the PC Act for each clause that is modernised.

Administrative costs:

None of the substantive changes are expected to have any direct financial implications.

Consistency with fundamental legislative principles:

The Bill will provide improved processes for citizens to seek review of administrative action by Government agencies.

Some of the Ombudsman's current powers under the *Commissions of Inquiry Act 1950* will be reduced, while some new powers (such as a power to require the creation of documents (Bill, clause 28) will be introduced. The powers are better adapted to the Ombudsman's functions and are framed so as to respect fundamental legislative principles.

The power to enter premises and retain documents without a warrant (Bill, clause 34) is limited to public sector agencies' premises and is justified in light of the Ombudsman's functions.

The restriction on the admissibility of documents created only for an Ombudsman investigation (Bill, clause 48) is a suitably limited restriction on the general admissibility of evidence in the interests of the rule of law, designed to encourage appropriate cooperation with the Ombudsman.

The ten-year limitation on the length of the Ombudsman's service (Bill, clause 61) will affect the recently appointed Ombudsman who is aware of this.

The immunity of the Ombudsman and staff from proceedings (Bill, clause 93) is less extensive than the current provision and meets concerns expressed by the Scrutiny of Legislation Committee about similar provisions.

Consultation:

An extensive consultation process within Government, and with selected stakeholders, was undertaken before preparing the Bill.

On 25 August 2001, advertisements appeared in *The Courier-Mail* and all major regional newspapers inviting public comment on the draft Ombudsman Bill 2001. Electronic notices were sent to all members of Parliament and local governments advising of the release of the draft bill and inviting comment. Letters inviting comment were also sent to key stakeholders, including departments, the LCARC, the Local Government Association of Queensland Inc; the Queensland Ombudsman and all Australian Ombudsman offices; Criminal Justice Commission; Queensland Crime Commission; Auditor-General; Commission for Children and Young People; Public Service Commissioner; Anti-Discrimination Commission Queensland; The Consultancy Bureau Pty Ltd; Professor Kenneth Wiltshire; Queensland Law Society Inc; Bar Association of Queensland; community legal centres and the Queensland Council of Civil Liberties.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Division 1—General

Clause 1 sets out the short title of the Act.

Clause 2 provides that the Act will commence on a day to be fixed by proclamation.

Clause 3 provides that the dictionary in schedule 3 defines particular words used in this Act.

Clause 4 provides that a note in the text of this Act is part of the Act.

Clause 5 is a new provision which details the objects of this Act in accordance with current legislative drafting practice. The objects are to give people a timely, effective, independent and just way of having

administrative actions of agencies investigated and to improve the quality of decision-making and administrative practice in agencies.

Clause 6 is a new provision which sets out how the objects are to be achieved. The clause recognises that the objects are to be achieved by providing for an office of Ombudsman and vesting that office with the authority to investigate administrative actions of agencies and to make recommendations to agencies, generally or in particular cases, about ways of improving the quality of decision-making and administrative practices.

Division 2—Key concepts

Clause 7 is sourced partially from section 4 of the PC Act which defines administrative action as any action about a matter of administration. A new paragraph has been included to make it clear that administration action does not include an operational action of a police officer, an officer of the criminal justice commission or an officer of the crime commission. Operational action is defined broadly in the dictionary in schedule 3 to include action taken in or for performing functions the officer has under powers conferred on the officer by an Act or law. For example, enforcement, investigation, information gathering, search and questioning powers under the *Police Powers and Responsibility Act 2000*.

Clauses 8 and 9 define agency and public authority and are sourced partially from section 4 of the PC Act. The clauses clarify the current definitions and draw on similar definitions in sections 8, 9 and 11 of the *Freedom of Information Act 1992*.

Clause 8 defines agency as a department, a local government or a public authority. This includes an entity, other than an incorporated entity or an individual, established under an Act as a board, council, committee, subcommittee or other similar entity for helping, or for performing functions connected with the agency.

The definition makes it clear that an individual is not an agency under this Act only because the individual holds an office the duties of which are performed as duties of employment as an officer of an agency, an office of member of an agency or an office established under an Act for the purposes of an agency.

Clause 9 defines public authority as any of the following entities:

- an entity, other than an individual, that is established for a public purpose under an Act or established by government for a public purpose under an Act;
- an entity created by the Governor in Council or a Minister;
- an entity, other than an individual, that is declared under a regulation to be a public authority and is supported directly or indirectly by government funds or other help over which government is in a position to exercise control or is established under an Act;
- an individual holding an office established under an Act; and
- an individual holding an appointment made by the Governor in Council or a Minister declared under a regulation to be a public authority.

The clause expressly states that a department (or part of) and a local government (or part of) are not a public authority because these entities are already caught by the definition of ‘agency’ under clause 8(1).

Out of respect for the independence of the judiciary, the judicial functions of courts and registries are not to be caught by the definition of public authority. Clause 9(2)(c) also states that a court or the holder of a judicial office connected with a court is not a public authority when performing a function the court or office holder is authorised under an Act to perform. For example, a magistrate conducting a committal hearing.

Clause 10 is sourced from sections 12(3), 13(7) and (9) of the PC Act and the clause is not intended to change the Ombudsman’s jurisdiction. The clause provides that an administrative action of an agency includes an action taken by, in or for the agency, and an administrative action taken by or for an officer of the agency and an administrative action taken for, or in the performance of functions conferred on, an agency, by an entity that is not an agency. By providing for actions taken for an agency or an officer of an agency, the clause intends to capture administrative actions that are outsourced.

PART 2—THE OMBUDSMAN

Clause 11 is sourced from section 5(1) of the PC Act and provides that there is an Ombudsman who is an officer of the Parliament. The intention of the clause is to effect a change of name from Parliamentary Commissioner for Administrative Investigations to Ombudsman. This is the name by which the office is popularly known in Queensland and the name used in most other comparable jurisdictions.

Clause 12 is a new provision which sets out the functions of the Ombudsman. The intention of this clause is to clarify and recognise the existing functions, not to enlarge, the Ombudsman's functions. The functions accord with existing powers to investigate on reference by the Parliament, by complaint or on the Ombudsman's own motion. The clause recognises that the Ombudsman may investigate administrative actions of agencies and make recommendations to agencies about appropriate ways of addressing the effects of inappropriate administrative actions and/or for the improvement of the practices and procedures. The Ombudsman's function of considering administrative practices and procedures of agencies generally is also recognised together with the ability to make recommendations or provide information or other help to the agencies for the improvement of practices and procedures.

Clause 13 is sourced from section 11A of the PC Act. To recognise the independence of the Ombudsman, this clause has been expanded to provide that the Ombudsman is not subject to direction by any person about the way the Ombudsman performs the Ombudsman's functions. This is subject to any other Act or law.

PART 3—INVESTIGATION OF ADMINISTRATIVE ACTIONS OF AGENCIES

Division 1—Extent of jurisdiction

Clause 14 is sourced from section 13(1) and (10) of the PC Act and provides that the Ombudsman may investigate administrative actions of

agencies and this power exists despite a provision in another Act to the contrary.

Clause 15 is a new provision which provides that in order to avoid inappropriate duplication of investigative activity, the Ombudsman may liaise and enter into an arrangement with a complaints entity that has responsibility for investigating the same matter. For example, the parties may enter into an arrangement regarding the referral of certain types of complaints. To enable the parties to enter into flexible arrangements, the clause does not specify arrangement details. Complaints entity is defined in the dictionary in schedule 3 to include an entity under an Act that has responsibility for the investigation or review of matters that may include administrative actions of agencies. Examples include the Commissioner for Children and Young People under the *Commission for Children and Young People Act 2000* and the adult guardian under the *Guardianship and Administration Act 2000*.

In accordance with clause 23(2) of the Bill, the Ombudsman does not need to investigate a complaint to the extent that the Ombudsman is satisfied a complaints entity has investigated, or will investigate, the action complained of at a level at least substantially equivalent to the level at which the Ombudsman would otherwise investigate the complaint.

Clause 16 sets out what the Ombudsman must not investigate. Subclause 1 is sourced from sections 13(2) and (6) of the PC Act. The words including a policy decision have been added to make it clear that the Ombudsman must not question the merits of a decision, which includes a policy decision, made by a Minister or Cabinet.

Subclause 2 is partially sourced from sections 12(2) and 13(5) of the PC Act. The existing section 12(2) of the PC Act is not clear. The Ombudsman presently investigates non-operational and non-disciplinary administrative actions in the Queensland Police Service. The definition of administrative action in clause 7 of the Bill makes it clear that it does not include operational action of a police officer, an officer of the criminal justice commission or an officer of the crime commission. Subclause 2(c) and (d) have been included in clause 16 of the Bill to clarify the Ombudsman's jurisdiction by removing overlap with the jurisdiction of the Criminal Justice Commission and the Queensland Police Service disciplinary processes.

Section 13(5)(a) of the PC Act has not been restated in clause 16 as the definition of public authority in clause 9 of the Bill does not include the judicial functions of courts and registries.

Section 13(5)(d) of the PC Act expressly excludes actions of trustees under the *Trusts Act 1973* from the Ombudsman's jurisdiction. The Bill omits the exclusion, so that the Ombudsman would have power to investigate a complaint about actions of the Public Trustee and other public sector trustees under the *Trusts Act 1973*.

Clause 17 is sourced from section 28 of the PC Act and provides that if a question arises about whether the Ombudsman has jurisdiction, the Ombudsman may apply to the Supreme Court to decide the question which must be heard in closed court. The clause does not extend to complainants and agencies as they may make an application under the *Judicial Review Act 1991* for lack of jurisdiction. It is arguable that the Ombudsman may not have standing under the *Judicial Review Act 1991*.

Division 2—When administrative actions may be investigated

Clause 18 sets out clearly when administrative actions may be investigated which is based on existing jurisdiction in sections 14(1) and 15(1) of the PC Act. The clause provides that the Ombudsman may investigate administrative actions of agencies on complaint or on the Ombudsman's own initiative. However, the Ombudsman must investigate a parliamentary reference of an administrative action of an agency.

Clause 19 is sourced from section 14(1) and (2) of the PC Act and provides that the Legislative Assembly or a statutory committee of the Assembly may refer to the Ombudsman, for investigation and report, any administrative action of an agency the Ombudsman may investigate that the Assembly or committee considers should be investigated by the Ombudsman. The investigation must be started as soon as possible after the reference is made.

Division 3—Complaints

Clause 20 is sourced from sections 15(2) and 16 of the PC Act. To ensure the Ombudsman's accessibility for a person who may have difficulty in providing a written complaint, the Ombudsman may now accept oral complaints. If the Ombudsman considers it necessary for achieving the objects of this Act, the Ombudsman may give a person the help necessary to put the complaint in writing. The Ombudsman does have the discretion

to decline to investigate an oral complaint until the complaint is put in writing.

The complaint may be made by any person, or any body of persons, whether incorporated or not, apparently directly affected by the action.

The complaint must be made within one year after the day the complainant first had notice of the action and the complainant is taken to have had notice of the action at the time the complainant might reasonably be expected to have had notice of the action. The Ombudsman may accept a complaint after the expiry of the one year time limitation in special circumstances.

The Ombudsman may accept a complaint made by a person apparently representing a complainant. For example, a lawyer or a union representative.

The Ombudsman may also accept a complaint, even though the complaint may not on its face be against an administrative action or agency if the Ombudsman considers there is a likelihood that the cause arose from an administrative action. This provision is sourced from section 15(2) of the PC Act.

A complaint may be made by a representative of a person if the person has died or can not, for any reason, act for themselves, if the Ombudsman considers the representative suitable.

It is an offence if a person in charge of a place of custody or detention does not ensure all necessary steps are taken to facilitate the making of a complaint by a person in custody or detention.

Clause 21 is partially sourced from section 16(3) of the PC Act and provides that a restrictive communication provision in an Act does not apply to a communication made for the purpose of making a complaint under this Act.

Clause 22 is a new provision which allows the Ombudsman to make reasonably necessary inquiries to decide whether a complaint should be investigated and that the principal officer of the agency must give the Ombudsman reasonable help in the conduct of a preliminary inquiry. The preliminary inquiry might also be used to decide how best the matter raised might be investigated or resolved, for example through informal resolution.

Clause 23 is sourced from sections 14(3) and 17 of the PC Act which sets out the grounds in which the Ombudsman may refuse to investigate a complaint. This includes a complaint that is trivial, frivolous, vexatious or was not made in good faith. Other grounds include the complainant does

not have a sufficient direct interest in the action complained of, or the complainant has a right of appeal, reference or review, or remedy which it would not be unreasonable to require the person to exhaust.

The Ombudsman may also refuse to investigate a complaint if the complainant had a right of appeal, reference or review, or another remedy that is exhausted (whether or not the right was exercised) and in the circumstances the investigation, or continuation of the investigation, is unnecessary or unjustifiable.

A right or remedy for this clause does not include a right under the *Judicial Review Act 1991* to make application to the Supreme Court. Therefore a complainant does not have to have pursued this avenue before complaining to the Ombudsman.

A general discretionary power is given to the Ombudsman to refuse to investigate if, in the circumstances, the investigation, or the continuance of the investigation of the action complained of, is unnecessary or unjustifiable.

The Ombudsman need not investigate a complaint to the extent that a complaints entity has or will investigate the action complained of at a level at least substantially equivalent to the level at which the Ombudsman would otherwise investigate the complaint. Note that the Ombudsman may liaise and enter into arrangements with a complaints entity in accordance with clause 15.

Where the Ombudsman can not investigate a complaint, or refuses to investigate or continue to investigate a complaint, the Ombudsman must inform the complainant in writing of the decision and the reasons for the decision as soon as reasonably practicable.

Division 4—Other provisions

Clause 24 is a new provision that provides that the Ombudsman may conduct an investigation or part of an investigation informally or by exercising powers under part 4. The clause authorises the Ombudsman to resolve complaints informally, which may include negotiation, conciliation, mediation or other forms of alternative dispute resolution. The Ombudsman may ask agencies to provide information or assistance to resolve the matter informally. This clause gives a legal basis to existing practice.

If agencies do not want to deal with a matter informally, they may request the Ombudsman exercise formal powers under part 4 which would require the Ombudsman to give formal notice of investigation.

Clause 25 is sourced from section 18(2)-(3) and (8) of the PC Act regarding the procedure of an investigation. The Ombudsman must conduct the investigation in a way that maintains confidentiality and is not required to hold a hearing for the investigation. If the Ombudsman considers it appropriate, the Ombudsman may obtain information about the investigation from persons and may make inquiries about the investigation.

The power for the Ombudsman to determine whether any person may be represented has been removed and a new subclause has been inserted stating that the Ombudsman is not bound by the rules of evidence and must comply with natural justice when conducting an investigation.

Clause 26 is sourced from section 18(4)-(6) of the PC Act and allows the Ombudsman during or after an investigation to consult any Minister who is concerned in the action complained of. However, the Ombudsman is required to consult with the Minister if the Minister asks to be consulted or an investigation relates to a recommendation made to the Minister and the Ombudsman is considering making a report under clause 50 about the investigation.

The Ombudsman must, before making a report on an investigation that may affect or concern an agency, give the principal officer of the agency an opportunity to comment on the matter under investigation. This affords natural justice in addition to the general requirement under clause 25(2)(b).

PART 4—POWERS AND PROCEDURES FOR INVESTIGATIONS

The PC Act gives the Ombudsman investigative powers under the *Commissions of Inquiry Act 1950*. To improve public understanding of the Ombudsman's powers and to enable these powers to be tailored appropriately to the office's functions, part 4 replaces the *Commission of Inquiry Act 1950* powers with the following stand-alone powers.

Division 1—Ombudsman’s powers for conducting investigations

Clause 27 provides that if the Ombudsman intends to exercise powers under this part, a written notice must be given to the principal officer of the agency before the powers are exercised. Subclause (2) sets out the matters that must be included in the notice. On the giving of the notice, the Ombudsman may exercise powers under this part for the investigation.

Clause 28 provides that the Ombudsman may by notice given to a person require the person to give information relevant to the investigation within a stated reasonable time. This includes an oral or written statement of information, a stated document or other stated thing. The Ombudsman may also require the person to create and give to the Ombudsman a document containing information reasonably required for the investigation. This may include providing written answers to questions posed by the Ombudsman or creating a report from a computer system. Notice is defined in the dictionary in schedule 3 to mean written notice.

Clause 29 provides that the Ombudsman may by notice given to a person, require the person to attend before the Ombudsman at a stated reasonable place and time to do one or more of the following which is relevant to the investigation:

- give the Ombudsman information of a stated type;
- answer questions the Ombudsman reasonably requires to be answered;
- give the Ombudsman a stated document or all documents of a stated type or other stated thing or copies thereof.

If the person is a prisoner, the Ombudsman may, by notice given to the chief executive (corrective services), direct that chief executive to produce the prisoner named in the notice at a stated time and place. A direction by the Ombudsman is lawful authority to the chief executive for production of the prisoner as directed and the chief executive must comply with the served direction. A prisoner produced remains in the custody of the chief executive.

Clause 30 requires that a person who receives an investigation requirement under clause 28 or 29 must comply with the requirement, unless the person has a reasonable excuse. It is an offence to fail to comply with a maximum penalty of 100 penalty units.

An excuse is a reasonable excuse if within the time for compliance with the investigation requirement, the person gives the Ombudsman a notice of

the excuse in enough detail to allow the Ombudsman to form an opinion on whether the excuse is reasonable and the Ombudsman advises the person that, in the Ombudsman's opinion, the excuse is reasonable.

Clause 31 provides that if, without reasonable excuse, a person fails to comply with the investigation requirement, the Ombudsman may apply to the Magistrates Court for a subpoena to be issued requiring the attendance of the person before the Ombudsman to produce a document or thing or to give evidence.

Clause 32 provides that a document or other thing produced in the possession of the Ombudsman may be kept for a reasonable period for conducting the investigation and the Ombudsman may take extracts from it and make copies of it. While in the Ombudsman's possession, the Ombudsman must allow the document or other thing to be inspected at any reasonable time by a person who would have the right to inspect it if it were not in the Ombudsman's possession. For example, the person or agency who has produced the document would have the right to inspect it.

Clause 33 sets out the procedures for giving information under the division. The Ombudsman may require the information to be given on oath and may administer the required oath. The oath is an oath that the information the person will give will be true. It is an offence if a person refuses to be sworn with a maximum penalty of 100 penalty units. Under the *Oaths Act 1867*, a person can make an affirmation rather than swear an oath.

Clause 34 sets out that the Ombudsman may conduct an investigation at agency premises on the giving of reasonable notice to the principal officer of an agency. The Ombudsman at a reasonable time may enter and inspect a place occupied by the agency, take into the place the persons, equipment and materials the Ombudsman reasonably requires for the investigation and may take extracts or copy documents located at the place. The Ombudsman may require an officer of the agency at the place to give the Ombudsman reasonable help in exercising these powers and it is an offence for the person to fail to comply without reasonable excuse.

Clause 35 provides that the Ombudsman may pay the reasonable expenses incurred by a person in complying with a requirement under this division or in otherwise helping the Ombudsman in an investigation. This clause does not require the Ombudsman to pay the expenses incurred by an agency, an officer of an agency carrying out the officer's duties with the agency or the complainant.

Division 2—Arrest warrants

Clause 36 allows the Ombudsman to apply to a magistrate for a warrant for the arrest of a person who has not complied with an investigation requirement to attend before the Ombudsman (clause 28) without a reasonable excuse (clause 30) and the person has not complied with a subpoena issued because of the failure to comply with the investigation requirement (clause 31). The application must be sworn and state the grounds on which the warrant is sought. The magistrate may refuse to consider the application until the Ombudsman gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Clause 37 provides that the magistrate may issue an arrest warrant only if the magistrate is satisfied the person has refused to attend before the Ombudsman under an investigation requirement or a subpoena and the warrant is necessary to ensure the person attends before the Ombudsman. The warrant must state that a police officer may arrest the person named in the warrant and cause the person to attend before the Ombudsman.

Division 3—Contempt

Clause 38 sets out the grounds which constitute contempt of the Ombudsman. For the purposes of the clause, Ombudsman includes an officer of the Ombudsman.

Clause 39 provides that if the Ombudsman is satisfied there is evidence of contempt, the Ombudsman may certify the contempt in writing to the Supreme Court. The Supreme Court may issue a warrant directed to a police officer for the arrest of the person to be brought before the Supreme Court to be dealt with according to law.

The *Bail Act 1980* applies to the proceeding for the contempt started by the certification in the same way it applies to a charge of an offence.

The court must inquire into the alleged contempt and hear witnesses and evidence that may be produced against or for the person whose contempt was certified and any statement given by the person in defence. The Ombudsman's certificate of contempt is evidence of the matters contained in the certificate.

If the court is satisfied the person has committed the contempt, the court may punish the person as if the person had committed the contempt in the face of the court in a proceeding for the enforcement of a non-money order. The *Uniform Civil Procedure Rules 1999*, so far as they relate to the enforcement of non-money orders, apply to the court's investigation, hearing and power to punish with necessary changes.

Clause 40 provides that if conduct of an offender is both contempt of the Ombudsman and an offence, the offender may be proceeded against for the contempt or for the offence, but the offender is not liable to be punished twice for the same conduct.

Division 4—Offences

Clause 41 establishes that it is an offence for a person to state anything to the Ombudsman or an officer of the Ombudsman if the person knows it is false or misleading in a material particular. It is enough for a complaint against a person for an offence to state the statement made was 'false or misleading' without specifying which.

Clause 42 establishes that it is an offence for a person to give the Ombudsman or an officer of the Ombudsman a document containing information the person knows is false or misleading in a material particular.

It is not an offence if the person, to the best of their ability, tells the Ombudsman or officer when giving the document how it is false or misleading and, if the person has or can reasonably obtain it, gives the correct information.

It is enough for a complaint against a person for an offence to state the information in the document was 'false or misleading' without specifying which.

Clause 43 is partially sourced from section 23 of the PC Act and establishes that it is an offence for a person to assault or obstruct (which includes hinder, resist and attempt to obstruct) the Ombudsman or an officer of the Ombudsman in the performance of duties under this Act.

PART 5—OTHER PROVISIONS SUPPORTING PERFORMANCE OF OMBUDSMAN’S FUNCTIONS

Clause 44 provides that sections 120, 123, 123A, 124, 125, 126, 127, 128, 129 and 130 of the *Criminal Code* apply, with necessary changes, to investigations under this Act. Subclause (2) spells out some of the necessary changes to be made to the *Criminal Code* provisions in order to apply them to an investigation.

Clause 45 is sourced from sections 19(2)-(4) of the PC Act and deals with information disclosure and privilege.

The clause provides that no obligation to maintain secrecy or other restriction on the disclosure of information obtained by or given to officers of an agency, whether imposed by any Act or by a rule of law, applies to the disclosure of information relevant to an investigation by the Ombudsman.

In a preliminary inquiry or investigation, the State or an agency is not entitled to any privilege that would apply to the production of documents, or the giving of evidence, relevant to the investigation, in a legal proceeding. For example, an agency can not claim legal professional privilege as a basis for not providing a legal opinion to the Ombudsman.

A person has, for the giving of information and the production of documents or other things relevant to a preliminary inquiry or investigation, equivalent privileges to the privileges the person would have as a witness in proceedings in a court. This has effect subject to other provisions under the Act which require a person to give information or to produce documents or other things relevant to an investigation.

Clause 46 is sourced from section 21 of the PC Act and provides that this Act does not require or authorise a person to disclose information relating to proceedings of Cabinet or a committee of Cabinet. A certificate issued by the chief executive of the 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 is conclusive of the fact so certified.

Further, the Ombudsman must not require disclosure of information if the Attorney-General certifies that the disclosure might prejudice the security of the State or the investigation or detection of offences.

Clause 47 is designed to protect people who assist the Ombudsman in a preliminary inquiry or an investigation from suffering detriment as a result of the assistance. The clause establishes an offence to cause, threaten to

cause, or attempt or conspire to cause or induce a person to cause, detriment to a person who assists the Ombudsman for the purposes of an investigation.

Clause 48 is a new provision regarding the inadmissibility of documents created for the purposes of complying with an investigation requirement (clause 28(b)). The document created is not admissible in evidence against the person in civil or criminal proceedings. ‘Person’ is defined in the *Acts Interpretation Act 1954* to include a reference to a corporation as well as an individual. However, clause 48 does not prevent a document created under clause 28(b) being admitted as evidence in a civil or criminal proceedings about the falsity of information or a document.

PART 6—REPORTS AND RECOMMENDATIONS

Division 1—Reports on particular investigations

Clause 49 is sourced from section 24(1) of the PC Act and provides that this division applies to an investigation, other than an investigation started because of a parliamentary reference. The clause further provides that this division applies if the Ombudsman is satisfied that inappropriate administrative action was taken. The clause provides a number of grounds of inappropriate administrative action including administrative action that was taken contrary to law or was unreasonable, unjust, oppressive or improperly discriminatory.

Clause 50 is sourced from sections 18(7), 24(2)-(3) of the PC Act. The clause provides that if the Ombudsman considers that action should be taken in relation to the administrative action, the Ombudsman may give to the principal officer of the appropriate agency a report stating the action the Ombudsman considers should be taken, and the reasons the action should be taken, and making the recommendations the Ombudsman considers appropriate. The Ombudsman may also send a copy of the report to the responsible Minister, or chairperson, mayor or president of a local government. Responsible Minister is defined in the dictionary in schedule 3.

If, during or after an investigation, the Ombudsman considers there is evidence of a breach of duty or misconduct on the part of an officer of an

agency, the Ombudsman must give a report about the breach of duty or misconduct to the agency's principal officer. If the Ombudsman considers it appropriate in the circumstances, a copy of the report may be sent to the responsible Minister for the agency and if the agency is a local government, a copy may be sent to the local government's chairperson, mayor or president.

If the agency is a local government, the principal officer must give a copy of the report and any recommendations to all the members, however named, of the local government.

Clause 51 is sourced from section 24(4)-(6) and provides for action after a report is made making recommendation. The clause allows the Ombudsman to ask the agency's principal officer to notify the Ombudsman within a stated time, of the steps taken or proposed to be taken to give effect to the recommendations. The Ombudsman may also require the principal officer to provide reasons for not taking recommended steps.

If it appears to the Ombudsman that no steps the Ombudsman considers appropriate have been taken within a reasonable time and after taking into account the principal officer's comments the Ombudsman may give to the Premier a copy of the report and a copy of the comments made by the principal officer. The Ombudsman may also give to the Speaker for tabling in the Legislative Assembly, another report that deals with the original report and the comments.

Division 2—Other reports

Clause 52 provides that if the Ombudsman considers it appropriate, the Ombudsman may give to the Speaker at any time, for tabling in the Legislative Assembly, a report on a matter arising out of the performance of the Ombudsman's functions.

Clause 53 is sourced from section 14(2) of the PC Act and requires the Ombudsman to give a report on the investigation to the Speaker for tabling in the Legislative Assembly if the Ombudsman investigates administrative action because of a parliamentary reference.

Clause 54 is sourced from section 27 of the PC Act. The clause provides that the Speaker may authorise the Ombudsman to publish in the public interest, or in the interests of any agency, organisation or person, reports relating generally to the performance of the Ombudsman's functions or reports relating to any particular case investigated by the Ombudsman. The

authorisation may be given whether or not the matters to be dealt with in the report have been the subject of a report tabled in the Legislative Assembly under this Act.

Division 3—Miscellaneous

Clause 55 is sourced from section 24(7) of the PC Act and applies if the Ombudsman proposes to make an adverse comment about a person in a report under this Act. The Ombudsman must not make the proposed adverse comment unless, before the report is prepared, the Ombudsman gives the person an opportunity to make submissions about the proposed adverse comment. If the person makes submissions and the Ombudsman still proposes to make the adverse comment, the Ombudsman must ensure the person's defence is fairly stated in the report. The purpose of the clause is to require the Ombudsman to afford natural justice to the person.

Clause 56 is a new provision which requires that the Ombudsman must not disclose the identity of a person in any report to be tabled in the Legislative Assembly if that person's identity must not be disclosed under an Act. For example, the Ombudsman should not disclose the identity of a notifier of child abuse due to Part 6 of the *Child Protection Act 1999*.

Clause 57 is sourced from section 25 of the PC Act and requires the Ombudsman to inform the complainant, as soon as possible, in the way the Ombudsman considers appropriate, of the result of the investigation.

PART 7—PARTICULAR PROVISIONS ABOUT THE OMBUDSMAN

Division 1—Appointment

Clause 58 is sourced from sections 5(2) and 7(5) of the PC Act and provides that the Ombudsman is appointed by the Governor in Council under this Act and not under the *Public Service Act 1996*.

Clause 59 is sourced from section 5(6) and (7) of the PC Act and provides that a person may be appointed as Ombudsman only if the

Minister has placed press advertisements nationally calling for applications from suitably qualified persons to be considered for appointment. The Minister must also consult with the LCARC about the process of selection for appointment and the appointment of a person as Ombudsman. This consultation acknowledges the Ombudsman's relationship to Parliament.

The requirement for press advertisements and consultation with LCARC on the process of selection for appointment does not apply to the reappointment of a person as Ombudsman.

Clause 60 is partially sourced from section 5(5) of the PC Act. The clause provides that a person must not be appointed as Ombudsman if the person has been, within the last 3 years, a member of the Parliament (State or Commonwealth) or the holder of the office of the chairperson, the mayor, the president, a councillor or a member of a local government (including State equivalents).

Clause 61 is sourced from section 5(3) of the PC Act and provides that the Ombudsman holds office for the term, of not more than 5 years, stated in the instrument of appointment and may be reappointed. To implement recommendation 25 of the LCARC report, a new provision has been included that a person must not be reappointed if the total of the person's terms of appointment would be more than 10 years.

Clause 62 is sourced from section 7(1), (2) and (4) of the PC Act and sets out remuneration and conditions. The Ombudsman is to be paid remuneration and travelling and other allowances decided by the Governor in Council. The remuneration paid to the Ombudsman must not be reduced during the Ombudsman's term of office without the Ombudsman's written consent. The Ombudsman is entitled to the leave of absence decided by the Governor in Council.

Clause 63 is sourced from section 9 of the PC Act and provides that the Ombudsman must make an oath administered by the Speaker before performing duties of office. The oath is to the effect that s/he will faithfully and impartially perform the duties of the office.

Clause 64 is sourced from section 5(8) of the PC Act and provides that the Ombudsman must not, without the Minister's prior approval in each particular case, hold any office of profit other than that of Ombudsman or engage in any remunerative employment or undertaking outside the duties of the office. Contravention of this provision is misconduct under division 2. This clause recognises the status of the position and that it is important to guard against conflicts of interest.

Clause 65 is sourced from section 8(1) and (2) of the PC Act. The clause allows the Governor in Council to appoint a person eligible for appointment as Ombudsman to act as Ombudsman during a vacancy in the office or during any period when the Ombudsman is absent from duty or unable to perform the duties of the office.

The acting Ombudsman is appointed under this Act not the *Public Service Act 1996* and the *Acts Interpretation Act 1954*, section 25(1)(b)(iv) and (v) regarding powers of appointment does not apply to the office of acting Ombudsman.

Division 2—Ombudsman may be removed or suspended from office

Clause 66 is sourced from section 6(1) and (4) of the PC Act and establishes that proved incapacity, incompetence or misconduct or conviction of an indictable offence are grounds for removal or suspension of the Ombudsman from office. Conviction is defined in the dictionary in schedule 3 to include a plea of guilty, or a finding of guilt by a court, even though a conviction is not recorded.

Clause 67 is sourced from section 6(2) and (3) of the PC Act and provides that the Governor may, on an address from the Legislative Assembly, remove the Ombudsman from office. The motion for the address may be moved only by the Premier if:

- the Premier has given the Ombudsman a statement setting out the reasons for the motion; and
- to afford natural justice, the Ombudsman's statement and any written response have been tabled in the Legislative Assembly; and
- the Premier has consulted with the LCARC about the motion; and
- agreement to the motion has been obtained from all members of the LCARC or a majority of members of the LCARC other than a majority consisting wholly of members of the political party or parties in government in the Legislative Assembly.

Clause 68 is sourced from section 6(5) and (6) of the PC Act and provides that the Governor may, on an address from the Legislative Assembly, suspend the Ombudsman from office. The motion for the

address may be moved by the Premier only if the same requirements as clause 67 are met.

The Ombudsman is entitled to be paid salary and allowances for the period of the suspension only if the Legislative Assembly resolves that salary and allowances be paid for the period or if the Legislative Assembly does not resolve the issue, the Governor in Council approves the payment of salary and allowances for the period.

Clause 69 is sourced from section 6(7) to (11) of the PC Act and provides a procedure to suspend the Ombudsman when the Legislative Assembly is not sitting. This procedure is a temporary measure until the Legislative Assembly sits. The clause provides that the Governor in Council may suspend the Ombudsman from office only if the Premier has given the Ombudsman a statement setting out the reasons for the suspension and the Premier has considered any response by the Ombudsman to the statement.

The Premier must table the statement and any written response by the Ombudsman in the Legislative Assembly within 3 sitting days after the day the suspension begins.

The suspension stops having effect at the end of 6 sitting days after the day the suspension begins and the procedure under clause 68 will need to be carried out to suspend the Ombudsman for a further period. During this period, the Ombudsman may be suspended or removed from office on an address from the Legislative Assembly in accordance with the procedure under clause 67 or 68.

If the suspension stops having effect at the end of 6 sitting days after the suspension begins, the Ombudsman is entitled to be paid salary and allowances for the period of the suspension.

Clause 70 is sourced from section 5(9) of the PC Act and provides that section 25(1)(b)(i) to (iii) of the *Acts Interpretation Act 1954* does not apply to the removal or suspension of the Ombudsman.

Division 3—Resignation and vacation of office

Clause 71 is partially sourced from section 5(3) of the PC Act and provides that the Ombudsman may, at any time, resign office as Ombudsman by signed writing, addressed to the Governor.

Clause 72 sets out that the Ombudsman is taken to resign office as Ombudsman on becoming a candidate for election to the Legislative Assembly, or the Parliament (State or Commonwealth) or the office of the chairperson, the mayor, the president, a councillor or a member of a local government (or State equivalent).

PART 8—ADMINISTRATION

Division 1—Establishment and control of office

Clause 73 establishes an office called the Office of the Ombudsman. The office consists of the Ombudsman and the officers of the Ombudsman. This is a new provision which makes the office's existence and structure transparent, distinguishes the entity from the accountable officer for the purpose of the *Financial Administration and Audit Act 1977* (FAAA Act) and enables other provisions to operate on the Ombudsman or the office as appropriate.

Clause 74 provides that the Ombudsman controls the office.

Clause 75 is sourced from section 11A of the PC Act. The clause provides that an officer of the Ombudsman is not subject to direction by any person, other than from within the office, about the way the Ombudsman's powers for investigations are to be exercised or the priority given to investigations. According to clause 86 the Ombudsman may delegate powers under this Act to an officer of the Ombudsman.

Division 2—Staff of the Office

Clause 76 is sourced from section 10 of the PC Act and provides that the Ombudsman may employ the officers the Ombudsman considers necessary for staffing the office. Officers are appointed under this Act and not the *Public Service Act 1996* and subject to the Act, the conditions of service of officers of the Ombudsman are those decided by the Governor in Council. Officers of the Ombudsman are no longer required to take an oath or affirmation, however are subject to the secrecy provision (clause 92).

Clause 77 is sourced from section 10B(1), (2) and part of (3) of the PC Act and provides that a public service officer may be seconded to the office. While seconded the person is taken to be an officer of the Ombudsman and the *Public Service Act 1996* does not apply to the person.

Clause 78 is sourced from section 10C of the PC Act and provides that the Ombudsman may employ the temporary and casual employees the Ombudsman considers necessary for this Act. The Ombudsman may decide employee's terms of employment, however the terms have effect subject to any relevant industrial instrument within the meaning of the *Industrial Relations Act 1999*. Employees of the Ombudsman are employed under the Act and not the *Public Service Act 1996*.

Division 3—Preservation of rights

The purpose of this division is to ensure continuity of entitlements and rights.

Clause 79 and 80 are sourced from section 10A of the PC Act. *Clause 79* recognises and preserves employment status. The clause establishes that a public service officer who is appointed to an office under this Act is entitled to retain all existing and accruing rights as if service in that office were a continuation of service as a public service officer.

If the person stops holding office under this Act, for a reason other than misconduct, the person is entitled to be employed as a public service officer. The person is to be employed on the classification level and remuneration that the public service commissioner or another entity prescribed under a regulation considers the person would have attained in the ordinary course of progression if the person had continued in employment as a public service officer.

Clause 80 provides that on the appointment of a person holding office under this Act as a public service officer, the person's service in the office under the Act must be regarded as service as a public service officer. This does not apply to the Ombudsman or acting Ombudsman if the person is guilty of misconduct in office as Ombudsman or acting Ombudsman.

Clause 81 is sourced from section 7(10) and 8(3) of the PC Act. The clause applies to a person who stops holding office as Ombudsman, whether because of resignation or finishing a term of appointment, if the person was not a public service officer but held another office under the State immediately before appointment as Ombudsman. The person is

entitled to be appointed to an office under the State with a classification and remuneration corresponding with or higher than that of the office the person held immediately before appointment as Ombudsman and the person's service in the office of Ombudsman under this Act must be regarded as service in an office under the State. This provision does not apply if the person is guilty of misconduct in office as Ombudsman.

Clause 82 is sourced from section 10B of the PC Act. The clause provides that a public service officer seconded to the office of the Ombudsman is entitled to the person's existing and accruing rights as if employment as an officer of the Ombudsman were a continuation of employment as a public service officer. The person may apply for positions, and be employed, in the public service as if the person were a public service officer.

On ending the secondment, the person's employment on secondment as an officer of the Ombudsman is taken to be employment of the same nature in the public service for working out the person's rights as a public service officer. If the secondment ended for a reason other than misconduct, the person is entitled to be employed as a public service officer.

The person is entitled to be employed on the same, or a higher classification level and remuneration as that which the public service commissioner or another entity prescribed under a regulation considers the person would have attained in the ordinary course of progression if the person had not been seconded.

Division 4—Strategic review

Clause 83 is sourced from section 32(1)-(6) and (14) of the PC Act. The clause provides that a strategic review must be conducted at least every 5 years. This is the maximum period between reviews and a strategic review may be commissioned at any time.

The clause spells out how the 5 years is counted. It is counted from when the report from the most recent earlier review was given to the Minister and the Ombudsman, up to when the appropriately qualified person is appointed to undertake the latest review. However, if the LCARC reported to the Legislative Assembly about the earlier report, and the LCARC's report made recommendations to which a Minister was required to respond under section 24 of the *Parliamentary Committees Act 1995*, the 5 years is counted from when the Minister's response was tabled under that section.

Each review is to be undertaken by an appropriately qualified person (reviewer), appointed by the Governor in Council, who is to give a report on the review. The terms of reference for the review are to be decided by the Governor in Council. Before a reviewer is appointed to conduct a review, the Minister must consult with the LCARC and the Ombudsman about the appointment of the reviewer and the terms of reference for the review. The remuneration and other terms of appointment of the reviewer are to be decided by the Governor in Council.

The term strategic review includes a review of the Ombudsman's functions and a review of the Ombudsman's performance of the functions to assess whether they are being performed economically, effectively and efficiently.

Clause 84 is sourced from section 32(7) of the PC Act. The clause establishes that in conducting the review the reviewer has the powers that an authorised auditor has under the FAAA Act for an audit of an entity and that Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of an entity.

Clause 85 is sourced from section 32(8)-(13) of the PC Act. The clause provides that the reviewer must give a copy of a proposed report on the review to the Minister and the Ombudsman. The Ombudsman may, within 21 days after receiving the proposed report, give the reviewer written comments on anything in the proposed report. If the Ombudsman comments, and the reviewer and Ombudsman can agree about how to dispose of the comment, the reviewer must incorporate into the review report any agreed amendment necessary to dispose of the comment. If the reviewer and Ombudsman can not agree about how to dispose of a comment, the comment must be stated in full in the review report. The reviewer must then give the review report to the Minister and the Ombudsman.

The Minister must table the review report in the Legislative Assembly within 3 sitting days after the Minister receives the report. In accordance with section 8(2) of the *Parliamentary Committees Act 1995*, the review report is referred to the LCARC.

Division 5—Other matters

Clause 86 is sourced from section 11 of the PC Act and allows the Ombudsman to delegate the Ombudsman's powers under this Act, other

than the power to make a report or recommendation, to an officer of the Ombudsman.

Clause 87 is a new provision regarding annual reports. The Ombudsman must comply with the annual reporting requirements of the FAAA Act. For the purposes of the section 39 of the FAAA Act, the Ombudsman must give the annual report to the Minister, and a copy to the Treasurer, Speaker and the LCARC. Section 46K of the FAAA Act requires the Minister to table the report in the Legislative Assembly within 14 days after receiving it.

Clause 88 is sourced from section 31 of the PC Act and provides that the Ombudsman must prepare, for each financial year, estimates of proposed receipts and expenditure relating to the Ombudsman. The Ombudsman must give the estimates to the Minister responsible for the administration of the FAAA Act and the Minister must consult with the LCARC in developing the proposed budget of the Ombudsman for each financial year.

PART 9—PARLIAMENTARY COMMITTEE

Clause 89 is a new provision which sets out the functions that the LCARC has in relation to the Ombudsman and implements recommendation 6 of the LCARC report. Section 10(2) of the *Parliamentary Committees Act 1995* sets out what LCARC's areas of responsibility do not include. For example, investigating particular conduct or reconsidering or reviewing a decision to investigate, conciliate or review.

PART 10—MISCELLANEOUS

Clause 90 is a new provision which applies where the Ombudsman considers a person dealing with the Ombudsman before or in an investigation is unable, because of inadequate knowledge of the English language or, for another reason, to understand English or speak English with reasonable fluency. The Ombudsman must take all reasonable steps to ensure an interpreter or other suitable person is available to help the relevant person and the Ombudsman communicate effectively. This clause

is designed to improve accessibility of the Ombudsman's services to all citizens.

Clause 91 is similar to the Ombudsman's current power under section 16 of the *Commissions of Inquiry Act 1950*. The clause provides that the Ombudsman may, if the Ombudsman considers it appropriate in a particular case, order that information given to the Ombudsman in performing a function under this Act, or the contents of a document produced to the Ombudsman in performing a function under this Act, must not be published.

Clause 92 is sourced from section 22 of the PC Act regarding secrecy. The clause establishes that it is an offence for an officer of the Ombudsman, an officer of an agency, or another person who obtains information in an investigation or the performance of another function of the Ombudsman under the Act to:

- disclose the information other than as a part of the performance of the function or formulating a report or recommendation about the performance of the function or proceedings for an offence under this Act alleged to have been committed in the performance of the function; or
- use the information to benefit any person.

An officer of the Ombudsman includes the Ombudsman.

Clause 93 is a new provision which provides that an officer of the Ombudsman does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act. If this prevents a civil liability attaching to an officer of the Ombudsman, the liability attaches instead to the State.

Clause 94 provides that the Governor in Council may make regulations under this Act.

PART 11—REPEAL AND AMENDMENT

Clause 95 repeals the *Parliamentary Commissioner Act 1974* (1979 Act No. 19).

Clause 96 provides that schedule 1 amends the Acts it mentions.

PART 12—TRANSITIONAL PROVISIONS

Clause 97 establishes for this part that “parliamentary commissioner” means the Parliamentary Commissioner for Administrative Investigations under the repealed Act and the “repealed Act” means the repealed *Parliamentary Commissioner Act 1974*.

Clause 98 provides that on the commencement of this section, a person holding a position or office under the repealed Act continues as the holder of the equivalent position or office under this Act and the person’s appointment to the position or office has continuing effect under this Act.

If the appointment was for a term the appointment continues under this Act for the unexpired period of the term and for applying clause 61(2) the term of appointment under that Act is taken to be a term of appointment as Ombudsman under this Act.

Clause 99 provides that on the commencement of this section, anything started but not completed under the repealed Act may be continued under this Act.

Clause 100 provides that the Ombudsman may perform functions under this Act in relation to administrative action taken before the commencement of this section as if the action had been taken after the commencement.

Clause 101 provides that for clause 83(2), a report of a strategic review under the repealed Act is taken to be a report of a strategic review under this Act.

Clause 102 provides that a reference in any Act or document to the *Parliamentary Commissioner Act 1974* may, if the context permits, be read as a reference to this Act.

Clause 103 provides that a reference in any Act or document to the parliamentary commissioner or acting parliamentary commissioner may, if the context permits, be read as a reference to the ombudsman or acting ombudsman.

PART 13—AMENDMENT OF FINANCIAL ADMINISTRATION AND AUDIT ACT 1977

The office of the Ombudsman and its functions have similarities with those of the Auditor-General in that they promote openness and accountability of government. Comparable provisions in the FAAA Act have been modernised.

Clause 104 provides that this part amends the FAAA Act.

Clause 105 amends the FAAA Act to provide similar strategic review provisions to clauses 83, 84 and 85 of the Bill.

Clause 106 is a transitional provision which treats the last strategic review as the ‘earlier report’ for working out the timing of the next review.

Clause 107 amends the FAAA Act to refer to Ombudsman and Office of the Ombudsman.

PART 14—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992

The office of the Ombudsman and its functions have similarities with those of the Information Commissioner and comparable provisions in the *Freedom of Information Act 1992* (FOI Act) have been modernised.

Clause 108 provides that this part and schedule 2 amends the FOI Act.

Clause 109 amends the FOI Act to provide similar provisions regarding staff of the office and preservation of rights to clauses 76 to 82 of the Bill.

Clause 110 amends the FOI Act to provide similar strategic review provisions to clauses 83, 84 and 85 of the Bill.

Clause 111 is a transitional provision which treats the last strategic review as the ‘earlier report’ for working out the timing of the next review.

SCHEDULE 1

Schedule 1 makes consequential amendment to a number of Acts.

SCHEDULE 2

Schedule 2 provides minor amendments of *Freedom of Information Act 1992*.

SCHEDULE 3

Schedule 3 is a dictionary which defines key terms used throughout the Bill.