Integrity Reform (Miscellaneous Amendments) Bill 2010

Explanatory Notes

Short title

The short title of the Bill is the Integrity Reform (Miscellaneous Amendments) Bill 2010.

Objectives of the Bill

The Integrity Reform (Miscellaneous Amendments) Bill 2010 will amend legislation to implement a range of integrity and accountability reforms, and other operational improvements, designed to further strengthen Queensland's integrity and accountability framework.

The Bill amends the following legislation for particular purposes: the *Ambulance Service Act 1991*, the *Auditor-General Act 2009*, the *Civil Liability Act 2003*, the *Fire and Rescue Service Act 1990*, the *Government Owned Corporations Act 1993*, the *Integrity Act 2009*, the *Ombudsman Act 2001*, the *Parliament of Queensland Act 2001*, the *Public Sector Ethics Act 1994*, the *Public Service Act 2008*, the *Public Service Regulation 2008* and the *Right to Information Act 2009*.

Reasons for the Bill

On 6 August 2009, the Government released the discussion paper, *Integrity and Accountability in Queensland* (the Discussion Paper) to prompt public discussion on integrity and accountability issues and seek public input on proposals for integrity reform. Following consideration of public submissions and the advice of a round table of experts, the Government released the *Response to Integrity and Accountability in Queensland* (the Integrity Response) on 10 November 2009.

The Integrity Response committed to a number of integrity and accountability reforms to strengthen Queensland's integrity framework, including:

- creating statutory obligations for Members of Parliament and statutory office holders to declare their interests;
- amending the *Civil Liability Act 2003* to allow for apologies by government departments without admission of legal liability*;*
- introducing a single code of conduct for the public service, including necessary amendments to the *Public Sector Ethics Act 1994*.

The second stage of reform is being implemented through three Bills (collectively referred to as the Integrity Reform Bills), comprising of the Ministerial and Other Office Holder Staff Bill 2010, the Public Interest Disclosure Bill 2010 and the Integrity Reform (Miscellaneous Amendments) Bill 2010.

Achievement of the Objectives

The Integrity Reform (Miscellaneous Amendments) Bill 2010 includes amendments to:

- the *Public Sector Ethics Act 1994* to allow the introduction of a single code of conduct for the public service;
- the *Public Service Act 2008* to reflect the Public Service Commission's enhanced role to promote an ethical culture in the public service, provide for a revised model for public service appeals, expand the disciplinary provisions of the Act to public service employees and implement operational amendments arising from a review of the Act;
- the *Fire and Rescue Service Act 1990* and *Ambulance Service Act 1991* to implement the second phase of a post-separation disciplinary regime for all public servants;
- the *Civil Liability Act 2003* to allow for apologies without admission of legal liability;
- the *Parliament of Queensland Act 2001* to create statutory obligations for Members of Parliament to declare interests on the Register of Members' Interests and the Register of Related Persons' Interests;
- the *Integrity Act 2009* to establish new requirements for the heads of public service offices to provide declarations of interest to Ministers and the Integrity Commissioner and implement operational amendments to the Act;

- the *Ombudsman Act 2001*, *Right to Information Act 2009, Integrity Act 2009* and *Auditor-General Act 2009* to create consistent processes for the Ombudsman, Information Commissioner, Integrity Commissioner and Auditor-General to provide declarations of interests to the Speaker; and
- the *Government Owned Corporations Act 1993* to clarify the jurisdiction of the Crime and Misconduct Commission over assets being divested by the Government in accordance with the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

Alternative Ways of Achieving Objectives

The Integrity Response outlined the Government's commitment to a range of legislative reforms to be implemented during 2010. In developing the Integrity Response, the Government considered whether reform required administrative or legislative responses based on the objective of further strengthening Queensland's integrity and accountability framework. Some reform measures are being implemented administratively, while other reform measures (i.e. those included in the Integrity Bills) were considered to be more appropriately implemented through a legislative response. The Bill therefore implements a range of miscellaneous legislative reforms through amendments to various Acts.

Estimated Cost for Government Implementation

The cost to agencies is expected to be minimal and will be met from existing budgets and resources.

The Public Service Commission (PSC) will meet costs for the establishment of the appeals officer from the existing budget appropriation for the PSC. Existing appeals staff will continue to be employed by the PSC and their salary and on-costs will continue to be funded from the existing budget appropriation for the PSC.

Consistency with Fundamental Legislative Principles

The Bill is generally consistent with fundamental legislative principles.

The amendments to the *Public Service Act 2008* remove the requirement that the appeals officer obtain the agreement of the parties before deciding an appeal without a hearing. Allowing the appeals officer to decide an

appeal without a hearing may breach the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals as it denies the parties the right to verbally present their case. However, the appeals officer is required to observe natural justice and the parties will still have the ability to make written submissions. The purpose of the removal of this requirement is to promote timely decision-making and reduce the administrative burden.

A further amendment to the *Public Service Act 2008* confers immunity from prosecution for persons who perform functions for an appeal under chapter 7, part 1 of that Act. This potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. However, the immunity applies only to acts done, or omissions made, honestly and without negligence and, in such cases, the liability shifts to the State. The conferral of the immunity is consistent with provisions across the statute book applying to persons performing similar functions and is generally justified on the basis that persons performing such functions need the freedom to act without fear of legal consequences for their honest and reasonable actions.

There are two issues within the amendments to the *Ambulance Service Act 1991* which may not be consistent with fundamental legislative principles. Under the proposed amendments, the chief executive is not required to comply with the principles of natural justice in suspending an officer on normal remuneration. This provision is based on similar existing provisions within the *Public Service Act 2008*. An officer is suspended only if the chief executive reasonably believes there is a ground for taking disciplinary action against the officer and that a suspension will not deprive the person of any income or rights relating to continuity of employment. The provisions also include a requirement for a chief executive to consider alternative duties before suspending a person.

The proposed amendments to the *Ambulance Service Act 1991* also provide that, if the chief executive suspends an officer, the chief executive may decide that the suspension is not on normal remuneration. How the chief executive is to make this decision is not set out in the Bill. This provision is based on similar existing provisions within the *Public Service Act 2008* which provide that the chief executive is required to comply with a relevant directive. While the amendments reflect the approach under the *Public Service Act 2008*, the relevant instrument will be a code of practice.

In addition, the amendments to the *Ambulance Service Act 1991* and the *Fire and Rescue Service Act 1990* to implement a post-separation

disciplinary regime may not be consistent with fundamental legislative principles. The amendments are similar to provisions contained in the *Public Service Act 2008* and the *Police Service Administration Act 1991*. Providing for a procedure to discipline former officers by a declaration can be seen as adversely affecting the rights of individuals. However, given the public interest in having a scheme to properly assess and record the grounds of discipline, it is considered that the amendments achieve an appropriate balance between the rights of the individual and the public interest.

The use of a person's previous public service, including the ambulance service and fire and rescue service disciplinary information to determine their suitability for employment can been seen as adversely affecting the rights of the individual concerned. However, due to the public interest in upholding and maintaining the ethical standards of government employees, it is considered essential that this information be made available to maintain public confidence in government agencies. The amendments to the *Ambulance Service Act 1991* and the *Fire and Rescue Service Act 1990* are similar to provisions already contained in the *Public Service Act 2008* and the *Police Service Administration Act 1991*. The amendments provide that the information need only be provided by a former chief executive where the information is reasonably necessary for the chief executive to make decisions about the appointment of the person. It is therefore considered that the amendments achieve an appropriate balance between the rights of the individual and the public interest.

The proposed amendment to the *Public Sector Ethics Act 1994* provides for a code of conduct and standard of practice (if applicable) to apply to individuals who are not public officials of an agency, such as contractors, volunteers or students. However, the disciplinary provisions will only be applied to public officials.

The Bill amends sections 70 and 71 of the *Parliament of Queensland Act 2001* to provide that the restrictions on Members of Parliament transacting business with the State only applies to agreements or contracts for the provision of goods by a Member to an entity of the State. The Bill also inserts a transitional provision that effectively applies the amendments inserted by the Bill from 6 June 2002. The retrospective operation is not considered to be objectionable in the circumstances on the basis that the amendment is intended to be curative in nature; the practical difficulty of seeking to undo transactions that may have taken place since 6 June 2002;

and the amendments do not adversely effect the rights of individuals who have had dealings with Members.

The amendments to the *Auditor-General Act 2009*, the *Integrity Act 2009*, the *Ombudsman Act 2001*, the *Parliament of Queensland Act 2001* and the *Right to Information Act 2009* will require statutory office holders and Members of Parliament to declare their interests. These amendments arguably have an effect on a person's right to privacy potentially breaching the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. However, there will be no impact on Members of Parliament as the Bill legislates requirements to disclose interests already required under the Standing Rules and Orders of the Legislative Assembly.

Similarly, the Auditor-General and the Integrity Commissioner are already required to declare their interests under their respective Acts, although a new process will be adopted for the Integrity Commissioner to provide statements of interest. In relation to the Ombudsman and the Information Commissioner, these amendments are required to ensure they have consistent obligations to declare their interests. As these office holders are officers of the Parliament, the Bill requires statements of interest to be provided to the Speaker, which are only accessible in limited circumstances as set out in the Bill, based on an existing process in the *Auditor-General Act 2009*.

The proposed new section 72A of the *Integrity Act 2009* will allow a responsible person for a government representative to give the Integrity Commissioner information (including personal information) about lobbying activity. This section arguably has an effect on a person's right to privacy potentially breaching the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. However, this section is not considered to be objectionable as the information may only be disclosed if it is relevant to the functions or powers of the Integrity Commissioner and the information disclosed may already be known to the Integrity Commissioner (e.g. names of registered lobbyists as listed on the Lobbyists Register maintained by the Integrity Commissioner). In addition, the protections in the *Information Privacy Act 2009* will apply to the Integrity Commissioner in dealing with any personal information provided.

Consultation

Over 200 submissions on the Discussion Paper were accepted by the Department of the Premier and Cabinet with non-confidential submissions published on the department's website. In addition to written submissions, the Government considered feedback from the community received at regional forums held in Toowoomba, the Sunshine Coast, Townsville, Cairns, Bundaberg, Mackay, Gold Coast, Rockhampton and Brisbane over the period 25 August 2009 to 15 September 2009.

The Government also established an Integrity and Accountability round table of experts, which considered summaries of the results of consultation and made recommendations to Government on reforms to the integrity and accountability framework.

The Crime and Misconduct Commission, Integrity Commissioner, members of the Integrity and Accountability round table and board of the Public Service Commission were consulted on the draft Bill.

In relation to the amendments to the *Public Service Act 2008* and the *Public Sector Ethics Act 1994*, consultation was undertaken with the Queensland Public Service Union, the Australian Workers' Union, the Queensland Council of Unions, the Queensland Nurses' Union and the Queensland Teachers' Union. Consultation on amendments to the *Fire and Rescue Service Act 1990* and the *Ambulance Service Act 1991* was also undertaken with the LHMU and the United Firefighters' Union. Consultation was also undertaken with integrity agencies – the Crime and Misconduct Commission, the Queensland Ombudsman, the Auditor-General, the Integrity Commissioner and the Information Commissioner – and with local government through the Local Government Association and the Chief Executive, Local Government Managers' Association.

Consultation was also undertaken with the Clerk of Parliament in relation to the proposed amendments to the *Parliament of Queensland Act 2001*, and with the Auditor-General, Ombudsman and Information Commissioner in relation to amendments to their respective enabling legislation.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and the extent to which it is uniform with or complementary to the Commonwealth or another state is not relevant in this context. However approaches in other jurisdictions were taken into consideration in the development of the Bill.

Notes on Provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the commencement of the Act on a day to be fixed by proclamation.

Part 2 Amendment of *Ambulance Service Act 1991*

Clause 3 provides that this part amends the *Ambulance Service Act 1991*.

Clause 4 replaces the heading 'Staff of the service' with 'The commissioner' to differentiate sections relating to the commissioner from sections relating to staff of the service generally.

Clause 5 inserts a new heading to encompass sections relating to staff of the service generally.

Clause 6 inserts a new section 13A which provides that, if the chief executive proposes to appoint a person under section 13, the person may be required to disclose any serious disciplinary action that has previously been taken against them. This requirement must be complied with before the appointment takes effect and in the way stated by the chief executive, including any timeframes. The chief executive may consider any information provided in making a decision regarding the appointment.

The chief executive is not required to further consider the person for appointment if they fail to comply with the disclosure requirement or give false or misleading information.

Serious disciplinary action means disciplinary action involving dismissal, transfer or redeployment to other employment, reduction of remuneration or classification level or rank; or a disciplinary declaration which includes either dismissal or reduction of classification level or rank as the penalty

that would have been taken against the person if the person's employment had not ended.

Clause 7 renumbers 'Other matters about the service' as part 2, division 5.

Clause 8 inserts sections related to disciplinary action for service officers and former service officers at division 4.

New section 18A provides for grounds for disciplinary action taken by the chief executive. The chief executive must be reasonably satisfied that a service officer has performed the act or omission that constitutes the ground before disciplining an officer.

The new grounds are substantially the same as grounds established under the existing Queensland Ambulance Service (QAS) disciplinary code of practice. An additional ground has been added in relation to disclosure of serious disciplinary action in accordance with the new section 13A. The ground of contravention of a provision of an award or industrial instrument has been added to the grounds of contravention of the Act, code of practice and code of conduct for completeness.

This section clarifies that, where disciplinary action is contemplated on the ground of absence from duty without approved leave or reasonable excuse or where the chief executive considers the service officer's conduct or performance may have been influenced by the officer's health, the chief executive may appoint a medical practitioner to examine the officer concerned and provide a report to the chief executive on the mental or physical condition, or both, of the officer. This provision reflects the provisions relating to medical assessments in the existing disciplinary code of practice.

This section also establishes the definition of misconduct in the Act. This definition reflects the definition of misconduct contained in the *Public Service Act 2008* for the purpose of consistency across the public sector.

New section 18B establishes the action that the chief executive may take, or order to be taken, in disciplining a service officer. Such action may be anything that the chief executive considers reasonable in the circumstances. A range of examples is included. The disciplinary action specified in this section does not differ from disciplinary action available under the existing QAS disciplinary code of practice.

If the chief executive is taking disciplinary action in regard to a disciplinary finding made by the subject officer's previous chief executive, following an

agreement under section 18F(1), this section specifies that the chief executives must agree on the disciplinary action.

Additionally, safeguards have been inserted to ensure that monetary penalties cannot be more than the total of two of the officer's periodic remuneration payments and that an amount to be deducted from any particular periodic payment is not greater than the specified limits.

A note has been inserted at the end of the section to draw attention to disciplinary appeal provisions under the *Public Service Act 2008* and *Public Service Regulation 2008*, for clarity.

New section 18C provides that subdivision 2, 'Disciplinary action against a service officer who was a public service employee or fire service officer', applies to public service employees and fire service officers for whom a relevant disciplinary ground arises and who subsequently changes employment to employment under section 13 of the *Ambulance Service Act 1991*. Subdivision 2 only applies, however, if the person's previous chief executive officer has not taken, is not taking or does not intend to take, disciplinary action against the person. This ensures that a person will not be subject to disciplinary action in the previous department and further disciplinary action in the QAS in relation to the same ground.

This section explains the meaning of 'changes employment' and draws attention to provisions of the *Public Service Act 2008* and *Public Service Regulation 2008* in regard to transfers and deployments by the commissioner.

New section 18D provides for certain definitions which are relevant for subdivision 2.

New section 18E provides for the action that may be taken by the officer's (as specified in section 18C) previous chief executive.

The previous chief executive can make a disciplinary finding about the officer's employment in the previous department or the Queensland Fire and Rescue Service (QFRS), even though the officer now holds appointment with the QAS.

This section also allows the officer's previous chief executive to delegate the authority to make a disciplinary finding about the officer to the employing chief executive.

The previous chief executive may give to the employing chief executive any information about an officer or a disciplinary ground relating to the

officer to help the employing chief executive to perform a function under section 18F(1) or (2).

The previous chief executive may not take disciplinary action other than to the extent provided under section 18F(1).

New section 18F provides for the action that may be taken by the officer's employing chief executive.

If the officer's previous chief executive makes a finding that the officer is liable for disciplinary action and both the previous and employing chief executives agree that disciplinary action is reasonable in the circumstances, only the employing chief executive can take the action, or order that the action be taken.

If the previous chief executive delegates to the employing chief executive the authority to make a disciplinary finding about the officer and the employing chief executive makes a disciplinary finding about the officer, the employing chief executive can take disciplinary action, or order that the action be taken, without the agreement of the officer's previous chief executive.

New section 18G allows for the application of subdivision 2 with the necessary changes so that disciplinary action can be taken when the chief executive is both the previous and employing chief executive. This covers officers moving between the QAS, QFRS and public service divisions of the Department of Community Safety.

New section 18H provides that subdivision 3, 'Disciplinary action against a former service officer', applies to service officers in relation to whom a disciplinary ground arises and whose employment under section 13 subsequently ends for any reason.

Subdivision 3 does not apply, however, if the chief executive is aware the officer is now a public service employee in a department or a fire service officer and their employing chief executive has taken, is taking or intends to take disciplinary action against them. This ensures that an officer will not be subject to disciplinary action in the QAS and further disciplinary action in their new employment in relation to the same ground.

For clarity, this section notes the disciplinary action that can be taken under the *Public Service Act 2008* and *Fire and Rescue Service Act 1990* in relation to former service officers.

It also notes that the relevant sections under the *Public Service Act 2008* and *Fire and Rescue Service Act 1990* empower the chief executive under

this Act to do particular things to facilitate such disciplinary action being taken.

New section 18I provides that the chief executive may make a disciplinary finding or take, or continue to take, disciplinary action against a former service officer.

Any disciplinary finding or disciplinary action must be made or taken within a period of two years after the end of the officer's appointment. This time limit does not affect an investigation of a suspected criminal offence or an investigation of a matter for the purpose of notifying the Crime and Misconduct Commission of suspected official misconduct under the *Crime and Misconduct Act 2001*, nor does it stop disciplinary action being taken following an appeal or review.

The only disciplinary action the chief executive may take is to make a disciplinary declaration and then only if the disciplinary action that would have been taken if the officer had not left their employment is termination of employment or reduction of classification level.

A disciplinary declaration is a declaration of a disciplinary finding against the former service officer and the disciplinary action that would have applied had the officer not left their employment.

This section clarifies that the making of a disciplinary declaration does not affect the officer's resignation or retirement or any benefits, rights or liabilities arising from the resignation or retirement.

New section 18J provides that, if another chief executive asks the chief executive for information about a disciplinary matter relating to a person who is or was a service officer, the chief executive must give the other chief executive the information.

The information must be reasonably necessary for the other chief executive to make a decision about appointments or employment; or disciplinary findings, actions or declarations under a relevant Act. The chief executive must also be reasonably satisfied that giving the information will not prejudice the investigation of a suspected contravention of the law.

Disciplinary information means information about a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action including a disciplinary declaration.

New section 18K provides that, if the chief executive asks another chief executive for information about a disciplinary matter relating to a person

who is or was a public service employee or a fire service officer, the other chief executive must give the chief executive the information.

The information must be reasonably necessary for the chief executive to make a decision about appointments or employment; or disciplinary findings, actions or declarations under a relevant Act. The other chief executive must also be reasonably satisfied that giving the information will not prejudice the investigation of a suspected contravention of the law.

Disciplinary information means information about a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action including a disciplinary declaration.

New section 18L provides that, if under a relevant Act, the chief executive has disciplinary information about a person who is or was a public service employee or fire service officer and that information is reasonably necessary for the chief executive to make a decision about an appointment, disciplinary finding, action or declaration, the chief executive may use the information to make the decision. This covers circumstances in which the chief executive is the chief executive of more than one entity (for example the QAS and QFRS) and may have information relating to officers of one entity that is relevant for decision making in the other entity.

New section 18M provides that the chief executive may suspend a service officer from duty if the chief executive reasonably believes the officer is liable to disciplinary action. The chief executive may also cancel the suspension at any time.

New section 18N specifies that, in disciplining a service officer or former service officer, or suspending a service officer, the chief executive must comply with the Act, any relevant code of practice and the principles of natural justice. However, natural justice is not required if the suspension is on normal remuneration.

The express exclusion of natural justice for suspension on normal remuneration raises the prospect of a breach of the fundamental legislative principle that legislation have sufficient regard to the rights and liberties of individuals.

With regard to the process for suspensions generally, the Bill seeks an appropriate balance between the requirement for natural justice and the necessity for chief executives to take appropriate and timely action when disciplinary issues arise. A person is suspended only if the chief executive

reasonably believes there is a ground for taking disciplinary action against the person. Where suspension is without pay, there is an express requirement for natural justice to be applied. However, it is not necessary to provide for natural justice when an officer is suspended on normal remuneration, consistent with the common law rights of employers to stand down employees on full pay. Such a suspension does not deprive the person of normal remuneration or rights relating to continuity of employment.

Additionally, officers must be provided with a notice of any suspension, including when the suspension starts and ends, the remuneration to which they are entitled for the period of the suspension and the effect that alternative employment may have on the entitlement.

Specific provision is made in section 18O to ensure that officers cannot have their overall entitlements diminished where deductions are made related to alternative employment during the period of suspension.

New section 18O provides that, unless the chief executive decides otherwise, an officer is entitled to normal remuneration during the period of their suspension, less any amount earned by the officer from alternative employment.

Alternative employment is that engaged in by the officer during the period of their suspension, but not if they were already engaged in that employment at the time of their suspension and the employment is not in contravention of the Act or applicable code of conduct.

Any deduction related to alternative employment must not be more than the amount of the officer's normal remuneration during the period of the suspension.

The section also provides that the continuity of an officer's service is not broken because of the suspension.

That the chief executive may decide what remuneration is applicable and that the Bill does not specify the manner in which the chief executive must exercise this discretion raises the potential of a breach of the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals.

Suspensions may only be applied if the chief executive reasonably believes the officer is liable to disciplinary action. If, within that belief, the chief executive further believes that an officer should receive other than their normal remuneration, the chief executive should have the discretion to

determine the most appropriate remuneration arrangements given all the circumstances of individual cases.

A decision to suspend on normal remuneration is consistent with the employer's common law right to stand down employees on full pay.

It is intended that criteria for making a decision to suspend other than on normal remuneration will be set out in a code of practice that will specify:

- where an officer is suspended on other than normal remuneration the chief executive must ensure natural justice is afforded and a show cause process will apply;
- before proceeding with a suspension, the chief executive must consider the officer's response to the show cause and form a reasonable belief that the officer is liable to discipline; and
- the chief executive must consider the fairness of suspending the officer without remuneration, taking into account the submissions of the officer (if any) and matters relevant to the agency's obligations under the Act, such as the proper use of public resources.

Service officers may lodge a fair treatment appeal under the *Public Service Act 2008* and relevant directive in relation to suspension without pay. That appeal rights do not apply to suspension on normal remuneration raises the potential of a breach of the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. Suspension on normal remuneration does not result in any detriment to the officer in regard to their normal remuneration or their continuity of service on which to base an appeal. Employers have a right to stand employees down on full pay. The arrangements for appeals are consistent with those applying under the *Public Service Act 2008*.

New section 18P provides that the chief executive must give an officer notice of their suspension or termination. Notices for suspensions must include when the suspension starts and ends, the remuneration the officer is entitled to and the effect of any alternative employment. Notices for terminations must include the day when the termination takes effect.

Clause 9 inserts a new Division in Part 8 which relates to transitional provisions for the *Integrity Reform (Miscellaneous Provisions) Amendment Act 2010.*

New section 96 provides that within division 6 'commencement' means commencement of this section.

New section 97 provides that disciplinary action generally under the amended Act applies to grounds arising before the commencement, only if disciplinary action could have been taken on the same ground before the commencement.

Any action commenced under a relevant disciplinary provision prior to commencement can continue under the amended Act.

These transitional provisions to some extent apply the new part 2, division 4 to acts or omissions happening before the commencement, however, general disciplinary action can only be taken if the disciplinary action could have been taken under the existing code of practice. Officers with disciplinary grounds arising before the commencement will not face more onerous disciplinary penalties than they would have under the code of practice.

New section 98 provides that disciplinary action against a former public service employee or fire service officer can only be taken if they are employed under section 13 after the commencement. Post-separation disciplinary action will be available in relation to acts or omissions happening before the commencement, but only where the grounds were appropriately provided for under the relevant disciplinary provisions and where the person's employment under section 13 commences after the commencement. This is consistent with the approach taken under the *Public Service Act 2008.*

New section 99 provides that disciplinary action against former service officers only applies if the person's employment under section 13 ends after commencement. Post-separation disciplinary action will be available in relation to acts or omissions happening before the commencement, but only where the grounds were appropriately provided for under the former code of practice and where the person's employment ends after the commencement. This is consistent with the approach taken under the *Public Service Act 2008.*

Clause 10 provides for certain definitions which are relevant to the amended provisions.

Part 3 Amendment of *Auditor-General Act 2009*

Clause 11 indicates that this part amends the *Auditor-General Act 2009*.

Clause 12 replaces the existing section 12 of the Act with a new section regarding declarations of interests for the Auditor-General.

Firstly, the new subsection (1) clarifies that the section applies to the Auditor-General upon appointment, which includes his or her reappointment to the position.

The new subsection (2) provides that the Auditor-General is to give a declaration of interests to the Speaker of the Legislative Assembly. Whilst the obligations under this new subsection mirror those in the existing section, an updating of the language 'financial and other interests' to 'interests' has occurred. This updating intends to capture a broader interpretation of the term, and to ensure that the interests declared are not primarily limited to those of a financial nature. This is also affirmed by the new subsection (10) which is consistent with approaches in other legislation including the *Public Service Act 2008*.

The new subsection (3) reflects proposed amendments in this Bill to the *Parliament of Queensland Act 2001* to provide a statutory basis for Members of the Legislative Assembly to provide declarations of interest. The new subsection links the Auditor-General's obligations to declare interests with the proposed statutory basis for the Register of Members' Interests. Specifically, information requiring declaration by the Auditor-General is the same type of information that is required to be declared by a Member of the Legislative Assembly.

The new subsection (4) establishes the basis for which the Auditor-General must update a declaration of interest. The new subsection reflects the basis under the previous section but revises the section to include proposed amendments to the *Parliament of Queensland Act 2001* providing a statutory basis for declarations of interests. The new subsection (4) specifically requires that if a change in interests occurs following the provision of a statement of interests by the Auditor-General, and the change is required to be disclosed under the proposed amendments to the *Parliament of Queensland Act 2001*, then the Auditor-General must update the relevant declaration of interests.

The new subsection (5) confirms that the Auditor-General must provide a revised statement of interest to the Speaker. This reaffirms the current obligations under the existing section.

The new subsection (6) provides further information on the provision of the revised statement. It states that the Auditor-General must ensure that the revised statement be given as soon as possible after the relevant facts come into his or her knowledge.

The new subsection (7) amends existing requirements under the Act to allow the Integrity Commissioner to access declarations of interest. This subsection requires the Speaker of the Legislative Assembly to provide a copy of the Auditor-General's latest declaration of interests to certain officeholders or entities. Under the existing provisions these were the Premier, the leader of a political party represented in the Legislative Assembly, the Crime and Misconduct Commission and a member of the Public Accounts and Public Works Parliamentary Committee. The new subsection includes the Integrity Commissioner in this group and authorises the Integrity Commissioner to receive, upon request to the Speaker, a copy of the latest declaration of interest from the Auditor-General. This supports the role of the Integrity Commissioner in promoting Queensland's public sector integrity and ethics.

The new subsections (8) and (9) are a restatement of the existing subsections (5) and (6).

The new subsection (10) provides information on the reference to 'interest' in the new section. It states that it is the intent of the section to capture all interests broadly under general law and to not limit the term's applicability. The subsection specifically excludes the operation of the definition of 'interest' under the *Acts Interpretation Act 1954*.

The new subsection (11) provides definitions for two terms used in this new section 12. Firstly, 'Integrity Commissioner' refers to the definition of that term under the *Integrity Act 2009*. Secondly, the term 'related persons' is defined to mean the Auditor-General's spouse or a person who is totally or substantially dependent upon the Auditor-General. The latter may be a child of the Auditor-General or a person whose affairs are so closely connected with the Auditor-General's affairs that a benefit, or a substantial part of a benefit, derived by the person could pass to the Auditor-General. This definition is consistent with the definition proposed to be inserted in the *Parliament of Queensland Act 2001* through this Bill.

This clause also inserts a new section 12A into the Act detailing the Auditor-General's responsibility for conflicts of interest that may arise, or have arisen, in the discharge of his or her duties. The new section obliges the Auditor-General to disclose the nature of the interest and conflict to the Speaker of the Parliament and the Public Accounts and Public Works Parliamentary Committee. The Auditor-General must do so as soon as practicable following him or her becoming aware of the relevant facts and must not take any action or further action until the conflict is resolved. If the conflict, or possible conflict, is subsequently resolved, the Auditor-General must provide to the Speaker of the Legislative Assembly and the Public Accounts and Public Works Parliamentary Committee, a statement of the actions taken to resolve the conflict. Subsection (4) of the new section 12A reaffirms that any references to 'interest' or 'conflict of interest' are to be interpreted by their ordinary meaning and not limited to the definition of 'interest' under the *Acts Interpretation Act 1954*. This is to ensure the requirements placed on the Auditor-General are consistent with, and to the same standard as, the requirements to be placed on the Integrity Commissioner, Information Commissioner and Ombudsman through this Bill.

Clause 13 amends the existing section 25. The title of the existing section is amended to reflect updated terminology from 'pecuniary interests declaration' to 'declaration of interests and conflicts of interests'. The clause also inserts a new subsection (2) to affirm the operation of conflicts of interest for the Deputy Auditor-General when he or she is acting in the role of the Auditor-General.

Clause 14 inserts a new division heading for the existing transitional provisions. This clearly separates the transitional provisions for the original Act from the transitional provisions for the current Bill.

Clause 15 amends the heading of existing section 74 to clarify that the definitions in this section only apply to the existing transitional provisions.

Clause 16 inserts a new division into the Act for the transitional provisions for this Bill. This new division provides for a new section 86 relating to declarations of interests by the Auditor-General and Deputy Auditor-General. The new section confirms that the Auditor-General and the Deputy Auditor-General will be compliant with their obligations under the new section 12 of the Act if, at its commencement, they have not been in breach of the existing section. In a practical sense, this means that if the Auditor-General is compliant with his or her obligations before the

commencement of the new section 12, then provision of a further statement of interests will not be required when the new section comes into force.

Part 4 Amendment of *Civil Liability Act 2003*

Clause 17 indicates that this part of the Bill amends the *Civil Liability Act 2003*.

Clause 18 inserts a new part 1A dealing with apologies into the existing chapter 4 of the Act.

The new section 72A outlines the application of the part. The section notes that the part applies to civil liability of any kind subject to specific exclusions. The first exclusion is for conduct that is specifically excluded from the operation of the *Civil Liability Act 2003* under section 5 of that Act. Defamation is also excluded from the operation of the part as it is covered by the *Defamation Act 2005*, which already has a provision dealing with apologies. The new section further notes that the part does not apply to civil liability for unlawful intentional acts done with intent to cause personal injury, or unlawful sexual assault or other unlawful sexual misconduct. The serious nature of these acts means that the maker of an apology should not receive legal protection for any admissions.

The new section 72B clarifies that the purpose of this new part is to ensure that a person who makes an apology about a matter is not construed as having made an admission of liability in relation to the matter. This new part reflects the important role apologies can play in matters where damage may have occurred. An individual may be reluctant to make an apology for a matter due to concerns that it may be construed as an admission of liability. The purpose of this part is to facilitate apologies through ensuring legal protection for the maker of an apology.

A new section 72C is inserted to provide a definition of 'apology' for the purposes of this part. It confirms that an apology is an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter. The expression may be an apology whether or not it admits or implies an admission of fault in relation to the matter.

The new section 72D provides for the effect of an apology on liability. Subsection (1) clarifies that an apology does not constitute an express or implied admission of fault or liability by the person in relation to the matter, and is not relevant to the determination of fault or liability in relation to that matter, whilst subsection (2) notes that evidence of such an apology is not admissible in any civil proceeding as evidence of the fault or liability of the person in relation to the matter.

Clause 19 amends schedule 2 to include a definition of 'apology' for the purposes of chapter 4, part 1A to be the definition provided in the new section 72C.

Part 5 Amendment of *Fire and Rescue Service Act 1990*

Clause 20 provides that this part amends the *Fire and Rescue Service Act 1990.*

Clause 21 provides that if the chief executive proposes to appoint a person under section 25, or if the Commissioner proposes to second a person to the service, the person may be required to disclose any serious disciplinary action that has previously been taken against them. This requirement must be complied with before the appointment or secondment takes effect and in the way stated by the chief executive, or Commissioner, including any timeframes. The chief executive or Commissioner may consider any information provided in making a decision regarding the appointment or secondment.

The chief executive is not required to further consider the person for appointment if they fail to comply with the disclosure requirement or give false or misleading information.

Serious disciplinary action means disciplinary action involving dismissal, transfer or redeployment to other employment, reduction of remuneration or classification level or rank; or a disciplinary declaration which includes either dismissal or reduction of classification level or rank as the penalty that would have been taken against the person if the person's employment had not ended.

Clause 22 replaces the heading 'Discipline and appeals' with the heading 'Disciplinary action'.

Clause 23 amends the grounds for disciplinary action by extending the ground of wilful failure to comply with a provision of a code of practice to include a wilful failure to comply, without reasonable excuse, with a provision of the Act, code of conduct, award or industrial agreement. This amendment is made for completeness and to enhance consistency between the disciplinary provisions of the *Fire and Rescue Service Act 1990* and the *Ambulance Service Act 1991*.

An additional ground has been inserted in relation to disclosure of serious disciplinary action in accordance with the new sections 25B and 25C.

A further ground of use, without reasonable excuse, of a substance to an extent adversely affecting competent performance of duties, has been inserted to clearly identify the QFRS' existing approach to substance use. This ground reflects the *Public Service Act 2008*.

This clause clarifies that, where disciplinary action is contemplated on the ground of absence from duty, the chief executive may appoint a medical practitioner to examine the officer concerned and provide a report to the chief executive on the mental or physical condition, or both, of the officer.

This clause also amends the definition of misconduct. This definition reflects the definition of misconduct contained in the *Public Service Act 2008* for the purposes of consistency across the public sector.

Clause 24 inserts a new section 30A which encompasses the disciplinary action that can be taken generally; previously contained within section 30.

New section 30A reflects the existing provisions regarding the disciplinary action that can be taken, with the insertion of safeguards to ensure that monetary penalties cannot be more than the total of two of the officer's periodic remuneration payments and that an amount to be deducted from any particular periodic payment is not greater than the specified limits.

The monetary penalty was previously not more than two penalty units and this is amended to provide consistency with penalties applying under the *Public Service Act 2008* and the *Ambulance Service Act 1991*.

If the chief executive is taking disciplinary action in regard to a disciplinary finding made by the subject officer's previous chief executive, following an agreement under section 30E(1), this section specifies that the chief executives must agree on the disciplinary action.

A note has been inserted at the end of the section to draw attention to disciplinary appeal provisions under the *Public Service Act 2008* and *Public Service Regulation 2008*, for clarity.

Clause 25 inserts new sub-divisions related to post-separation discipline.

New section 30B provides that subdivision 2, 'Disciplinary action against a fire service officer who was a public service employee or ambulance service officer', applies to public service employees and ambulance service officers for whom a relevant disciplinary ground arises and who subsequently change employment to employment under section 25 of the *Fire and Rescue Service Act 1990*. Subdivision 2 only applies, however, if the person's previous chief executive officer has not taken, is not taking, or does not intend to take, disciplinary action against the person. This ensures that a person will not be subject to disciplinary action in the previous department and further disciplinary action in the QFRS in relation to the same ground.

The section explains the meaning of 'changes employment' and draws attention to provisions of the *Public Service Act 2008* and *Public Service Regulation 2008* in regard to transfers, deployments and secondments by the commissioner.

New section 30C provides for certain definitions which are relevant for subdivision 2.

New section 30D provides for the action that may be taken by the officer's (as specified in 30B) previous chief executive.

The previous chief executive can make a disciplinary finding about the officer's employment in the previous department or the QAS, even though the officer now holds appointment with the QFRS.

This section also allows the officer's previous chief executive to delegate the authority to make a disciplinary finding about the officer to the employing chief executive.

The previous chief executive may give to the employing chief executive any information about an officer or a disciplinary ground relating to the officer to help the employing chief executive to perform a function under section 30E(1) or (2).

The previous chief executive may not take disciplinary action other than to the extent provided under section 30E(1).

New section 30E provides for the action that may be taken by the officer's employing chief executive.

If the officer's previous chief executive makes a finding that the officer is liable for disciplinary action and both the previous and employing chief executives agree that disciplinary action is reasonable in the circumstances, only the employing chief executive can take the action, or order that the action be taken.

If the previous chief executive delegates to the employing chief executive the authority to make a disciplinary finding about the officer and the employing chief executive makes a disciplinary finding about the officer, the employing chief executive can take disciplinary action, or order that the action be taken, without the agreement of the officer's previous chief executive.

New section 30F allows for the application of subdivision 2 with the necessary changes so that disciplinary action can be taken when the chief executive is both the previous and employing chief executive. This covers officers moving between the QAS, QFRS and public service divisions of the Department of Community Safety.

New section 30G provides that subdivision 3, 'Disciplinary action against a former fire service officer' applies to service officers in relation to whom a disciplinary ground arises and whose employment under section 25 subsequently ends for any reason.

Subdivision 3 does not apply, however, if the chief executive is aware the officer is now a public service employee in a department of an ambulance officer and their employing chief executive has taken, is taken or intends to take disciplinary action against them. This ensures that an officer will not be subject to disciplinary action in the QFRS and further disciplinary action in their new employment in relation to the same ground.

For clarity, this section notes the disciplinary action that can be taken under the *Public Service Act 2008* and *Ambulance Service Act 1991* in relation to former service officers.

It also notes that the relevant sections under the *Public Service Act 2008* and *Ambulance Service Act 1991* empower the chief executive under this Act to do particular things to facilitate such disciplinary action being taken.

New section 30H provides that the chief executive may make a disciplinary finding or take, or continue to take, disciplinary action against a former service officer.

Any disciplinary finding or disciplinary action must be made or taken within a period of two years after the end of the officer's employment. This time limit does not affect an investigation of a suspected criminal offence or an investigation of a matter for the purpose of notifying the Crime and Misconduct Commission of suspected official misconduct under the *Crime and Misconduct Act 2001*, nor does it stop disciplinary action being taken following an appeal or review.

The only disciplinary action the chief executive may take is to make a disciplinary declaration and then only if the disciplinary action that would have been taken if the officer had not left their employment is termination of employment or reduction of classification level.

A disciplinary declaration is a declaration of a disciplinary finding against the former service officer and the disciplinary action that would have applied had the officer not left their employment.

This section clarifies that the making of a disciplinary declaration does not affect the officer's resignation or retirement or any benefits, rights or liabilities arising from the resignation or retirement.

New section 30I provides that, if another chief executive asks the chief executive for information about a disciplinary matter relating to a person who is or was a fire service officer, the chief executive must give the other chief executive the information.

The information must be reasonably necessary for the other chief executive to make a decision about appointments or employment; or disciplinary findings, actions or declarations under a relevant Act. The chief executive must also be reasonably satisfied that giving the information will not prejudice the investigation of a suspected contravention of the law.

Disciplinary information means information about a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action including a disciplinary declaration.

New section 30J provides that, if the chief executive asks another chief executive for information about a disciplinary matter relating to a person who is or was a public service employee or an ambulance service officer, the other chief executive must give the chief executive the information.

The information must be reasonably necessary for the chief executive to make a decision about appointments or employment; or disciplinary findings, actions or declarations. The other chief executive must also be

reasonably satisfied that giving the information will not prejudice the investigation of a suspected contravention of the law.

Disciplinary information means information about a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action including a disciplinary declaration.

New section 30K provides that, if the chief executive has disciplinary information about a person who is or was a public service employee or ambulance service officer and that information is reasonably necessary for the chief executive to make a decision about employment or a disciplinary finding, action or declaration, the chief executive may use the information to make the decision. This covers circumstances in which the chief executive is the chief executive of more than one entity (for example the QAS and QFRS) and may have information relating to officers of one entity that is relevant for decision making in the other entity.

Clause 26 inserts a new sub-division heading 'Other provisions about disciplinary action'.

Clause 27 inserts a new division in part 12 which relates to transitional provisions for the *Integrity Reform (Miscellaneous Amendments) Act 2010.*

New section 190 provides that within division 5 'commencement' means commencement of this section.

New section 191 provides that the following disciplinary grounds apply only in relation to acts of omissions happening after the commencement:

- The ground mentioned in section 30(1)(c), other than to the extent it applies to failures to comply with a code of practice; and
- The ground mentioned in section 30(1)(g).

New section 192 provides that disciplinary action against a former public service employee or ambulance service officer can only be taken if they are employed under section 25 after the commencement. Post-separation disciplinary action will be available in relation to acts or omissions happening before the commencement, but only where the grounds were appropriately provided for under the relevant disciplinary provisions and where the person's employment under section 25 commences after the commencement. This is consistent with the approach taken under the *Public Service Act 2008.*

New section 193 provides that disciplinary action against former fire service officer only applies if the person's employment under section 25 ends after the commencement. Post-separation disciplinary action will be available in relation to acts or omissions happening before the commencement, but only where the grounds were appropriately provided for under the former provisions and where the person's employment ends after the commencement. This is consistent with the approach taken under the *Public Service Act 2008.*

Clause 28 provides for certain definitions which are relevant to the amended provisions.

Part 6 Amendment of *Government Owned Corporations Act 1993*

Clause 29 indicates that this part amends the *Government Owned Corporations Act 1993*.

Clause 30 amends section 156 of the *Government Owned Corporations Act 1993* (Application of Crime and Misconduct Act) which requires chief executives of government owned corporations (GOCs) to refer suspected official misconduct to the Crime and Misconduct Commission. This section currently excludes from the definition of 'GOC' declared entities under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*. Under this Act, the definition of 'declared entity' includes a range of entities which are participants in the restructure and divestment process for 'declared projects' under the Act. The definition of 'declared projects' lists the entities, or parts of entities, whose businesses, assets and liabilities are being disposed of under the Act.

This clause amends section 156 to replace the exclusion for 'declared entities' with 'declared projects' under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*. This amendment ensures that only those businesses, assets and liabilities being disposed of are not subject to the requirements of section 156 of the *Government Owned Corporations Act 1993.*

Clause 31 amends schedule 4, section 156 of the *Government Owned Corporations Act 1993* (Application of chapter 3 of Act to prescribed GOC

subsidiaries) to replace the exclusion for 'declared entities' with 'declared projects' in accordance with the previous clause.

In addition, the clause amends schedule 4, section 156 to remove reference to the chief executive of the shareholding GOC. This achieves the purpose of placing the obligation to report official misconduct to the Crime and Misconduct Commission directly on the chief executive of the GOC subsidiary, rather than the chief executive of the shareholding GOC, which is considered to more appropriately reflect corporate responsibilities.

Part 7 Amendment of *Integrity Act 2009*

Clause 32 indicates that this part amends the *Integrity Act 2009*.

Clause 33 amends section 11 (Meaning of 'interests issues') to update references to the Register of Members' Interests and Register of Related Persons' Interests. This reflects proposed amendments to the *Parliament of Queensland Act 2001* in part 9 of this Bill which will provide a statutory basis for the registers, which are currently provided for under the Standing Rules and Orders of the Legislative Assembly.

Clause 34 amends section 15(2) (Request for advice) to clarify the ability of the Premier to request advice from the Integrity Commissioner. Although section 9(2) (Meaning of ethics or integrity issue) specifically provides that the Premier may seek advice about standard-setting for ethics or integrity issues, section 15(2) currently provides that requests for advice must involve another particular designated person. This amendment ensures that the Premier may seek advice on standard-setting for ethics or integrity issues without reference to a particular designated person. This amendment also relates to section 16 (Request by Premier) (amended by the following clause).

Clause 35 amends section 16 (Request by Premier) to clarify the Premier's ability to seek advice from the Integrity Commissioner on ethics or integrity issues generally, by specifically providing for requests for advice on standard-setting, in addition to advice relating to a particular designated person.

Clause 36 amends section 21(3)(a)(i) (Advice) to refer to approved codes of conduct and approved standards of practice under the *Public Sector*

Ethics Act 1994 in accordance with amendments included in part 10 of this Bill.

Clause 37 amends existing section 23(3)(a)(i) (Advice) to refer to approved codes of conduct and approved standards of practice under the *Public Sector Ethics Act 1994* in accordance with amendments included in part 10 of this Bill.

Clause 38 amends existing section 29(1)(b) (Disclosure to Premier) which deals with the Integrity Commissioner's disclosure to the Premier of ethics or integrity issues involving other specified designated persons in particular circumstances. The amendment allows disclosure to the Premier of 'perceived' and significant conflicts of interest, in addition to 'actual' and significant conflicts of interest. The clause is also amended to reflect the change in terminology within the Act from 'conflict of interest' to 'ethics or integrity issue', which is defined in section 9 to include a conflict of interest.

Clause 39 similarly amends the existing section 32(1)(b) (Disclosure to Leader of the Opposition) to allow disclosure by the Integrity Commissioner of perceived and significant ethics or integrity issues involving specified designated persons to the Leader of the Opposition.

Clause 40 amends section 33 (Disclosure to chief executive officer) to insert a new ability for the Integrity Commissioner to disclose actual or perceived, and significant, ethics or integrity issues to a chief executive officer in particular circumstances. The process for making these disclosures reflects the process in existing sections 29 and 32 applying to the Premier and the Leader of the Opposition respectively, as amended by this Bill. Limitations on the ability to make the disclosure including providing that the Integrity Commissioner may only give a copy of a relevant document to a chief executive officer if the Integrity Commissioner gives written advice to the designated person and the designated person fails to resolve the issue within five business days after being given the written advice.

These amendments strengthen the ability of the Integrity Commissioner to take action on identified actual or perceived conflicts of interest or other ethics or integrity issues, in the interest of resolution of these issues by the appropriate person.

Clause 41 amends section 34 (Definitions for division) to clarify the reference to 'member' in the definition for this division is a Member of the Legislative Assembly.

Clause 42 amends section 36 (Disclosure by member to whom a relevant document relates) to delete the words 'of the Legislative Assembly' as this is now provided for in the definition of 'member to whom a relevant document relates' in section 34.

Clause 43 amends existing section 38 (Disclosure to Premier) to allow the disclosure of 'perceived' and significant interests issues, in addition to 'actual' and significant interests issues. This amendment reflects the amendments to sections 29, 32 and 33 above.

Clause 44 amends section 39(1)(b) (Disclosure to Leader of the Opposition) in accordance with the previous clause to allow disclosure by the Integrity Commissioner of perceived and significant interests issues involving specified designated persons to the Leader of the Opposition. In addition, the clause inserts a clarifying amendment to specify that the section relates to 'non-government' members.

Clause 45 amends section 41 (Meaning of lobbyist and related concepts). Firstly, the clause inserts a new subsection into the existing section 41 to clarify that the meaning of 'lobbyist' for the purposes of the Act includes those entities that do not receive payment.

Additionally, the clause replaces the current examples in relation to section 41(5) which deals with entities who may undertake 'incidental lobbying'. This amendment is included in order to clarify the operation of the exclusion for incidental lobbying which occurs when an entity undertakes a business primarily directed towards the delivery of technical or professional services. The examples are replaced to include reference to the relevant regulatory frameworks under which such technical or professional businesses operate. It is considered that activity which is already subject to regulation under specific legislation should not be subject to additional regulation under the lobbying provisions of the Act.

The clause also updates the numbering of the existing section to reflect the insertion of the new subsection.

Clause 46 includes a drafting amendment to the existing section 42(2)(i) (Meaning of lobbying activity and contact) to emphasise that the example provided on non-business issues is a non-limiting example.

The clause also inserts an additional exclusion from the definition of 'lobbying activity' for contact only for the purpose of making a statutory application (an application under an Act that is considered and decided by a government representative under that Act). Where applicants or potential

applicants make enquiries with government representatives about the process of lodgement, or the lodgement of a specific statutory application, such contact is not to be considered to be lobbying activity. For example, telephone enquiries about completion of application forms would not be considered to constitute 'lobbying activity'. In addition, as provided for under existing subsection 42(2)(g), government representatives may request additional information from an applicant without the contact being considered to be lobbying activity.

Clause 47 provides a definition of 'senior executive equivalent' for the purposes of section 45 (Meaning of former senior government representative), relocated from the dictionary in schedule 2 of the Act.

Clause 48 makes drafting amendments to section 49 (Register) and does not change the meaning of the section.

Clause 49 is a drafting amendment to section 54 (Integrity commissioner's powers before deciding application) to clarify that the application being referred to is the entity's application for registration.

Clause 50 amends section 57(3) (Show cause notice) to increase the show cause period from five days to ten days provided to an applicant who has applied for registration as a lobbyist, prior to any decision to refuse registration.

Clause 51 is a drafting amendment to the heading of part 2, division 4 (Cancellation of registration) through the insertion of 'etc' after the division heading, in recognition that the amended division will cover issues other than cancellation.

Clause 52 amends section 62 (Grounds for cancellation) to insert a new subsection (2) which provides that the grounds mentioned may also be grounds for issuing a warning or suspending registration under the proposed new section 66A (Alternatives to cancellation) which this Bill seeks to insert. The clause also amends the heading in recognition that the section now covers issues other than cancellation.

Clause 53 amends section 63 (Show cause notice) dealing with show cause notices issued by the Integrity Commissioner regarding possible cancellations of registration. The amendment broadens the section to provide that in issuing a show cause notice, the Integrity Commissioner must advise that, instead of cancellation, the Integrity Commissioner may issue a warning or suspend registration if cancellation is not considered to be warranted. Registrants are also to be provided the opportunity, in

making representations on the show cause notice, to state why a warning or suspension should be imposed instead of cancellation of registration. This reflects the proposed new section 66A that provides for alternatives to cancelling the registrant's registration. The clause also increases the time period for response to show cause notices from five days to ten days, in accordance with the previous amendment to section 57 (Show cause notice).

Clause 54 amends section 65 (No cancellation) to account for the broader enforcement actions available in that the Integrity Commissioner may issue a warning or suspend the registration.

Clause 55 amends section 66 (Cancellation) to also account for the broader enforcement avenues available in that the Integrity Commissioner may issue a warning or suspend the registration. The amendment will also allow the Integrity Commissioner to take previous warnings into account when deciding to cancel a lobbyist's registration.

Clause 56 inserts a new section 66A (Alternatives to cancellation) into the Act. This new section will expand the actions available to the Integrity Commissioner where he or she believes a ground may exist in regards to the cancellation of the registration. Specifically, the clause provides the Integrity Commissioner with the power to issue warnings or suspend registration for a period of time depending upon the circumstances. The clause also provides that if the Integrity Commissioner decides to issue a warning or suspend the registration the Integrity Commissioner must give the registrant notice of the decision as soon as practicable.

Clause 57 makes a drafting amendment to the existing section 68(2) (Lobbyists code of conduct) to omit the reference to 'internet' and does not change the meaning of the subsection.

Clause 58 inserts a new subsection (3) into section 71 (Lobbying by unregistered entity prohibited). This new subsection aims to strengthen the integrity framework by providing for a reporting obligation upon government representatives where unregistered lobbying activity is identified. In order to ensure that notifications to the Integrity Commissioner are made by government representatives with sufficient seniority, the clause places obligations on the 'responsible person' for a government representative to notify the Integrity Commissioner if unregistered lobbying activity is identified. The dictionary in schedule 2 defines 'responsible person' as generally being the chief executive of the relevant public sector entity. However, Ministers, Parliamentary

Secretaries and councillors are to be responsible for notification for themselves or, where applicable, their staff. However, subsection (4) allows 'responsible officers' to delegate the obligation to report unregistered lobbying.

Clause 59 inserts a new chapter 4, part 4 (Miscellaneous) and chapter 4A (Declaration of interests by statutory office holders) into the Act.

The new chapter 4, part 4 (Miscellaneous) includes a new section 72A (Disclosure of information). This new section authorises the provision of information regarding lobbying activity by government representatives to the Integrity Commissioner, where the information is reasonably considered to be relevant to the functions or powers of the Integrity Commissioner.

The information which may be provided may include personal information (as defined in the *Information Privacy Act 2009*) such as names of lobbyists or clients. However, any personal information provided to the Integrity Commissioner would be subject to the provisions of the *Information Privacy Act 2009* in the subsequent handling of that information. The provision of this information to the Integrity Commissioner will ensure that the Integrity Commissioner is able to monitor the extent of lobbying activity in Queensland.

The information is to be provided by the responsible person for the relevant government representative (in accordance with the definition in the dictionary in schedule 2 which applies to this section).

The new Chapter 4A (Declaration of interests by statutory office holders) implements new legislative requirements for statutory office holders to make declarations of interests to relevant Ministers.

The new section 72B provides a definition for the new chapter of 'relevant Minister'. This definition clarifies that the use of this term refers to the particular Minister that administers the Act under which the particular statutory office holder is appointed.

The new section 72C details the process by which interests are declared by statutory office holders as listed in the new schedule 1 (Statutory office holders for section 72C). This new section mirrors the requirements applying to chief executives under the *Public Service Act 2008.* Statutory office holders are required to provide statements of interest to the Integrity Commissioner and the relevant Minister in accordance with section 101(3) of the *Public Service Act 2008*, under which the chief executive of the

Public Service Commission may issue a directive about the information to be declared. Statements must be provided within one month, or as soon as possible after a change in interests.

The provision of these statements of interests to the independent monitor of integrity standards for the Queensland Government, the Integrity Commissioner, will allow independent review of possible conflicts between an office holder's public duties and private interests. If the Integrity Commissioner identified a conflict of interest or possible conflict of interest through a statement provided by a statutory office holder under this Act, or by a chief executive in accordance with section 101 of the *Public Service Act 2008*, the Integrity Commissioner would be able to raise the conflict or potential conflict directly with the officer involved. Where identified conflicts are not resolved, the Integrity Commissioner would also be able to raise the conflict, or potential conflict, with the relevant Minister, who would also have been provided with the statement in accordance with the requirements of the Acts.

The Bill also inserts a transitional provision below (section 100 Declarations of interests by statutory office holders) which provides that new statements are not required to be provided where a current complying statement is already held by the Integrity Commissioner and relevant Minister.

The new section 72D imposes obligations upon the statutory office holder to disclose conflicts of interest as soon as practicable after he or she becomes aware of them. This section also provides that a statutory office holder must not take action concerning a matter unless authorised by the Minister.

Clause 60 replaces sections 80 (Declaration of interests) and 81 (Conflicts of interests), which apply to the Integrity Commissioner. This ensures the requirements placed on the Integrity Commissioner are consistent with, and to the same standard as, the requirements to be placed on the Auditor-General, Information Commissioner and Ombudsman through this Bill.

New section 80 (Declaration of interests) requires the Integrity Commissioner to provide statements of interests consistent with the requirements which apply to Members of the Legislative Assembly to provide declarations for the Register of Members' Interests and Register of Related Persons' Interests. Statements must be provided to the Speaker of the Legislative Assembly, and are accessible on request by the Premier, leader of a political party represented in the Legislative Assembly, the

Crime and Misconduct Commission or a member of the Integrity, Ethics and Parliamentary Privileges Committee.

New section 81 (Conflicts of interest) requires the Integrity Commissioner to disclose conflicts, or possible conflicts, of interest to the Speaker and the Integrity, Ethics and Parliamentary Privileges Committee, and not to take any further action concerning a matter affected by the conflict or possible conflict. Following resolution of a conflict of interest, the Integrity Commissioner must give a notice to the Speaker and the Integrity, Ethics and Parliamentary Privileges Committee advising of the action taken to resolve the conflict or possible conflict.

Clause 61 amends the existing section 85 (Annual reports of integrity commissioner) to require the Integrity Commissioner to include in the annual report details of compliance by statutory office holders with the requirements to provide statements of interest under proposed new section 72C. The clause also provides that the report may identify a statutory office holder who has not complied with section 72C, in addition to the existing ability to identify a chief executive who has not complied with section 101 of the *Public Service Act 2008*.

Clause 62 inserts a new division 1 heading.

Clause 63 inserts a new division 2 heading and new section 100 (Declarations of interests by statutory office holders) dealing with transitional arrangements for the declarations of interests by statutory office holders. Where a statutory office holder has already provided a statement of interests which complies with the new section 72C at the commencement of this section, the office holder is taken to have complied.

The clause also inserts a new section 101 (Declaration of interests by integrity commissioner) which obliges the Integrity Commissioner to comply with declaration of interests requirements within one month of commencement of this section.

Clause 64 inserts a new schedule 1 (Statutory office holders for section 72C). The statutory office holders listed in the schedule largely reflect the heads of public service offices as declared in the *Public Service Act 2008*, schedule 1. These officers perform functions comparable to a chief executive within the public service, but are not subject to statutory requirements to declare their interests under their enabling legislation. However, the statutory requirements have not been extended to other office holders who have a greater degree of independence from government, or public service office heads who perform quasi-judicial functions. The proposed new subsection

72C(1)(b) also allows additional office holders to be prescribed by regulation.

Clause 65 amends the definitions referred to in the dictionary in schedule 2.

Part 8 Amendment of *Ombudsman Act 2001*

Clause 66 provides that this part of the Bill amends the *Ombudsman Act 2001*.

Clause 67 inserts new sections 63A (Declaration of interests) and 63B (Conflicts of interest) into the Act. This is to ensure the requirements placed on the Ombudsman are consistent with, and to the same standard as, the requirements to be placed on the Auditor-General, Information Commissioner and Integrity Commissioner through this Bill.

New section 63A (Declaration of interests) requires the Ombudsman to provide statements of interests consistent with the requirements which apply to Members of the Legislative Assembly to provide declarations for the Register of Members' Interests and Register of Related Persons' Interests. Statements must be provided to the Speaker of the Legislative Assembly, and are accessible on request by the Minister, leader of a political party represented in the Legislative Assembly, the Crime and Misconduct Commission or a member of the Law, Justice and Safety Committee.

New section 63B (Conflicts of interest) requires the Ombudsman to disclose conflicts, or possible conflicts, of interest to the Speaker and the Law, Justice and Safety Committee, and not to take any further action concerning a matter affected by the conflict or possible conflict. Following resolution of a conflict of interest, the Ombudsman must give a notice to the Speaker and the Law, Justice and Safety Committee advising of the action taken to resolve the conflict or possible conflict.

Clause 68 relates to the transitional provisions. The clause inserts a new part 12, division 1 heading to differentiate the existing transitional provisions from those included in this Bill.

Clause 69 inserts the transitional provisions relating to the amending provisions for this part of the Bill. Specifically, the clause inserts a new division 2 heading (Provision for Integrity Reform (Miscellaneous Amendments) Act 2010) and a new section 104 (Declaration of interests) to oblige the Ombudsman to comply with declaration of interests requirements within one month of commencement of this section.

Part 9 Amendment of *Parliament of Queensland Act 2001*

Clause 70 provides that this part and the schedule amend the *Parliament of Queensland Act 2001*.

Clause 71 amends the existing section 11 (Standing rules and orders may be made), which lists matters for which the Legislative Assembly may adopt standing rules and orders. The clause removes the reference to declaring or registering Members' interests, as this Bill provides a statutory basis for the declaration and registering of such interests, previously provided for under the Standing Rules and Orders of the Legislative Assembly.

Clause 72 makes amendments to examples (7) and (8) in the existing section 37(2) (Meaning of contempt of the Assembly). The amendments update the examples to include the proposed insertion of a new section 69B dealing with a Member's obligations regarding statements of interest. This has the effect of clarifying that breaches of a Member's obligations in regard to this section, or preventing or attempting to prevent a person from complying with these obligations, will constitute contempt of the Legislative Assembly.

Notes have also been added to each relevant subsection under the new section 69B to emphasise/clarify that contraventions will constitute contempt of the Legislative Assembly. This new section is discussed at clause 74.

The clause also makes clarifying amendments to these examples by removing 'and' as the link between subsections, and instead including 'or'. This aims to clarify all the subsections mentioned are stand-alone examples of conduct amounting to contempt of the Legislative Assembly.

Clause 73 inserts a new section 59A (References to when the Assembly is not sitting) into the Act. The aim of this provision is to put beyond all doubt the ability to table documents during a period when the Legislative Assembly is prorogued or dissolved when required or permitted by statute or the Standing Rules and Orders of the Legislative Assembly.

The new section 59A(1) provides that subsection (2) applies if an Act or the Standing Rules and Orders of the Legislative Assembly refer to something being done, or state the effect of something done, in relation to a document when the Assembly is not sitting. The new section 59A(2) explains that the reference to the Assembly not sitting is taken to include a reference to the Assembly being expired, prorogued or dissolved.

The new section 59A(3) provides that if a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly has expired or is dissolved, or is prorogued and the Assembly expires or is dissolved before its next session, the document is taken to be a document of the next Assembly.

The new subsection (4) provides that if a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly is prorogued and the Assembly does not expire and is not dissolved before its next session, the document is taken to be a document of the next session of the Assembly.

Clause 74 inserts a new chapter 4, part 2A (Registers of interests).

The new section 69A (Definitions for pt 2A) provides definitions for the new part that reflect current requirements under the Standing Rules and Orders of the Legislative Assembly.

The new section 69B (Statements of interests) provides Members' obligations regarding the provision of statements of their interests.

Subsection (1) relates to a Member's obligations upon taking his or her seat in the Legislative Assembly. A note is provided to clarify that the taking of a Member's seat occurs when the Member takes the oath or makes the affirmation under section 22 of the *Constitution of Queensland Act 2001*. This subsection obliges the Member, within one month of taking his or her seat, to provide two statements of interests to the registrar: (1) a statement of the Member's interests, and (2) a statement of interests of which the Member is aware for a related person (as defined in new section 69A). Both of these statements are to be as at the date of the Member's election. The subsection includes a further note to emphasise that if a Member breaches

this obligation, then such conduct will constitute contempt of the Legislative Assembly.

Subsection (2) obliges a Member, within one month of becoming aware of a change in the particulars of his or her last statement of interests, to notify the registrar in writing of the change. The purpose of this subsection is to keep a Member's statement of interests current. The subsection also includes a note to emphasise that if a Member breaches this obligation, then such conduct will constitute contempt of the Legislative Assembly.

Subsection (3) states that both any statement of interests or change in the particulars of a statement of interests, must be provided in accordance with the Legislative Assembly's Standing Rules and Orders. More detailed procedural requirements regarding maintenance of the registers, and information required to be provided will remain in the Standing Rules and Orders of the Legislative Assembly, to promote administrative flexibility.

Subsection (4) provides that a Member must not give a statement of interests or information relating to a statement of interests to the registrar that the Member knows is false or misleading in a material particular. A note is included in this subsection to emphasise to the Member that contravention of this requirement will constitute contempt of the Legislative Assembly.

Subsection (5) clarifies that the reference to 'interests' in this new section is intended to be interpreted broadly and not in a limiting manner. It is intended to capture the breadth of potential conflicts of interest, not merely those of a financial nature, that may arise.

The new section 69C provides that the Clerk of the Parliament is the Registrar of Members' Interests and sets out the registrar's obligations with regard to maintaining the Register of Members' Interests and the Register of Related Persons' Interests.

Clause 75 amends section 70 (Meaning of transacts business) to provide that the term 'transacts business' refers only to agreements or contracts for the provision of goods by a member to an entity of the State. The intention of this clause is to provide in express terms that the restrictions on Members transacting business with an entity of the state for a contract extend only to agreements or contracts to provide or receive goods. The amendment clarifies the scope of the restrictions to ensure that it is consistent with the legislative position as it existed prior to the commencement of the *Parliament of Queensland Act 2001.*

Subclause (1) amends the definition of 'transacts business' in section 70(1)(a) to refer only to contracts 'for the supply of goods to the entity to be used in the service of the public' rather than all contracts with an entity of the State. This means, for example, that the definition does not include transactions involving land.

Subclause (2) omits the reference 'for a contract' in section 70(2)(a) and inserts 'for subsection (1)(a)'.

Subclause (3) omits 70(2)(a)(ii) and (iii). This amendment will ensure that the position before consolidation of the Act is reverted to. Having a provision that prohibits only specific conduct will allow for greater certainty, as conduct that is not specifically prohibited under section 70(1)(a) will be permitted.

A transitional provision for this amendment is contained in new section 165, which is inserted by clause 78 below.

Subclause (4) renumbers section 70(2)(a)(iv) as section 70(2)(a)(ii) as a consequence of omitting section 70(2)(a)(ii) and (iii). Subclause (5) omits the reference 'for a duty or service' in section 70(2)(b) and inserts 'for subsection (1)(b)'. Subclause (6) omits the reference to 'service or duty' in section 70(2)(b)(ii) and inserts 'duty or service'.

Subclause (7) inserts two new definitions in section 70(5), 'duty or service' and 'entity'. 'Duty or service' includes a duty or service constituted by the act of transacting any business for the State entity concerned. 'Entity' of the State is defined as not including a local government.

Clause 76 amends section 71 to provide that the term 'entity of the State' excludes a local government. The amendment clarifies that the prohibition of Members transacting business with the State is not intended to apply to transactions with local governments.

Subclause (1) omits sections 71(7), replaced through subclause (2) with a new definition of entity of the State, which is defined as not including a local government. Subclause (3) renumbers section 71(8) as 71(7) as a consequence of omitting section 71(7).

Clause 77 inserts new headings for part 1 (Parliament of Queensland Amendment Act 2003), part 2 (Parliament of Queensland Amendment Act 2004) and part 3 (Parliament of Queensland Amendment Act 2009) in chapter 10 of the Act.

Clause 78 inserts a new heading for part 4 (Integrity Reform (Miscellaneous Amendments) Act 2010) in chapter 10, and new sections 165, 166 and 167.

New section 165 provides that a Member is taken to have complied with new section 69B if, at the commencement of this section, the Member had, as required under schedule 2 of the Standing Rules and Orders of the Legislative Assembly, provided a statement of interests and given notification of any change in details.

New section 166 provides that the registers kept under schedule 2 of the Standing Rules and Orders of the Legislative Assembly and in existence immediately before the commencement of this section continue as the registers required to be kept under new section 69C.

New section 167(1) provides that during the transitional period, sections 71(1) and (2) are taken to always have applied in relation to a contract or the performance of a duty or service as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

New section 167(2) states that in deciding whether a Member has contravened section 71(1) during the transitional period, section 72(1)(h) is taken to apply as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

New section 167(3) provides that section 159(6) has effect as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.

New section 167(4) defines 'amendment' as the *Integrity Reform (Miscellaneous Amendments) Act 2010*, sections 75 and 76. 'Transitional period' is defined as the period starting at the beginning of 6 June 2002 and ending at the end of the day before the commencement of the amendment.

Clause 79 signposts the definitions of 'registrar' and 'transacts business' in the Dictionary.

Part 10 Amendment of *Public Sector Ethics Act 1994*

Clause 80 provides that part 10 amends the *Public Sector Ethics Act 1994*.

Clause 81 omits the heading for part 2 and inserts in its place the heading 'Ethics principles'.

Clause 82 omits the existing ethics principles in subsection 4(2) and inserts new ethics principles of integrity and impartiality; promoting the public good; commitment to the system of government; and accountability and transparency.

Clause 83 omits part 3 which sets out the ethics obligations and replaces it with a new part 3 headed 'Ethics values' which contains the new ethics values.

This clause inserts a new division 1 which addresses the nature, purpose and application of values. Section 5 provides for the ethics values in division 2 to apply to public service agencies, public sector entities and public officials. The values are to provide a basis for codes of conduct but are not of themselves legally enforceable.

This clause also inserts a new division 2 which makes provision for the ethics values. It inserts a new section 6 which sets out the values which underpin the principles of integrity and impartiality for public service agencies, public service entities and public servants. These values are commitment to the highest ethical standards; the provision of objective, independent, apolitical and impartial advice; respect for persons; resolution of any conflicts of interest in the public interest; and commitment to honest fair and respectful engagement with the community.

Clause 83 also inserts a new section 7 which sets out the values in relation to the principle of promoting the public good. These values are accepting and valuing the duty to be responsive to the government and the public interest; engaging with the community in developing priorities, policies and decisions; and to manage public resources effectively, efficiently and economically. They also include valuing and seeking to achieve excellence in service delivery and enhanced integration of services to better service clients.

This clause inserts a new section 8 which sets out the values in relation to the principle of commitment to the system of government. These values are to accept and value the duty to uphold the system of government and laws of the State, the Commonwealth and local government and to operate within the framework of Ministerial responsibility. They also include the commitment to effecting official public sector priorities, policies and decisions professionally and impartially. Subclause (2) clarifies that this does not limit the responsibility of a public service agency, public service

entity or public official to act independently of government where required by legislation, policy or customary practice.

Clause 83 also inserts a new section 9 which sets out the values which underpin the principle of accountability and transparency. These values are a commitment to exercising proper diligence, care and attention; using public resources in an effective and accountable way; and to manage information as openly as practicable within the legal framework. They also include valuing and seeking to achieve high standards of public administration, to innovate and continuously improve performance and to operate within a framework of mutual obligation and shared responsibility between public service agencies, public sector entities and public officials.

Clause 84 deletes the previous heading and replaces it with the heading 'Division 1 Codes of conduct generally'.

Clause 85 omits section 12 and 13 which deal with the nature, purpose and application of codes.

This clause inserts a new section 10 which provides that codes of conduct are to apply to public officials in performing their official functions and that the purpose of a code of conduct is to provide standards of conduct for public officials which are consistent with the ethics principles and ethics values.

Clause 85 also inserts a new 'Division 1A Public service agencies' and 'Subdivision 1 Code of conduct for public service agencies'.

This clause also inserts a new section 11 which provides that the code of conduct will apply to all public service agencies and public officials of public service agencies. The code may also apply to persons who have an agreement with the agency such as contractors, volunteers and students on work experience.

Clause 85 also inserts a new section 12 which provides that the code of conduct for public service agencies may contain anything the chief executive of the Public Service Commission considers necessary or useful for achieving the purpose of a code, including standards of conduct for public officials. The section also sets out the other types of information which may be included in the code. These include information about the purpose of the ethics principles, values and standards of conduct, and the objectives of applying the ethics principles and values and standards of conduct. The code may also contain guidelines about the application of ethics principles, values and standards of conduct, examples of their

operation, explanatory notes and references to Acts applying to public officials in performing their official functions.

This clause inserts a new section 12A which provides for the preparation of a code of conduct for public service agencies by the chief executive of the Public Service Commission. The section also provides that the chief executive of the Public Service Commission must ensure that reasonable steps are taken to consult about the code with public service agencies and staff to whom the code is to apply, and with industrial organisations and other appropriate entities representing the interests of any of the public officials.

Clause 85 also inserts a new section 12B which provides for the approval of the code of conduct by the Premier. The code must be accompanied by a statement from the chief executive of the Public Service Commission outlining the consultation which took place and the outcome of the consultation. The Premier is required to have regard to the statement in deciding whether to approve the code of conduct. The code of conduct can not take effect until it is approved by the Premier.

Clause 85 also inserts a new section 12C which requires a review of the code of conduct by the chief executive of the Public Service Commission to be undertaken within one year after approval. Subsequent reviews must be undertaken every two years thereafter.

This clause also inserts subdivision 2 headed 'Standards of practice for public service agencies'. New section 12D explains the purpose of a standard of practice which is to prescribe additional standards of conduct and behaviour for public officers of a particular public service agency. The standard of practice supports the standards of conduct in the code of conduct for public service agencies and must have regard to the ethics principles and values. A standard of practice applies to all public officers of the relevant agency and may apply to persons who have an agreement with the agency such as contractors, volunteers and students on work experience.

Clause 85 also inserts a new section 12E which provides that public service agencies may prepare their own standards of practice. The section also provides that if a public service agency prepares a standard of practice, the chief executive of the agency must ensure that reasonable steps are taken to consult about the standard with staff to whom the standard is to apply, and with industrial organisations and other appropriate entities representing the interests of any of the public officials. The chief executive of the Public

Service Commission may issue guidelines relating to preparing standards of practice. The guidelines are intended to provide further assistance to agencies about the purpose of standards of practice and the process of obtaining the approval of the chief executive of the Public Service Commission.

Clause 85 inserts a new section 12F which provides for the approval of a standard of practice for a public service agency by the chief executive of the Public Service Commission. The standard of practice must be accompanied by a statement from the chief executive officer of the public service agency outlining the consultation that took place and the outcome of the consultation. The chief executive of the Public Service Commission is required to have regard to the statement in deciding whether to approve the standard of practice. The standard of practice can not take effect until it is approved by the chief executive of the Public Service Commission.

Clause 85 also inserts a new section 12G which requires a review of a standard of conduct by the chief executive of the public service agency to be undertaken within one year after approval. Subsequent reviews must be undertaken by the public service agency every two years thereafter.

Clause 85 also inserts a new heading 'Subdivision 3 Public officials to comply with code of conduct and standard of practice'. Under this heading, clause 85 inserts a new section 12H which places an obligation on public officials of public service agencies to comply with the code of conduct and any relevant standard of practice.

Clause 85 inserts a new 'Subdivision 4 Additional responsibilities of chief executive officers'.

Clause 85 also inserts a new section 12I which places an obligation on chief executives of public service agencies to ensure staff have reasonable access to a copy of the ethics principles and values, the standards of conduct in the code of conduct and any approved standard of practice.

Clause 85 inserts a new section 12J which places an obligation on the chief executives of public service agencies to publish and keep available for inspection approved copies of the code of conduct and any standard of practice applying to the agency.

Clause 85 inserts a new section 12K which places an obligation on chief executives of public service agencies to ensure staff are given access to annual education and training about public sector ethics.

Clause 85 inserts a new section 12L which places an obligation on chief executive officers of public service agencies to ensure that procedures and management practices reflect the provisions of the Act, particularly the ethics principles and values, the approved code of conduct and any approved standard of practice.

Clause 85 inserts a new section 12M which places an obligation on the chief executive of the Public Service Commission to ensure that each annual report under the *Public Service Act 2008* includes a statement about implementation of the code of conduct and action to comply with section 12A during the reporting period. It also places an obligation on chief executive officers of public service agencies to ensure that the annual report for the relevant agency includes information about the implementation of the code of conduct and any standard of practice, and compliance with sections 12K and 12L during the reporting period.

Clause 85 inserts new divisional headings 'Division 1B Public sector entities' and 'Subdivision 1 Codes of conduct for public sector entities'. Clause 85 inserts under those headings a new section 13. This clause provides that a code of conduct must relate to a particular public sector entity and all public officials of the entity. It can also to apply to other persons who have a contract or other agreement with the entity.

Clause 86 amends section 14 by replacing reference to 'ethics obligations' with 'ethics values' and 'conduct obligations' with 'standards of conduct', reflecting earlier amendments.

Clause 87 omits the heading of pt 4, div 2 as the clauses of this division become part of part 4, division 1B.

Clause 88 amends existing section 16 by ensuring that reasonable steps are taken to consult about the code.

Clause 89 inserts a new subsection (4) to section 17 to make it clear that a code of conduct does not apply to a public sector entity or public official until it is approved by the responsible authority.

Clause 90 renumbers 'part 4, division 3' as 'part 4, division 1B, subdivision 2' to reflect previous changes to division numbering.

Clause 91 amends section 18 by changing reference to 'conduct obligations' to 'standards of conduct' consistent with the changes to part 3.

Clause 92 renumbers 'part 5' as 'part 4, division 1B, subdivision 3' to reflect earlier changes to numbering of parts and divisions.

Clause 93 amends the heading and content of section 19 to replace reference to 'obligations' with 'values' and reference to 'conduct obligations' with 'standards of conduct' to be consistent with earlier amendments. This clause also places an obligation on chief executives of public sector entities to ensure employees, including contractors, volunteers and students, have reasonable access to a copy of the ethics principles and values and the standards of conduct in the entity's code of conduct.

Clause 94 omits the previous heading of section 20 and inserts a new heading 'Publication of codes of conduct'. The clause inserts the words 'publish and' before the words 'keep available for inspection by any person an appropriate number of copies of the entity's approved code of conduct'. It also omits subsections (2) to (4), consistent with the provisions of the new section 12J.

Clause 95 amends section 21 to require that staff are given access to training to achieve consistency with the comparative provision for public service agencies.

Clause 96 replaces the reference to 'obligations' with reference to 'principles and values'.

Clause 97 omits the requirement that annual reports of public sector entities report on access to ethics principle and codes of conduct and inspection of codes of conduct. Public sector entities will continue to report on the preparation of codes, education and training and the procedures and practices of the entity.

Clause 98 renumbers 'Part 4, divisions 1A and 1B' as 'part 4, divisions 2 and 3' to reflect earlier changes to numbering of parts and divisions.

Clause 99 omits the heading of Part 6 and replaces it with 'Part 5 Disciplinary Action' due to earlier changes to numbering.

Clause 100 inserts a new section 23A which provides that part 5 does not apply to persons who are contractors, volunteers or students to whom the code of conduct applies under section 11 (1) (c) or 13 (1) (c).

Clause 101 amends the heading of section 24 and provides that disciplinary action may arise from a breach of an approved standard of practice as well as a breach of an approved code of conduct.

Clause 102 renumbers part 7 as part 6 due to prior changes to numbering.

Clause 103 inserts a new heading 'Part 7 Transitional provision for Integrity Reform Miscellaneous Amendments) Act 2010'. It inserts a new section 26 which provides that for a continuing public sector entity, an approved code of conduct as in force on commencement of section 26, continues in force until 1 July 2011. A continuing public sector entity is an entity that was a public sector entity immediately before the commencement, other than a public service agency.

Clause 103 also inserts a new section 27 which provides that for a public service agency, an approved code of conduct as in force on commencement of section 27, continues in force until 1 January 2011.

Clause 104 amends the dictionary by omitting definitions of terms that are no longer used or which have changed as well as including definitions of key terms relevant to the Act.

Part 11 Amendment of *Public Service Act 2008*

Clause 105 provides that this part amends the *Public Service Act 2008* (the Act).

Clause 106 amends the long title of the Act by removing outdated references.

Clause 107 amends the notes under subsection (3) by replacing the words 'commission chief executive' with 'appeals officer' to reflect the newly established role of the appeals officer to hear and decide appeals under chapter 7. It also amends an incorrect reference to section 218 and replaces it with a reference to section 217.

Clause 108 extends the application of chapters 6 and 7, relating to the discipline of public service officers, to public service employees.

Clause 109 amends subsections (j) and (k) to reflect amendments to the *Public Sector Ethics Act 1994*.

Clause 110 inserts new subsections (ba) and (bb) to expand the commission's functions to include the enhancement and promotion of an ethical culture in the public service and to enhance leadership and management capability in relation to disciplinary matters.

This clause also inserts new subsections (fa) and (fb) which require the commission to report at least annually to the Minister on the application of employment and management principles within the public service, including to monitor and report on the workforce profile of the public service. New subsection 46(3) defines workforce profile as the demographic categories and other characteristics of the workforce. This clause renumbers sections 46(1)(c) to (m).

Clause 111 amends section 53(ba) to extend the ruling-making authority of the commission chief executive for matters relating to the application of chapters 6 and 7, to former public service employees. Section 53(ba) previously provided for a commission chief executive ruling regarding the application of chapters 6 and 7 to only apply to former public service officers.

Clause 112 provides that the conditions of the contract of the commission chief executive are to be approved by the Minister rather than the Governor in Council. This is consistent with the appointment arrangements for other chief executives under the Act.

Clause 113 removes a main function of the commission chief executive to hear and decide appeals under chapter 7. This function is removed as the newly created 'appeals officer' position will hear and decide appeals. The clause renumbers section 58(2)(f) as 58(2)(e).

Clause 114 removes the authority for the commission chief executive to delegate his or her main function for the hearing and deciding of appeals under chapter 7 to accord with earlier amendments.

Clause 115 inserts reference to the appeals officer into subsection (2) to clarify that the appeals officer is a staff member of the commission, in addition to the persons employed by the commission chief executive under subsection (1).

Clause 116 amends the heading of section 78 to 'Staff generally subject to direction by commission chief executive'. This is because not all staff are subject to commission chief executive direction. New subsection (2) specifically prevents the commission chief executive from directing the appeals officer and relevant staff members of the commission in relation to performing functions under chapter 7, part 1. Staff members to whom this exclusion applies include staff members made available by the commission chief executive to help the appeals officer perform his or her functions under new section 88E, and staff members to whom the appeals officer has delegated his or her functions under new section 88F. The clause makes

reference to new section 88G to reiterate staff members' duties in performing functions under chapter 7, part 1 and to reinforce their independence from the commission chief executive's direction in performing these duties.

Clause 117 inserts a new part in relation to the appeals officer.

New section 88A establishes the role of the appeals officer and sets out the requisite qualifications for the role of the appeals officer, including that he or she is a senior executive, is appropriately qualified for performing the functions of the appeals officer under this Act, and that he or she must not be a disqualified person under this Act. Subsection (3) confirms that the provisions relating to senior executives under chapter 4, part 2 apply to the appointment of the appeals officer.

New section 88B provides for acting arrangements in the role of the appeals officer where there is a vacancy in the office, or if the appeals officer is absent from duty or is, for another reason, unable to perform his or her functions under the Act. The clause enables the commission chief executive to appoint a public service officer who is eligible under new section 88A (2) to cover any or all periods of absence, and does not require the acting appointee to be a senior executive.

New section 88C establishes the main functions of the appeals officer, including to hear and decide appeals under chapter 7, part 1. New subsection (2) provides for the appeals officer's other main functions.

New subsection (2)(a) provides for the appeals officer to communicate to specified persons (refer to sections 88C(2)(a)(i) to (iii)) matters which arise out of an appeal under chapter 7, part 1, that may affect decision-making in the public service or in a particular government entity. This subsection provides discretion for the appeals officer to determine the means by which he or she communicates to specified persons, notwithstanding that the laws of privacy will prevent the disclosure of personal information about a person.

New subsection (2)(b) provides for the appeals officer to report to the Minister on the performance of the appeals officer's functions.

New subsection (2)(c) provides for the appeals officer to perform other duties as directed by the commission chief executive. However, this does not permit the commission chief executive to direct the appeals officer in any matter relating to the performance of his or her functions under chapter 7, part 1 of the Act.

New section 88D provides for the appeals officer to give the Minister as soon as practicable after a financial year ends, a written report about the performance of the officer's functions during the financial year. New subsection (2) requires the appeals officer to comply with the Minister's request for particular information concerning a matter mentioned in the report. New subsection (3) declares the information provided to the Minister in a report as confidential.

New section 88E provides that the commission chief executive must arrange for the services of staff members of the commission to be made available to help the appeals officer perform his or her functions under this Act.

New section 88F provides that the appeals officer may delegate his or her functions under this part to an appropriately qualified person.

New section 88G establishes that the appeals officer, any other person performing appeal functions, and any staff members helping the appeals officer perform appeal functions must perform the functions independently, impartially, fairly, and in the public interest; and in performing the functions, are not subject to direction by the commission, commission chief executive, or any Minister. New subsection (2) declares that in this section appeal functions means the functions of the appeals officer under new section 88C(1) and (2)(a) and (b).

Clause 118 inserts a new subsection (3) to exclude the office of the senior executive who is the appeals officer from this provision. This is because new section 88B provides for the acting arrangements for the office of the senior executive who is the appeals officer.

Clause 119 inserts new subsections (3) and (4) to enable a person's employment as a senior executive to be extended under the contract of employment made between the senior executive and his or her chief executive once the employment reaches the end of the term stipulated in the existing contract (that is no more than five years). New subsection (4) provides for a person appointed as a senior executive to enter into a further contract of employment with his or her chief executive, to extend the person's appointment by a further term stated in the contract. This clause also renumbers section 113(3) to 113(5).

Clause 120 amends section 114 to provide that the term of a senior executive's appointment, or an extension of that term in the way provided in sections 113(3) and 113(4), cannot be more than five years.

Clause 121 inserts two new subsections. New subsection (5) provides for the commission chief executive to make a directive in relation to the secondment of a public service officer. The directive may prescribe the circumstances in which a public service officer may be seconded, the terms and administrative arrangements that may apply to a secondment, and any other matter the commission chief executive considers relevant to seconding a public service officer under this section.

New subsection (6) requires the chief executive of the first department to comply with any relevant directive. 'First department' is defined at section 120(1) of the Act.

Clause 122 amends section 126 to clarify arrangements relating to probationary periods for newly appointed public service officers. This clause removes the maximum prescribed probationary period of 13 months and aligns the provisions of this Act with the *Industrial Relations Act 1999*.

New subsection (3) provides for a probationary period of longer than 3 months only when it is reasonable, having regard to the nature and circumstances of the employment.

New subsection (4) enables the chief executive to terminate an officer's employment at any time during the probationary period, by signed notice. New subsection (5) specifies the actions to be taken by a chief executive at the time the initial probationary period has ended, if the officer's employment has not been terminated during the probationary period in accordance with subsection (4). New subsections (5) and (6) also provide for an extended probationary period only when it is reasonable, having regard to the nature and circumstances of the employment.

Clause 123 amends section 127 to provide that to be eligible for appointment as a tenured public service officer, a person must, other than being an Australian citizen, have permission under a Commonwealth law to work and remain in Australia indefinitely. This amendment reflects Commonwealth law.

Clause 124 removes the heading of chapter 5, part 4, division 1.

Clause 125 amends section 137 to provide that if a chief executive suspends a public service officer from duty, the chief executive must give the officer a notice stating when the suspension starts and ends, the remuneration the officer is entitled to for the period of the suspension and the effect that alternative employment will have on the entitlement.

This clause also replaces the word 'alternate' at subsection (2) with 'alternative', replaces the reference to 'subsection (4)' at section 137(5) with 'subsection (5). Subsection (5) is updated to reflect the amendments to the *Public Sector Ethics Act 1994*. The clause also renumbers section 137(1A) to (9) as 137(2) to (10).

Clause 126 omits chapter 5, part 4, division 2 which allows for the removal of statutory officers holder under this Act. Removal of statutory office holders would need to be undertaken in accordance with the provisions of the enabling legislation.

Clause 127 amends section 149 to reduce the initial review period of temporary employees' employment status from three years to two years and institutes annual reviews thereafter.

This clause amends subsection (1)(a) to require a department's chief executive to review the employment status of a temporary employee at the end of two years of continuous employment within a department, and inserts a new subsection (1)(b) to require a department's chief executive to review the employment status of a temporary employee at the end of each one year period following the initial two years of continuous employment.

This clause amends subsection (2)(a) to provide that once a decision is made to continue the temporary employment of a temporary employee following a review at the end of the initial two year review period, the terms of the extended employment must accord with the terms of the existing employment.

This clause provides for a continuation of the employment of a temporary employee according to the terms of the existing employment if, at the end of either the two or one year review period at section 149(1)(a) and (b), the chief executive fails to make a decision.

This clause adds a definition of temporary employee to clarify that the provisions apply to a general employee employed on a temporary basis under section 147, and a temporary employee employed under section 148. The definition specifically excludes persons employed under sections 147 and 148 on a casual basis.

Clause 128 inserts a new section to provide for the commission chief executive to make a directive to provide for matters relevant to how chapter 5, part 7 (Mental or physical incapacity) is to be applied in relation to a public service employee. New subsection (2) states that a chief executive must comply with any relevant directive made under this section.

Clause 129 amends section 179A to apply to persons who are proposed to be employed by a chief executive in a department. This clause also extends the application of this section to all public service employees, as it includes the term 'employment' which is relevant for temporary and general employees.

Clause 130 amends the heading of chapter 6 to specifically include reference to public service employees. This and similar amendments throughout chapter 6 extend the post-separation disciplinary regime that already applies to public service officers to former and existing general and temporary employees.

Clause 131 amends the definitions of employing chief executive, former public service employee, and previous chief executive. These definitions are amended to extend the provisions of chapter 6 to public service employees, and remove reference to public service officers.

Clause 132 amends section 187 to remove and replace all references to public service officer/s with public service employee/s and to include the term 'employment' which is relevant for temporary and general employees. This clause amends subsection (1)(f) to reflect amendments to the *Public Sector Ethics Act 1994*.

Clause 133 amends section 187A to remove and replace all references to public service officer/s with public service employee/s.

Clause 134 replaces all references to public service officer/s with public service employee/s, including the heading of section 188.

Clause 135 replaces all references to public service officer/s with public service employee/s, including the heading of section 188A. This clause also clarifies that where a former public service employee is an ambulance service officer or fire service officer and the ambulance service chief executive or fire service chief executive (respectively) has taken, is taking or intends to take disciplinary action against the employee this section does not apply.

Clause 136 inserts new section 188AB which provides for the disciplinary action which may be taken when a disciplinary ground arises in relation to an ambulance service officer or fire service officer and the officer subsequently leaves their employment and becomes a public service employee in a department.

The fire and ambulance chief executive may make a disciplinary finding about the disciplinary ground or may delegate to the employing chief executive the authority to make a disciplinary finding.

If the previous chief executive makes a disciplinary finding and the previous and employing chief executives agree on that disciplinary action is reasonable, the employing chief executive may take disciplinary action.

If the previous chief executive delegates the authority to make a disciplinary finding to the employing chief executive, the employing chief executive may take disciplinary action without the agreement of the previous chief executive.

The previous chief executive may give the employing chief executive any information about the person or a disciplinary ground relating to the person to help the employing chief executive to make a disciplinary finding or take disciplinary action.

If a chief executive is both the previous and employing chief executive, this section applies with the necessary changes to allow the chief executive to take disciplinary action as provided under this section.

The section does not apply if action has been, is being or is about to be taken in relation to the officer under the *Ambulance Service Act 1991* or the *Fire and Rescue Service Act 1990*.

Clause 137 amends section 188B to insert references to the employment or continued employment of public service employees.

Clause 138 amends the title of section 189 and subsection (1) to remove and replace all references to public service officer/s with public service employee/s.

This clause also inserts a new subsection to ensure that prior to suspending an employee, the chief executive must consider all alternative duties that may be available for the employee to perform. This clause renumbers subsection 189(2) as 189(3).

Clause 139 amends section 190 to replace the reference to public service officer with public service employee.

Clause 140 amends section 191 to replace all references to public service officer/s with public service employee/s.

This clause also provides that the continuity of service of a public service officer, or general or temporary employee, is taken not to have been broken

only because of a suspension under part 2. This clause amends subsection (3)(b) to reflect amendments to the *Public Sector Ethics Act 1994*.

Clause 141 amends subsections (1) and (2)(a)(ii) to remove and replace references to public service officers with public service employees.

Clause 142 amends the heading of chapter 7, part 1 to replace the reference to the commission chief executive with the appeals officer to accord with the amendments provided for in clause 117 (Appeals officer).

Clause 143 amends the heading of section 193 to replace the reference to the commission chief executive with the appeals officer.

Clause 144 replaces the reference to the commission chief executive with the appeals officer at subsections (1) and (1)(f). This clause also replaces the reference to public service officer with public service employee at subsection (1)(b)(ii). This amendment accords with the new arrangements to extend the disciplinary provisions to general and temporary employees.

This clause inserts a definition for temporary employment decision at (1)(e). The clause also inserts a definition for temporary employee to accord with the amendments provided for in clause 127 (Review of status of temporary employee).

Clause 145 amends subsection (1) to replace the reference to the commission chief executive with the appeals officer.

This clause removes subsection (1)(h) as it is no longer necessary due to amendments to this Act made by the *Criminal History Screening Legislation Amendment Act 2010*.

This clause amends the definition of non-appealable appointment at subsection (5)(b) to clarify that the appointment is declared as a non-appealable appointment by the commission chief executive by gazette notice or a directive under this part.

This clause renumbers section 195(1)(i) to section 195(1)(h).

Clause 146 amends section 196 to replace the reference to the commission chief executive with the appeals officer, and replaces the reference to public service officer with public service employee at subsection (b). This amendment accords with the new arrangements to extend the disciplinary provisions to general and temporary employees.

This clause also corrects a grammatical error at subsection (c), and clarifies subsection (e) to state that it refers to a temporary employment decision, as defined in section 194(1)(e).

Clause 147 amends section 197 to replace the reference to the commission chief executive with the appeals officer.

This clause amends subsection (3) to provide that the appeals officer may extend the time for giving an appeal notice if the appellant satisfies the appeals officer that there is a reasonable ground for extending the time.

Clause 148 replaces references to the commission chief executive with the appeals officer.

Clause 149 replaces references to the commission chief executive with the appeals officer.

Clause 150 amends section 200, including the heading, to replace references to the commission chief executive with the appeals officer.

This clause amends subsection (1) to provide the discretion for the appeals officer to decline to hear an appeal against a decision mentioned in section 194(1)(a) or (d) unless he or she is satisfied that the appellant has used procedures required to be used under an employee complaints directive (clause 167 refers). Subsections 194(1)(a) and (d) refer to a decision by a chief executive to take, or not take action under a directive, and a decision to transfer a public service officer. This clause also inserts a new definition for 'employee complaints directive' as a directive made under section 218A.

Clause 151 replaces the reference to the commission chief executive with the appeals officer.

This clause inserts a new subsection (1A) to provide that the purpose of the appeal is to decide whether the decision appealed against was fair and reasonable. This clause also renumbers section 201(1A) to (3) as 201(2) to (4).

Clause 152 amends section 202, including the heading, to replace references to the commission chief executive with the appeals officer.

This clause inserts a note which makes reference to section 88G (Duty of persons performing appeal functions).

Clause 153 amends section 203, including the heading, to replace references to the commission chief executive with the appeals officer.

This clause amends subsection (1)(d) to provide that the appeals officer may decide the appeal without a hearing and without requirement for the parties to the appeal to agree to that decision. Appellants will continue to

be afforded procedural fairness, as the appeals officer is required to observe natural justice under section 202, which supersedes subsection (1)(d).

Clause 154 replaces the reference to the commission chief executive with the appeals officer.

Clause 155 replaces references to the commission chief executive with the appeals officer, including the heading.

Clause 156 replaces references to the commission chief executive with the appeals officer.

Clause 157 replaces references to the commission chief executive with the appeals officer.

This clause amends subsection (1)(b) to provide for the appeals officer to set a temporary employment decision aside, and return the issue to the decision maker with a copy of the decision on appeal and any directions permitted under a directive of the commission chief executive that he or she considers appropriate.

Clause 158 replaces the reference to the commission chief executive with the appeals officer.

Clause 159 replaces the heading of section 210 with 'Decision on appeal is binding on parties' and replaces the existing sections with two new subsections.

New subsection (1) provides that the decision of the appeals officer is binding on all parties to the appeal. New subsection (2) inserts the requirement for a chief executive to take all steps necessary to give effect to a decision of the appeals officer applying to the department.

The new section repeals the existing provision which enables the commission chief executive to reopen an appeal. This amendment does not remove an appellant's right to have a decision reviewed, which can be exercised via judicial review in the Supreme Court.

Clause 160 replaces the reference to the commission chief executive with the appeals officer.

Clause 161 replaces the reference to the commission chief executive with the appeals officer.

Clause 162 replaces references to the commission chief executive with the appeals officer.

Clause 163 replaces the reference to the commission chief executive with the appeals officer.

Clause 164 inserts two new sections.

New section 214A provides that an appeals official is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this chapter. It provides that if subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State. This new section inserts a definition for appeals official – a staff member of the commission, or any other person, performing the functions for an appeal under chapter 7, part 1.

New section 214B provides that the commission chief executive must make a directive for this part. New subsection (2)(a) provides that the directive must make provision for decisions against which an appeal may be made, who may appeal, and any directions the appeals officer may give relating to decisions under section 208(1)(b).

New subsection (2)(b) specifies that the directive may, under section 195(5), declare an appointment to be an appointment against which an appeal may not be made.

New subsection (3) prevents a directive of the commission chief executive from directing the appeals officer or appeals official to do or not do something in a particular way, in relation to an appeal under this part. This section preserves the independence of the appeals officer from the commission chief executive in carrying out his or her functions under this chapter.

Clause 165 replaces the reference to the commission chief executive with the appeals officer.

Clause 166 removes subsection (1)(c) 'the removal of a statutory office holder under this Act' as a matter to which part 3 applies to accord with the amendments provided for at clause 126.

Clause 167 inserts a new part 4 and new section 218A (Commission chief executive may make directive about dealing with complaints by officers and employees). New subsection (1) provides for the commission chief executive to make a directive about how government departments must deal with complaints made by officers or employees within the department about decisions or conduct of officers or employees of the department.

New subsection (2)(a) specifies that, without limiting subsection (1), the new directive must provide for the procedures for dealing with complaints,

the period within which complaints must be finally dealt with, and the notification of decisions made in dealing with complaints.

New subsection (2)(b) specifies that the new directive must provide that, if a person fails to finally deal with a complaint about a decision within the specified period, the person is taken to have confirmed the decision at the end of that period.

New subsection (2)(c) specifies that the directive relating to complaints may apply to a decision mentioned in section 194 (Decisions against which appeals may be made).

New subsection (2)(d) specifies that the directive relating to complaints may provide a system for dealing with complaints where a person deals with a complaint in the first instance. The system may also include provision for another person to review the initial decision.

Clause 168 amends the heading to read 'Transitional provisions for Act No. 38 of 2008'.

Clause 169 inserts a new part 7 (Transitional provisions for Integrity Reform) and inserts ten new sections.

New section 268 adds definitions for 'commencement', 'initial review decision', 'section 149 directive', 'subsequent review decision' and 'transition period' for this part.

New section 269 provides that the person who immediately before the commencement of the Act held appointment as the Executive Director, Appeal Services, Public Service Commission, is taken to have been appointed under this Act as the appeals officer.

New section 270 provides for the continuation of existing arrangements for public service officers appointed on probation and whose probationary period has not ended at the commencement.

New section 271 provides that the amendment of section 127 (Requirement about citizenship etc) by the *Integrity Reform (Miscellaneous Provisions) Amendment Act 2010* does not affect the appointment of a public service officer appointed before the commencement.

New section 272 provides transitional arrangements for a person who is a general employee employed in a department on a temporary basis at the commencement.

New subsection (3) provides transitional arrangements for general employees employed on a temporary basis in a department for more than

two years but less than three years at the commencement. The initial review must be undertaken in the period that ends when the transition period ends. The anniversary date for the subsequent review will be one year after the initial decision under section 149(1)(a) is made for the person.

New subsection (4) provides transitional arrangements for general employees employed on a temporary basis in a department for three years or more, and where the chief executive of the department, under a directive, previously reviewed the person's employment to decide whether the person is to continue as a temporary general employee. The decision is taken to be a decision made in relation to the person under section 149(2) for the initial review period. The period for making the decision under section 149(2) for the subsequent review period mentioned in section 149(1)(b) is the period that ends when the transition period ends or the longer period if a commission chief executive directive provides for a longer period.

New subsection (5) provides transitional arrangements for general employees employed on a temporary basis in a department for three years or more, and the chief executive has not previously reviewed the person's employment to decide whether the person is to continue as a temporary general employee. The initial review must be undertaken in the period that ends when the transition period ends. The anniversary date for the subsequent review date will be one year after the decision under section 149(1)(a) is made for the person.

New subsection (6) inserts a definition for general employees employed on a temporary basis.

New section 273 provides transitional arrangements for temporary employees continuously employed in a department for more than two years.

New subsection (2) also provides transitional arrangements for temporary employees employed more than two years but less than three years at the commencement. The initial review must be undertaken in the period that ends when the transition period ends. The anniversary date for the subsequent review date will be one year after the decision under section 149(1)(a) is made for the person.

New subsection (3) provides transitional arrangements for temporary employees employed three years or more at the commencement, and where the chief executive has undertaken the initial review prior to commencement. The period for making the decision under section 149(2) for the subsequent review mentioned in section 149(1)(b) is the period that

ends when the transition period ends or the longer period if a commission chief executive directive provides for a longer period.

New subsection (4) inserts a definition for temporary employee.

New section 274 provides for transitional arrangements to apply disciplinary provisions under chapter 6 to general or temporary employees, in relation to a disciplinary ground that arises after the commencement.

New subsection (2) provides for section 187A (How disciplinary action may be taken against a public service employee after the employee changes employment) only to apply to general or temporary employees who change from a department to another department after commencement.

New subsections (3) and (4) provide that a chief executive may discipline a general or temporary employee under chapter 6 if, at the commencement, there is one or more disciplinary grounds for which the employee has not been disciplined for, and another disciplinary ground arises after the commencement. The chief executive may discipline the employee in relation to all of the grounds as if all of the grounds arose after the commencement. The employee's chief executive is taken to be the chief executive when the disciplinary ground arose.

New section 275 provides transitional arrangements for disciplinary action that may be taken against a former general and temporary employee in relation to a disciplinary ground that arises after the commencement. Section 188A will only apply to a person who was a general or temporary employee if the person's employment ends after the commencement.

New section 276 provides transitional arrangements for appeals not yet started prior to the commencement. New subsections (1) to (4) provide for an eligible person to appeal against the decision under this Act as in force before the commencement. The appeal must be made within the required period and must be heard and decided by the commission chief executive under this Act as in force before the commencement. New subsection (5) provides that section 210 (Reopening decided appeals) as in force before the commencement does not apply in relation to the commission chief executive's decision on the appeal.

New section 277 provides transitional arrangements for appeals started, but not decided, at the commencement. New subsections (2) and (3) provide that the commission chief executive must hear and decide the appeal, or continue to hear and decide the appeal, under this Act as in force before the commencement. New subsection (4) provides that section 210 (Reopening

decided appeals) as in force before the commencement does not apply in relation to the commission chief executive's decision on the appeal.

New section 278 provides transitional arrangements for appeals that have been reopened under section 210 as in force before the commencement. New subsection (2) provides that the commission chief executive must continue to hear and decide the reopened appeal under this Act as in force before the commencement. New subsections (3) and (4) provide for a party to the appeal to apply to the commission chief executive, within 21 days after the commencement, to reopen an appeal that has been decided before the commencement but which has not been reopened under section 210.

New section 279 specifies that the amendment of the *Public Service Regulation 2008* by the *Integrity Reform (Miscellaneous Provisions) Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Clause 170 removes schedule 2 as it is no longer necessary as a result of amendment provided in clause 126.

Clause 171 provides definitions for key terms in the Act.

Part 12 Amendment of *Public Service Regulation 2008*

Clause 172 provides that this part amends the *Public Service Regulation 2008*.

Clause 173 inserts an amendment to the appeal provisions to clarify the application of Chapter 7 of the Act to column one entities and employees of column one entities.

Part 13 Amendment of *Right to Information Act 2009*

Clause 174 indicates that this part of the Bill amends the *Right to Information Act 2009*.

Clause 175 inserts new sections 140A (Declaration of interests) and 140B (Conflicts of interests). This ensures the requirements placed on the Information Commissioner are consistent with, and to the same standard as, the requirements to be placed on the Auditor-General, Integrity Commissioner and Ombudsman through this Bill.

New section 140A (Declaration of interests) requires the Information Commissioner to provide statements of interests consistent with the requirements which apply to Members of the Legislative Assembly to provide declarations for the Register of Members' Interests and Register of Related Persons' Interests. Statements must be provided to the Speaker of the Legislative Assembly, and are accessible on request by the Minister, leader of a political party represented in the Legislative Assembly, the Crime and Misconduct Commission or a member of the Law, Justice and Safety Committee.

New section 140B (Conflicts of interest) requires the Information Commissioner to disclose conflicts, or possible conflicts, of interest to the Speaker and the Law, Justice and Safety Committee, and not to take any further action concerning a matter affected by the conflict or possible conflict. Following resolution of a conflict of interest, the Information Commissioner must give a notice to the Speaker and the Law, Justice and Safety Committee advising of the action taken to resolve the conflict or possible conflict.

Clause 176 provides for the insertion of a new chapter 7, part 4 (Transitional provision for Integrity Reform (Miscellaneous Amendments) Act 2010). The new section 206A (Declaration of interests by information commissioner) obliges the Information Commissioner to comply with declaration of interests obligations within one month of commencement of this section.

Part 14 Minor and Consequential Amendments

Clause 177 provides that the schedule amends the Acts it mentions.

The schedule provides for a minor amendment to the examples provided in section 272(3)(b) of the *Corrective Services Act 2006* to refer to the

approved code of conduct and approved standard of practice under the *Public Sector Ethics Act 1994*.

The schedule provides for the omission of section 107(4) of the *Education (General Provisions) Act 2006*.

The schedule provides for the renumbering of section 107(5) of the *Education (General Provisions) Act 2006*.

The schedule provides for minor amendments to sections 65(2), 71(1), 103(1)(a) and 112(3)(a) of the *Parliament of Queensland Act 2001* to refer to a 'Note' rather than an 'Editor's note'.

The schedule provides for a minor amendment to section 68(1) of the *Parliament of Queensland Act 2001* in relation to taking or making an oath.

The schedule provides for a minor amendment to section 72(1)(a) of the *Parliament of Queensland Act 2001* in relation to taking or making an oath.

The schedule provides for a minor amendment to section 79 of the *Parliament of Queensland Act 2001* to refer to section 112 of the Act.

The schedule also provides for a minor amendment to section 79 of the *Parliament of Queensland Act 2001* to omit the editor's note after the definition of 'community service obligation'.

The schedule provides for a minor amendment to section 92(2)(a) and (b) of the *Parliament of Queensland Act 2001* to refer to 'values' not 'obligations'.

The schedule provides for the insertion of the word 'or' at the end of section 121(1)(a) of the *Parliament of Queensland Act 2001*.

The schedule provides for minor amendments to sections 162, 163 and 164 of the *Parliament of Queensland Act 2001* to omit the references in the section headings to the *Parliament of Queensland Amendment Act 2003*, the *Parliament of Queensland Amendment Act 2004*, and the *Parliament of Queensland Amendment Act 2009* respectively.

The schedule provides for a minor amendment to section 113(4)(a) of the *Transport Operations (Passenger Transport) Act 1994* to refer to the values under the *Public Sector Ethics Act 1994*.