

Crime and Misconduct and Other Legislation Amendment Bill 2006

Explanatory Notes

Objectives of the Bill

The Bill seeks to:

1. Implement outstanding Government-endorsed recommendations for legislative change that were made in the March 2004 Report No 64 of the Parliamentary Crime and Misconduct Committee on its three-year review of the Crime and Misconduct Commission.
2. Make a number of changes to the appointment provisions of the *Misconduct Tribunals Act 1997*, unrelated to the Parliamentary Crime and Misconduct Committee's report. The amendments will not affect the jurisdiction or procedures of the misconduct tribunals.
3. Make a number of amendments to the *Crime and Misconduct Act 2001* as a result of issues that have been raised, mainly by the Crime and Misconduct Commission, since the March 2004 Parliamentary Crime and Misconduct Committee report.
4. Make a number of minor amendments to the *Crime and Misconduct Act 2001*, the *Misconduct Tribunals Act 1997*, the *Police Powers and Responsibilities Act 2000*, the *Witness Protection Act 2000* and the *Whistleblowers Protection Act 1994*.

Reasons for the Bill

In March 2004 the Parliamentary Crime and Misconduct Committee issued its Report No 64 dealing with the Three Year Review of the Crime and Misconduct Commission. The Parliamentary Crime and Misconduct Committee report contained 50 recommendations, mostly of a legislative or policy nature.

On 10 September 2004 the Government tabled its response to the Parliamentary Crime and Misconduct Committee report.

Legislation has already been enacted giving effect to the Government's support to a number of recommendations. This Bill implements the outstanding Government supported recommendations which require legislative amendment.

Achievement of the Objectives

The Parliamentary Crime and Misconduct Committee recommendations concern amendments to the *Crime and Misconduct Act 2001*, the *Police Powers and Responsibilities Act 2000* and the *Witness Protection Act 2000*. The most significant amendments relate to the Crime and Misconduct Commission's witness protection function. The amendments:

- Provide the Crime and Misconduct Commission with a new power to require the production of documents or things to help protect a protected person or the integrity of its witness protection activities (typically this will be used to require a bank to provide information on where a protected person last transacted to determine their whereabouts). This issue was dealt with in recommendation 41 of the Parliamentary Crime and Misconduct Committee report.
- Enable the Crime and Misconduct Commission to enter into short-term witness protection arrangements, with streamlined approval processes, where temporary protection of a person is required at short notice for court and other public appearances. This issue was dealt with in recommendations 36 and 37 of the Parliamentary Crime and Misconduct Committee report.

The Bill also amends the *Crime and Misconduct Act 2001* to:

- allow an assistant commissioner to conduct public hearings
- relax the limit on the tenure of senior officers and assistant commissioners ;
- allow self-incriminating evidence that a person has been compelled to give at a Crime and Misconduct Commission hearing to be used in proceedings against that person for the falsity of other compelled evidence;
- allow the Crime and Misconduct Commission to delegate its power to appoint staff below senior officer level to a person other than the chairperson;

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- ensure that only individuals (and not corporations) can claim the privilege against self-incrimination, in accordance with the Queensland Law Reform Commission's Report No 59 *The abrogation of the Privilege Against Self- Incrimination*;
- remove the requirement for Ministers to approve secondments to positions at the Crime and Misconduct Commission below senior officer level and instead require them to be approved by chief executives;
- clarify that the Crime and Misconduct Commission can only compel persons to attend hearings for its crime or misconduct functions, as well as the witness protection function, and not for its other functions (research and intelligence);
- clarify that commission officers and other persons can only be required to produce or disclose confidential documents or information relevant to the work of the Crime and Misconduct Commission that is necessary for a prosecution started as a result of an investigation conducted by the Crime and Misconduct Commission (not just for any investigation); and
- clarify that a person is required to comply with a requirement of the Crime and Misconduct Commission to produce documents or things for a misconduct investigation.

The Bill also contains amendments to the *Witness Protection Act 2000* to:

- allow the chairperson to terminate a witness protection agreement if the protected witness cannot be properly protected; and
- ensure that persons on interim or short term protection are subject to the same rights and obligations as persons in the witness protection program.

Estimated Cost for Government Implementation

These amendments do not have any significant resource implications for Government or the CMC.

Consistency with Fundamental Legislative Principles

- Power to Crime and Misconduct Commission to issue notices requiring the production of documents or things to protect a

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person who has been admitted to the witness protection program or to protect the integrity of the witness protection program.

There is an argument that this amendment is not consistent with the principles of natural justice as provided for in section 4(3)(b) of the *Legislative Standards Act 1992*.

Recommendation 41 of the Parliamentary Crime and Misconduct Committee report stated that the Crime and Misconduct Commission be given the power to issue notices in terms similar to those in sections 74, 74A and 75 of the *Crime and Misconduct Act 2001* for the purposes of protecting a person who has been admitted to the witness protection program or of protecting the integrity of the witness protection program.

In order to implement recommendation 41, the Bill allows the Crime and Misconduct Commission to issue notices requiring the production of documents or things in relation to its witness protection function. This power will be used by the Crime and Misconduct Commission to, for example, require banks to provide information on where a protected person last transacted to determine their location and ascertain their safety. In order to conceal from the recipient (to the greatest extent possible) the fact that the notice relates to a protected witness and the identity of the protected witness; the Crime and Misconduct Commission will be allowed to link these notices with crime investigation notices so that the recipient will not know whether the notice relates to a crime investigation or the witness protection function.

The recipient of the notice will be able to claim the same types of excuses and privileges for not complying with the notice as recipients of crime investigation notices. If they claim an excuse or privilege, the chairperson can require the person to attend a Crime and Misconduct Commission hearing to substantiate the claim. If the chairperson wants the person to immediately attend to substantiate the claim, the approval of a Supreme Court judge must be obtained. If the claim is refused, the person can appeal to the Supreme Court. These additional procedures for determining claims of reasonable excuse or privilege are not expected to be used but are inserted due to the need to link the new power with the crime investigation power.

This is a potential breach of the rights of a recipient of a notice. In facing a requirement to produce a document, the recipient (in this example, the bank) has a right to be satisfied that lawful authority is being exercised. This is usually conveyed by such notices referring to the legislative provision under which they are issued or otherwise stating the reasons for

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the requirement. However, it is intended to obscure from the recipient the real purpose of the notice in order to protect a witness. This is justified in order to ensure the overriding interest at stake namely to ensure people who are in the witness protection program are safe from physical harm and to maintain the integrity of the program.

Other options, including empowering the Crime and Misconduct Commission to simply state that a witness protection notice can be issued as if it were for a crime investigation, were not considered desirable given the rights of the recipient of the notice to know that lawful authority is being exercised. The proposed approach is considered to be the best approach to balance the competing interests.

As noted above, the recipient of the notice will be able to claim the same types of excuses and privileges for not complying with the notice as recipients of crime investigation notices.

The legislative mechanism could also mean that these types of notices are to be issued to a person who is being investigated in the context of a crime investigation. The person would be obliged to produce a document without knowing it is for a crime investigation. The section as drafted does allow the notice to only state that it is for a crime investigation and the Crime and Misconduct Commission has indicated that in crime investigations that is what the notice will state. However the legislation cannot mandate this because to do so would defeat the purpose of trying to conceal that a particular notice relates to the witness protection function. Again this is justified in order to ensure the overriding interest at stake, which is to ensure people who are in the witness protection program are safe from physical harm and to maintain the integrity of the program.

In addition, there is potential for the Crime and Misconduct Commission to use the power to track the whereabouts of a protected witness who, without any or full notice to the Crime and Misconduct Commission, absconds from the protection of the Crime and Misconduct Commission. This raises issues in relation to the absconder's right to privacy. This is again justified because the Crime and Misconduct Commission must be able to put itself in a position where it can be satisfied the witness is safe. The Crime and Misconduct Commission would also need to contact the law enforcement agency that had requested the protection for the person and inform the agency of such matters and whether the person still intended to make him or herself available to testify in the relevant proceedings.

- Amendment allowing presiding officer at a hearing to require a witness at the hearing to produce a stated document or thing

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There is an argument that this amendment is not consistent with the principles of natural justice as provided for in section 4(3)(b) of the *Legislative Standards Act 1992*.

Recommendation 29 of the Parliamentary Crime and Misconduct Committee report was that the *Crime and Misconduct Act 2001* be amended to allow presiding officers at Crime and Misconduct Commission hearings to order the production of documents or things, in terms similar to the power under the New South Wales *Independent Commission Against Corruption Act 1988*.

Clause 6 of the Bill allows a presiding officer at a hearing to require a witness at the hearing to produce a stated document or thing. There is no requirement that the document or thing be in the witness's possession or control. However reasonable excuse is available under section 185 for non-compliance. Also, the presiding officer may adjourn the hearing to allow the person to comply with the requirement. These two safeguards address the natural justice issues.

- Amendment to section 197 of the *Crime and Misconduct Act 2001*

There is an argument that this amendment does not provide appropriate protection against self-incrimination within the meaning of section 4(3)(f) of the *Legislative Standards Act 1992*.

Section 197 of the *Crime and Misconduct Act 2001* deals with the restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion. Clause 18 of the Bill inserts a new subsection (1) to ensure that only individuals, and not corporations, have the protections of restriction on use of privileged answers documents, things or statements disclosed or produced under compulsion. This is consistent with the QLRC report.

The Scrutiny of Legislation Committee (Alert Digest No 1 2000 page 7 paragraph 57) has stated that in order to secure the restriction on the use of information obtained where the protection of the privilege against self incrimination has been abrogated, the person should not be required to fulfil any conditions, such as formally claiming the right. Although the approach in the amendment is contrary to the Scrutiny of Legislation Committee's approach, it is consistent with the approach in existing section 197.

- Proposed new section 7A of the *Misconduct Tribunals Act 1997*

There is an argument that this amendment does not have sufficient regard to an individual's rights (in this case the right to privacy) within the meaning of section 4(2) of the *Legislative Standards Act 1992*.

Clause 41 of the Bill inserts a new section 7A into the *Misconduct Tribunals Act 1997* to allow criminal history reports to be done of potential appointees to a tribunal panel. The section does require the person to consent to the criminal history report and also requires the Minister to destroy the criminal history report as soon as it is no longer required. These inbuilt safeguards are designed to protect the person's privacy.

Consultation

The Public Interest Monitor was consulted during the preparation of the Government response to the Parliamentary Crime and Misconduct Committee report.

The Crime and Misconduct Commission, the Parliamentary Crime and Misconduct Committee, the Queensland Police Service, and the Department of the Premier and Cabinet have all been consulted during the drafting of the Bill.

Copies of the Bill were sent to the senior member of the Misconduct Tribunals, the Chief Justice, the Chief Judge of the District Court, the Law Society, the Bar Association and Legal Aid Queensland for comment. .

Notes on Provisions

Part 1 - Preliminary

Clause 1 Short title: This clause provides that the Act's short title is the *Crime and Misconduct and Other Legislation Amendment Act 2006*.

Clause 2 Commencement: This clause provides that the Act commences on a day fixed by proclamation.

Clause 3 Act amended in pt 2 and schedule: This clause provides that this part (Part 2) and the schedule amend the *Crime and Misconduct Act 2001*.

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Clause 4 Amendment of section 56: This clause amends section 56 to insert witness protection as a further function of the Crime and Misconduct Commission.

Clause 5 Amendment of section 74 (Notice to produce for crime investigation):

This clause seeks to implement recommendation 41 of the Parliamentary Crime and Misconduct Committee report that the Crime and Misconduct Commission be given the power to issue notices in terms similar to those in sections 74, 74A and 75 of the *Crime and Misconduct Act 2001* for the purposes of protecting a person who has been admitted to the witness protection program or of protecting the integrity of the witness protection program. The clause does this by providing that section 74 of the *Crime and Misconduct Act 2001* now applies to a crime investigation or the witness protection function and making other amendments to section 74.

The clause inserts proposed new section 74(2A) which provides that the notice to produce must state that it relates to:

- (a) a crime investigation; or
- (b) without specifying which, a crime investigation or the witness protection function.

The effect is to conceal from the recipient of the notice (to the greatest extent possible) the fact that the notice relates to a protected witness and the identity of the protected witness.

The recipient of the notice will be able to claim the same types of excuses and privileges for not complying with the notice as recipients of crime investigation notices. If they claim an excuse or privilege, the chairperson can require the person to attend a Crime and Misconduct Commission hearing to substantiate the claim (see amendment to section 82 inserted by clause 7). If the chairperson wants the person to immediately attend to substantiate the claim, the approval of a Supreme Court judge must be obtained (see amendment to section 85 inserted by clause 8). If the claim is refused, the person can appeal to the Supreme Court (see new section 193 inserted by clause 15).

Proposed new section 74(3A) provides that a notice to produce in the context of the witness protection function can only be given if the chairperson considers it necessary to protect the security of the protected person or the integrity of the witness protection program or other witness protection activities of the commission.

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Clause 6 Insertion of new ch3, pt1, div2A: This clause inserts a new Division 2A (new sections 75A and 75B) to give effect to recommendation 28 of the Parliamentary Crime and Misconduct Committee report that presiding officers be allowed to order at a commission hearing the immediate production of a document or thing.

Proposed new section 75A provides that the division applies only for a crime investigation or a misconduct investigation.

Proposed new section 75B provides that the presiding officer may require a witness to immediately produce a stated document or thing that the presiding officer believes is relevant to the investigation. The presiding officer may adjourn the hearing to allow the person to comply with the requirement.

There is no requirement that the document or thing be in the witness's possession or control. However reasonable excuse is available under section 185 for non-compliance.

Clause 7 Amendment of section 82 (Notice to attend hearing-general): This clause amends section 82 (which deals with the issue by the chairperson of notices to attend commission hearings) consequentially to the amendment to section 74.

The clause allows the chairperson to issue an attendance notice for a witness protection hearing to establish the reasonable excuse or claim of privilege that a person may have raise in relation to the notice to produce issued for the witness protection function.

The clause also clarifies that the Crime and Misconduct Commission can only issue attendance notices for crime or misconduct investigations as well as for the new witness protection function. Section 176 of the *Crime and Misconduct Act 2001* provides that the Crime and Misconduct Commission can hold hearings for any of its functions (except for a confiscation related investigation). Section 82(1), as it is currently drafted, does not specify the functions for which attendance notices can be issued. However, section 82(2) implies that attendance notices can only be currently issued for crime or misconduct investigations. The amendment makes this explicitly clear.

Clause 8 Amendment of section 85 (Notices requiring immediate attendance may be issued only by or with the approval of a Supreme Court judge): This clause amends section 8 consequentially to the amendment to section 74.

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The clause extends the requirement of Supreme Court judge approval for attendance notice requiring immediate attendance at a commission hearing to attendance notices issued in the context of a witness protection hearing. The clause requires the Supreme Court judge to be informed that the notice to attend relates to a witness protection function hearing.

Clause 9 Amendment to section 177 (Whether hearings are to be open or closed): This clause amends section 177 to insert a new subsection (2)(b) that a witness protection function hearing may be open to the public if the commission considers opening the hearing to the public will make the hearing more effective, would not be unfair to a person or contrary to the public interest, would not threaten the security of a protected person or the integrity of the witness protection program or other witness protection activities of the commission and the commission approves that the hearing be a public hearing.

Clause 10 Amendment of section 178 (Who must conduct public hearings): Currently only the chairperson of the Crime and Misconduct Commission can conduct public hearings unless the Governor in Council appoints a person to do so, in which case the appointed person is also the acting chairperson. This clause amends section 178 to allow the chairperson to decide that an assistant commissioner conduct a public hearing if the chairperson considers it necessary for the efficient operation of the commission.

The insertion of this provision negates the need for existing sections 178 (4) to (7).

Clause 11 Amendment of section 184 (Application of subdiv 1): This clause amends section 184 consequentially to the amendment to section 74.

The amendment has the effect that the subdivision which deals with refusal to produce also applies in the context of a witness protection function hearing.

Clause 12 Amendment of s 185 (Refusal to produce - claim of reasonable excuse): This clause amends section 185 consequential to the insertion (by clause 6) of new sections 75A and 75.

Clause 13 Amendment to s 188 (Refusal to produce – self-incrimination): This clause amends section 188 to clarify that a person is required to comply with a requirement of the Crime and Misconduct Commission to produce documents or things to a commission officer or at a commission hearing for a misconduct investigation.

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Clause 14 Amendment to s 189 (Application of subdiv 1): This clause omits existing section 189 and inserts a new section 189 to make it clear that the subdivision applies in the context of a crime investigation and a witness protection function hearing. This amendment is consequential to the amendment to section 74.

Clause 15 Replacement of s 193 (Application of subdiv 1): This clause omits existing section 193 and inserts a new section 193 to make it clear that the subdivision applies in the context of a crime investigation and a witness protection function hearing. This amendment is consequential to the amendment to section 74.

Clause 16 Amendment of s 194 (Presiding officer to decide whether refusal to answer questions or produce documents or things is justified.): The clause amends section 194 to rename the privilege against self incrimination the self-incrimination privilege.

Clause 17 Amendment to s 195B (Supreme Court to decide claim of privilege): The clause amends section 195B to rename the privilege against self incrimination the self-incrimination privilege.

Clause 18 Amendment of s 197 (Restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion): This clause amends section 197 to:

- allow self-incriminating evidence that a person has been compelled to give at a Crime and Misconduct Commission hearing to be used in proceedings against that person for the falsity of other compelled evidence;
- ensure that only individuals (and not corporations) can claim the privilege against self-incrimination, in accordance with the Queensland Law Reform Commission's Report No 59 *The abrogation of the Privilege Against Self- Incrimination*; and
- rename the privilege against self incrimination the self-incrimination privilege.

Clause 19 Amendment to s 213 (Secrecy): This clause amends section 213 to clarify that commission officers and other persons can only be required to produce or disclose confidential documents or information relevant to the work of the Crime and Misconduct Commission that is necessary for a prosecution started as a result of an investigation conducted by the Crime and Misconduct Commission.

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Clause 20 (Amendment of section 247 (Duration of appointment)): This clause amends section 247 to relax the limit on the tenure of senior officers and assistant commissioners by

- inserting a new subsection 247(3) which provides that the tenure period is now ten years (currently eight years);
- inserting a new section 247(3A) which allows the ten years to be extended for a further term if it is necessary for the efficient operation of the commission and does not result in the person holding office in the commission as an assistant commissioner or senior officer for more than 15 years in total; and
- inserting a new section 247(3B) which applies the amendments to existing officers.

Clause 21 Insertion of new s 247A: The clause inserts a new section 247A which obliges the chairperson to inform the Parliamentary Crime and Misconduct Committee if an assistant commissioner or senior officer is appointed for a further term under section 247(3A).

Clause 22 (Amendment of s 255 (Secondment of officers)): This clause amends section 255 to alleviate the burden on Ministers to approve secondments to the Crime and Misconduct Commission by requiring secondments of:

- officers or employees of the parliamentary service to be approved by the Speaker;
- members of the police service to be approved by the Minister (ie. the Attorney-General and Minister for Justice) and the Minister administering the *Police Service Administration Act 1990* (ie the Minister for Police);
- officers or employees of a unit of public administration to senior officer positions to be approved by the Minister and the Minister responsible for the unit of administration from which the person is seconded; and
- officers or employees of a unit of public administration to positions below senior officer level to be approved by the officer's or employee's chief executive.

Clause 23 (Amendment of s 260 (Performance)): This clause amends section 260 to provide that the requirements under section 260 also do not require the Crime and Misconduct Commission to give to the Minister details that may threaten the security of a protected person or the integrity

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of the witness protection program or other witness protection activities of the Crime and Misconduct Commission.

Clause 24 Amendment of s 269 (Delegation): This clause amends section 269 to allow the Crime and Misconduct Commission to delegate its power to appoint staff below senior officer level to a person other than the chairperson.

Clause 25 Amendment of s 295 (Referral of concerns by parliamentary committee): This clause, and the definition of commission officer being inserted in the Schedule, have the effect of amending section 295 to implement recommendation 47 of the Parliamentary Crime and Misconduct Committee's report that it be made clear that the section extends to former officers of the former Criminal Justice Commission and former officers of the former Queensland Crime Commission.

Clause 26 Amendment of s 305 (Disqualifications as parliamentary commissioner): This section amends section 305 by deleting the reference to former commission officer because this is now included in the definition of commission officer inserted by an amendment to the Schedule of the *Crime and Misconduct Act 2001* in clause 34 of the Bill.

Clause 27 Amendment of s 312 (Termination of appointment): This clause amends section 312 by deleting the reference to former commission officer because this is now included in the definition of commission officer inserted by an amendment to the Schedule of the *Crime and Misconduct Act 2001* in clause 34 of the Bill.

Clause 28 Amendment of s 318 (Parliamentary commissioner may conduct hearings in limited circumstances): This clause, together with the definition of commission officer inserted by an amendment to the Schedule of the *Crime and Misconduct Act 2001* in clause 34 of the Bill, amends section 312 to give effect to recommendation 50 of the Parliamentary Crime and Misconduct Committee report that former officers of the of the former Queensland Crime Commission can be required by the Parliamentary Commissioner to give evidence at a hearing conducted by the Parliamentary Commissioner.

Clause 29 Amendment of s 321 (Confidentiality obligations not to apply): This clause amends section 321 to delete the definition of commission officer because it is now defined in an amendment made in the Schedule. It includes officers of the former Queensland Crime Commission.

Clause 30 Amendment of s 326 (Monitor's functions): This clause amends section 326 to give effect to recommendation 19 of the Parliamentary

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Crime and Misconduct Committee report that the section be amended to provide that any report by the Public Interest Monitor on non-compliance by the Crime and Misconduct Commission with the *Crime and Misconduct Act 2001* be provided to the Crime and Misconduct Commission and the Parliamentary Crime and Misconduct Committee.

Clause 31 Amendment of s 329 (Duty of chairperson to notify improper conduct to the parliamentary committee): This clause, together with the definition of commission officer inserted by an amendment to the Schedule of the *Crime and Misconduct Act 2001* in clause 34 of the Bill, amends section 329 to implement recommendation 47 of the Parliamentary Crime and Misconduct Committee's report that it be made clear that the section extends to former officers of the former Criminal Justice Commission and former officers of the former Queensland Crime Commission.

Clause 32 Amendment of s341 (Personnel changes do not affect commission's power to make findings or report): This clause amends section 341 to include the witness protection function.

Clause 33 Amendment to section 343 (Information disclosure and privilege): This clause amends section 343 to make it clear that only a person who is an individual may claim the self-incrimination privilege under the *Crime and Misconduct Act 2001*. This is consistent with the Queensland Law Reform Commission's Report No 59 *The abrogation of the Privilege Against Self-Incrimination*. .

Clause 34 Amendment of sch 2 (Dictionary): This clause makes a series of amendments to the Dictionary contained in schedule 2 to the *Crime and Misconduct Act 2001*.

Clause 35 Declaration about repeal of Cross-Border Law Enforcement Legislation Amendment Act 2005 s73(3): This clause repeals section 73(3) of the *Cross-Border Law Enforcement Legislation Amendment Act 2005* (which amends the definition of "commission officer" in the schedule of the *Crime and Misconduct Act 2001*) in the event that the part of section 34(2) of the *Crime and Misconduct and Other Legislation Amendment Act 2006*, which inserts a definition of commission officer, commences before section 73(3) of the *Cross-Border Law Enforcement Legislation Amendment Act 2005*.

Clause 36 Act amended in pt 3: This clause provides that this part amends the *Misconduct Tribunals Act 1997*.

Clause 37 Amendment of s 4 (Dictionary): This clause deletes the reference to schedule 2 and substitutes "the schedule".

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Clauses 38 Replacement of s 5 (Appointment of misconduct tribunal panel members): This clause inserts a new section dealing with the appointment to a panel of tribunal members. The number of persons to be appointed is as many as the Minister considers appropriate. The clause also provides for the appointment of one tribunal member as the senior member of the tribunal.

Clause 39 Amendment of s6 (Qualification of tribunal members): This clause inserts an amendment to section 6 to provide that an ineligible person is not qualified for appointment as a tribunal member. The term “ineligible person” is defined in the dictionary. The definition is similar to that contained in the *Crime and Misconduct Act 2001*. The amendment will align the qualifications for appointment to the Misconduct Tribunals with those of the Crime and Misconduct Commission.

Clause 40 Amendment of s 7 (Nomination for appointment as tribunal member): This clause removes “multi-party majority” from section 7 and substitutes the term “bipartisan support”. The terms have the same effect.

Clause 41 Insertion of new s 7A: This clause allows the Minister, in helping to decide whether a person is suitable for nomination for appointment as a tribunal member, to ask the commissioner of the police service for a criminal history on the person. This request can only be made with the person’s consent. The term criminal history is defined to mean all convictions whether in Queensland or elsewhere. Clause 47 inserts a definition of “conviction” to include convictions for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired and that have not revived under that Act.

Clause 42 Insertion of new s 9A: This clause inserts new section 9A which allows for the appointment of an acting senior member.

Clause 43 Insertion of new s 19A: This clause inserts a new section 19A obliging tribunal members to disclose conflicts of interest.

Clause 44 Amendment of s 39 (Annual report): This clause gives effect to recommendation 48 of the Parliamentary Crime and Misconduct Committee report by requiring that the Misconduct Tribunals’ annual report be tabled within four months and fourteen days of the end of the financial year.

Clauses 45 and 46 Amendment of pt 7 (Transitional provisions and amendments): This clause inserts transitional provisions person which make it clear that a person who was a member or the senior member of the tribunal panel immediately before commencement of the amendments

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provided for in this Bill continue to hold that office upon the commencement of the amendments.

Clause 47 Amendment of sch 2 (Dictionary): This clause inserts a number of new definitions into the Dictionary and renames the schedule 2 as schedule.

Clauses 48 to 50 Act amended in pt 4, Amendment of s 159 (Monitor's functions) and Expiry of pt 4): These clauses amend the *Police Powers and Responsibilities Act 2000* to give effect to recommendation 20 of the Parliamentary Crime and Misconduct Committee report that there be a requirement that a report by the Public Interest Monitor on non-compliance by a police officer who is a "commission officer" be given to the Commissioner of Police, the Crime and Misconduct Commission and the Parliamentary Crime and Misconduct Committee.

Clauses 51 and 52 Act amended in pt 5 and Amendment of s 47 (Right to apply for Industrial Commission injunction): These clauses make a series of minor technical amendments to the *Whistleblowers Protection Act 2000*.

Clause 53 Act amended in pt 6: This clause provides that this part amends the *Witness Protection Act 2000*.

Clause 54 Amendment of s 8 (Content of protection agreement): This clause amends section 8(2)(a)(iii) and (iv) to substitute "compromise" with the word "threaten".

Clause 55 Amendment of s 12 (Suspension of protection agreements): This clause amends section 12 to give effect to recommendation 38 of the Parliamentary Crime and Misconduct Committee report that the chairperson be given the power to suspend a witness protection agreement in circumstances where the chairperson is satisfied that the protected witness's conduct is a threat to the integrity of the program..

Clause 56 Amendment of s 14 (When chairperson may end protection under program): This clause amends section 14 to allow the chairperson to end protection under the program because the integrity of the program or other witness protection activities are threatened because of something the protected witness has done or intends to do or the protected witness cannot be properly protected under the program because of something the protected witness has done or intends to do.

Clause 57 Insertion of new pt 2A: This clause inserts new Part 2A, "Arrangements for short-term protection", which implements recommendations 36 and 37 of the Parliamentary Crime and Misconduct

Committee report that the Crime and Misconduct Commission be allowed to make short-term protection agreements.

The new part will apply to a person not included or being considered for inclusion in the program but for whom the chairperson considers is in need of the type of protection available under the program for a specific purpose (eg attendance at court) and for a specified period because of a danger arising from the fact that the person has helped or is helping a law enforcement agency or has a relationship with a person who has helped or is helping a law enforcement agency.

The short-term protection arrangements may include the conditions in section 8 (eg that the person must contravene State or Commonwealth laws or compromise the integrity of the program).

The new part allows for the variation of short-term protection arrangements.

The part allows the chairperson to suspend or end the short-term protection arrangements and the short-term protected person may end the person's short term protection arrangement.

Clause 58 Replacement of s 36 (Offence of disclosure about protected witnesses or officers): This clause implements recommendation 40 of the Parliamentary Crime and Misconduct Committee report that section 36 be amended to provide that it is an offence to disclose or record information about the witness protection program that may compromise its integrity, even in cases where such information does not relate to a protected witness.

Clause 59 Replacement of s 37 (Offence of disclosure by prescribed persons): This clause inserts a new section to extend the scope of the section to include persons who have undergone assessment for interim or short term protection or have signed an interim protection agreement or entered into a short term protection agreement.

Clause 60 Amendment of s 48 (Delegation): This clause amends section 48 to include protection under a short term protection arrangement.

Clause 61 Amendment of sch 2 (Dictionary): This clause amends the dictionary.

Schedule Minor amendments to the Crime and Misconduct Act 2001: This clause makes minor amendments to the *Crime and Misconduct Act 2001*.