

Inspector of Detention Services Bill 2021

Explanatory Notes

Short title

The short title of the Bill is the Inspector of Detention Services Bill 2021.

Policy objectives and the reasons for them

This Bill gives effect to the Queensland Government's commitment to establish an independent inspectorate to promote and uphold the humane treatment and conditions of people detained in prisons, community corrections centres (the Helana Jones Centre), work camps, youth detention centres and police watch-houses (places of detention).

The purpose of the Inspector of Detention Services (the Inspector) is to promote the improvement of detention services and places of detention with a focus on promoting and upholding the humane treatment of detainees, including the conditions of their detention, and preventing detainees being subjected to harm, including torture and cruel, inhuman or degrading treatment.

This will facilitate greater transparency and accountability in the way that places of detention, and the people detained within them, are managed by establishing a framework for the review of detention services and inspection of places of detention, and independent and transparent reporting, to support their improvement. The focus of the Inspector will be on the prevention of harm rather than responding to complaints when harm occurs, and this preventative focus will examine the systems and the lived experiences of people detained.

This Bill will address recommendations stemming from a number of reviews into the Queensland criminal justice system since 2016 which have recommended the establishment of an independent inspector over adult correctional services, youth detention centres and/or police watch-houses. This includes: the Independent Review of Youth Detention (IRYD), the Queensland Parole System Review (QPSR), *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons* (the Taskforce Flaxton Report) and the Queensland Productivity Commission's Report: *Inquiry into imprisonment and recidivism* (QPC Report).

There is currently no single body whose primary function is the independent oversight over places of detention and detention services through a system of regular inspections and reviews, with the aim of promoting and upholding the humane treatment and conditions of detained persons.

Background

International and Australian law recognise that all persons in detention or imprisonment should be treated in a humane way. Due to the closed nature of custodial institutions and the power imbalance inherent in the custodial environment, the potential for abuse

and ill-treatment is always present. It is generally recognised that observance of human rights is the most effective and safe way to manage custodial environments.

Independent inspectors seek to mitigate the potential for ill-treatment and abuse through the review and inspection of detention environments. Independent inspectors ensure transparency and accountability in the way that places of detention, and the people detained within them, are managed by providing the community with insight into detention environments.

Reviews informing the establishment of Inspector

Criminal justice system reviews in Queensland

The IRYD, QPSR, the Taskforce Flaxton Report and the QPC Report considered, as part of their respective reviews, the existing layers of accountability over Queensland's places of detention and recommended that the establishment of an independent inspector would provide external oversight and scrutiny over the operations of corrective services facilities and/or youth detention centres to ensure they operate effectively, efficiently and appropriately in the management and treatment of persons detained. In response to the QPSR Final Report (Recommendation 90) that the Queensland Government should also consider expanding the independent inspectorate to examine the operations of police watch-houses, government decided to also include these within the purview of the Inspector.

Royal Commission Final Report

On 15 December 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) released its Final Report (Royal Commission Final Report). The Royal Commission found that detention environments may present a higher risk of child abuse compared with other institutional contexts. The risk is influenced by a number of factors, including: vulnerabilities of detained children; placement decisions; institutional culture; the level of access children have to trusted adults; and the extent to which operational procedures and the physical environment provide opportunities for abuse. The Royal Commission argued that these risks could be mitigated by preventative monitoring and independent oversight.

Regarding oversight of youth detention facilities, the Royal Commission recommended that:

state and territory governments should ensure they have an independent oversight body with the appropriate visitation, complaint handling and reporting powers, to provide oversight of youth detention. This could include an appropriately funded and independent Inspector of Custodial Services or similar body. New and existing bodies should have expertise in child-trauma and the prevention and identification of child sexual abuse (Recommendation 15.10).

The Queensland Government's response to the Royal Commission Final Report accepted in-principle Recommendation 15.10.

Inspectorate models in other Australian jurisdictions

The model proposed in the Bill is broadly consistent with other jurisdictions who have an inspectorate model, in particular Western Australia (WA), New South Wales (NSW), Tasmania and the Australian Capital Territory (ACT).

Achievement of policy objectives

The Bill achieves the policy objectives by:

- establishing the role of the Inspector, to be held by the Queensland Ombudsman, and setting out its functions and powers, with a focus on prevention of harm;
- providing a framework for inspections and reviews of places of detention and detention services; and
- providing a framework for independent and transparent reporting.

Preventative, proactive and independent mandate

The Inspector will have a preventative, proactive and independent mandate to carry out reviews of detention services provided at places of detention and inspections of places of detention, with a view to promoting the improvement of detention services and places of detention by upholding the humane treatment, management and conditions of people detained.

The Inspector's focus will be on the prevention of harm and improvement of the custodial environment in Queensland through examining the places of detention within its scope, the detention services provided to detainees, and the lived experiences of people who are deprived of their liberty. It is intended the Inspector will consider the operation and management of facilities, as well as the treatment and conditions of people detained in accordance with national and international materials that establish best practice. These materials include the: *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), the *United Nations Principles for the Protection of All Persons Under Any Forms of Detention*, the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (the Beijing Rules) and the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules).

Inspector's scope

Places of detention within the scope of the Inspector are defined in the Bill as community corrections centres (the Helana Jones Centre), prisons, work camps, watch-houses, and youth detention centres.

The Bill defines detention services as the operation, management, direction, control or security of a place of detention, as well as the security, management, control, safety, care or wellbeing (including health care and education) of a detainee at a place of detention. The Inspector's oversight also extends to the transportation of detainees (while in the custody of a relevant custodial entity) from any place of detention; or to a place of detention other than a watch-house; or to a watch-house from a court in which the person has appeared or another watch-house or place of detention.

The Inspector may inspect, review or monitor a place of detention or detention service at any time. The Bill, however, mandates the frequency of inspections for particular places of detention (outlined below).

Inspector's functions

Inspections and reviews

The Inspector will be an officer of the Parliament and will report directly to the Speaker of the Legislative Assembly following reviews and inspections undertaken, or in relation to any matter relating to the Inspector's functions if it is in the interest of any person or in the public interest to do so. The Bill also enables the Inspector to provide advice or make recommendations about a detention service or place of detention that the Inspector considers appropriate.

A core function of the Inspector will be to, at any time, review or monitor a detention service and inspect a place of detention in accordance with national and international materials that establish best practice. Inspections will examine the management of the operational environment with regard to the general security and management of places of detention, as well as the services provided to support detained persons' general care and wellbeing; and rehabilitation (such as purposeful activities, conduct and training of staff). This will enable the Inspector to consider and respond to specific issues and risks that, if addressed, will improve the treatment and conditions of people detained.

Consistent with the models in other Australian jurisdictions (in particular, Western Australia and New South Wales), the Inspector will be required to prepare and publish inspection standards for carrying out inspections. The standards are intended to articulate best practice and contribute to consistency and transparency as places of detention will be aware of the matters the Inspector will consider during inspections.

Functions not in scope

The Inspector's functions do not specifically include investigating incidents (such as riots, deaths and escapes) or alleged misconduct or alleged corruption by a staff member. For example, investigation of incidents in corrective services facilities will remain an internal function within Queensland Corrective Services (QCS) under the *Corrective Services Act 2006* (Qld). Similarly, the Inspector will not investigate specific incidents within youth detention centres, as this will remain an internal function of the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) in accordance with audit, assessment and review requirements outlined in departmental operational policy and procedure. The investigation of incidents at police watch-houses will continue to be carried out by the Ethical Standards Command, Queensland Police Service (QPS). Investigation of deaths in custody will remain the jurisdiction of the Coroner; and where the Inspector reasonably suspects a matter involves or may involve corrupt conduct, the Inspector will be required to notify the Crime and Corruption Commission.

While the Inspector will not investigate specific incidents or complaints, the Inspector's reviews may consider systemic themes that arise from the individual experience of

detained individuals or groups of people and/or an issue in one or more places of detention.

Mandatory inspections

The Inspector will be required to conduct mandatory inspections at set intervals of certain places of detention, consistent with its preventative focus. The Inspector will be required to, at a minimum, inspect every five years each prison that is a secure facility (high security facilities) and all or a part of a particular place of detention prescribed by regulation.

The Inspector will be required to conduct mandatory inspections of youth detention centres at least once every year. Currently, there are three youth detention centres – Brisbane Youth Detention Centre, West Moreton Youth Detention Centre, and Cleveland Youth Detention Centre. It is well established that children and young people in institutional settings can be more susceptible to abuse and may lack the skills needed to advocate effectively for themselves, particularly within a detention environment. Annual inspections are intended to provide a stronger safeguard for children in detention and align with the Royal Commission’s Final Report recommendations.

Reporting

A further key function of the Inspector is reporting directly to the Speaker of the Legislative Assembly following each mandatory inspection and review of a detention service that is carried out. The Inspector may also prepare a report for the Speaker about any other inspection that is carried out or the performance of another function. Reports will include systemic advice and recommendations that the Inspector considers appropriate. The Inspector may also publish reports separately after they have been tabled in Parliament. The provision of reports to Parliament is intended to facilitate greater transparency and accountability regarding how places of detention are managed, and the conditions and treatment of persons detained.

In addition to providing reports relating to inspections and reviews, the Inspector will also report annually to the Speaker of the Legislative Assembly on the operation of its functions. The Inspector’s annual report will include a description of the activities for the year, an evaluation of responses to recommendations made by the Inspector, and any recommendations for legislative change or administrative action.

In accordance with section 63 of the *Financial Accountability Act 2009* (Qld) and section 87 of the *Ombudsman Act 2001* (Qld) the financial and performance reporting for the Inspector will be reported on separately as part of the Queensland Ombudsman’s annual report.

Recommendations

The Inspector may also make recommendations to places of detention which identify practical opportunities to improve the operations, conditions and treatment of detained persons. It is intended that the Inspector will enter into a constructive dialogue with places of detention to discuss implementation of recommendations. Following an inspection, the Inspector will inform places of detention of preliminary views and

findings prior to finalising a report. This is intended to ensure that due process and procedural fairness is provided to all relevant parties and early notice of the Inspector's probable findings.

The Inspector will be required to comply with natural justice principles by providing confidential draft reports following an inspection of a place of detention or review of a detention service to notifiable entities (defined), including the relevant Minister; entity responsible for the place of detention; and a person or a public sector entity, where the report is disclosing information or setting out an opinion that is expressly or impliedly critical of another person or public sector entity. A notifiable entity given a copy of the draft report may make written submissions in response, which the Inspector must consider.

If there is an overriding public interest against disclosure of information that outweighs the public interest in favour of disclosing the information, the Inspector must keep aspects of a report confidential and not provide it to Parliament. The Bill provides guidance regarding what may support a public interest against disclosure including, for example, information that could undermine the security or good order in a place of detention.

Ministerial reference

To further support the role of the Inspector in assisting places of detention to strive for improvement and best practice, the Inspector may exercise its functions in response to a reference from the Minister or a Minister responsible for the place of detention in relation to a relevant matter of interest for the Minister. This provides responsible Ministers with the ability to act on and refer matters of serious concern that have been brought to their attention regarding the treatment and conditions of people detained. Any written Ministerial reference will be reported in the Inspector's annual report.

Statutory review

To ensure that the policy objectives of the legislation remain valid and the provisions of the Act remain appropriate for achieving the objectives, a legislative review is proposed within five years of operation.

Location, independence and staffing of the Inspector

Location

The Queensland Ombudsman will be appointed to the role of Inspector however, the Inspector will have distinct functions, powers and reporting under the Bill.

Independence of the Inspector

The Inspector will be an Officer of Parliament and not subject to the direction or control by any person (including a Minister) about the performance of the Inspector's functions. Consistent with the Queensland Ombudsman's existing arrangements, a parliamentary committee will monitor and review the performance by the Inspector of its functions (including specifically the mandatory inspection functions in clause 8(1)(c) of the Bill)

and annual reporting, and report to the Legislative Assembly on any matter concerning the Inspector that the committee considers should be drawn to the Assembly's attention.

The Inspector will have its own resourcing dedicated to the performance of its functions.

Staff and suitable persons

The Inspector will be supported by the Office of the Queensland Ombudsman and will be able to delegate the exercise of the Inspector's functions and powers to appropriately qualified staff of the Office of the Queensland Ombudsman. Staff exercising the Inspector's functions will not exercise the functions of the Queensland Ombudsman. When delegating its functions, the Inspector must have regard to the desirability of the staff of the Office of the Queensland Ombudsman assisting the Inspector having a range of knowledge, experience or skills relevant to the performance of the functions of the Inspector; and the desirability of delegates reflecting the social and cultural diversity of, and vulnerabilities within, the population of detainees in the State (including representing persons who identify as Aboriginal persons or Torres Strait Islanders).

In carrying out a review or inspection (including a mandatory inspection), the Inspector must have regard to the cultural background or vulnerability of detainees to whom the review or inspection is relevant.

Further, when carrying out a review or inspection, the Inspector must, if appropriate and practicable, arrange for a suitable person to help the Inspector carry out the review or inspection, having regard to the cultural background or vulnerability of the detainee (for example, a person with a disability or a person not able to speak English). This includes (but is not limited to) arranging for a person who identifies as an Aboriginal person or Torres Strait Islander and has the appropriate authority to advise on cultural matters to help the Inspector, where the inspection or review relates to a person detained who identifies as an Aboriginal person or Torres Strait Islander.

Where the review or inspection relates to the detention of a child, the Inspector will also be required to arrange for a suitable person with expertise in child trauma, and the prevention and identification of child sexual abuse.

The Inspector may also consult with or engage with professionals or others (for example, a person with lived experience of the effects of detention) when performing the Inspector's functions.

Inspector's powers

General powers

The Inspector will have a broad power to do all things necessary or convenient to exercise the Inspector's functions under the Bill, including to:

- visit any place of detention at any time, whether announced or unannounced (to carry out a review or inspection);
- take into places of detention any equipment the Inspector requires;

- access and be able to examine all physical parts and locations associated with a place of detention;
- access any documents and information relating to the place of detention and services provided to people detained (including taking or retaining copies);
- require staff at the place of detention to provide the Inspector with access to any part of a place of detention or any vehicle or equipment used in the place of detention;
- access a person detained in the place of detention, or a person who performs functions or provides services in places of detention (including speaking to these individuals); and
- require reasonable help for a review or inspection.

The Inspector will be required to be mindful of the security and safety considerations at the facilities when exercising the Inspector's functions and powers, including when visiting places of detention.

The Inspector may enter into arrangements with service providers regarding the exercise and practical operation of the Inspector's functions, such as requests for information. The Inspector will be able to enter into arrangements with QCS, DCYJMA and QPS, as well as another agency that provides a service to a person detained, such as Queensland Health or the Department of Education. These provisions are not intended to limit the Inspector's exercise of its statutory functions.

Referral of serious risks to responsible Minister

If the Inspector suspects on reasonable grounds there is or has been a serious risk to the security, management, control, safety, care or wellbeing of a detainee; or that a detainee is being, or has been subjected to torture or cruel, inhuman or degrading treatment at a place of detention, the Inspector must issue a written show cause notice to the responsible officer for the place of detention.

This is to ensure that immediate and serious risks or matters of concern can be brought to the attention of the responsible officer for a place of detention in a timely way to action and, if necessary, refer the matter in the notice to the responsible Minister (for example, where no action was taken). If the Inspector refers the matter to the responsible Minister, the Inspector must provide the responsible Minister with advice or recommendations about the matter, as the Inspector considers appropriate. Any referral must also be included in the Inspector's annual report.

Inspector's access to information

Critical to the fulfilment of the Inspector's preventative mandate is access to information from a wide range of sources which provide an understanding of the conditions and treatment of people in places of detention, and the areas of potential risk to the rights of people detained in particular places.

In recognition of the sensitivity of the information provided to the Inspector, information obtained by the Inspector will be protected and is not able to be disclosed, unless in specified circumstances. It will be an offence to disclose information obtained

by the Inspector contrary to these provisions. Part 4 of the Bill provides for disclosure of information to the Inspector including: confidentiality regarding disclosure of information by, or for, the Inspector; and the disclosure of information in the public interest.

The Inspector's powers to access information, including documents, extends to organisations (and their staff) who deliver services at places of detention that support the general care and wellbeing of people detained, such as services provided in the areas of health, education, religion, elder and cultural support, re-entry and general welfare.

The Inspector may request access to a detainee's health information where relevant to the Inspector's functions. A detainee's consent must be sought in the first instance in line with clinical best practice. Where consent is denied or not possible, the information may be provided in the absence of consent. Consequential amendments to the *Hospital and Health Boards Act 2011* (Qld) and *Mental Health Act 2016* (Qld) are made to enable the provision of this information.

The Inspector can also seek information from other sources, including observations of places of detention by other agencies or bodies that oversee or perform functions in relation to places of detention. This will facilitate understanding of the underlying issues and risks associated with each place of detention and inform the direction and focus of the Inspector's inspections and reviews.

The Bill provides evidential immunity for individuals if they provide information or produce a document in response to a request by the Inspector. To facilitate the sharing of information with the Inspector, particularly by people who are detained and people working at places of detention, this Bill contains provisions to protect a person from victimisation or reprisals as a result of providing information to the Inspector.

Coordinating oversight functions

The Bill will enable the Inspector to enter into arrangements with existing bodies or positions including, for example: the Queensland Ombudsman, Crime and Corruption Commission, Queensland Human Rights Commission, State Coroner, Queensland Audit Office, Office of the Public Guardian, Health Ombudsman, and the Queensland Family and Child Commission. This is to ensure that the Inspector's functions are performed in a way that does not delay, interfere with, or duplicate the functions of these bodies.

Amendments to other legislation

This Bill amends the *Ombudsman Act 2001* (Qld) to facilitate the establishment of the Inspector within the Office of the Queensland Ombudsman and for the role of Inspector to be held by the Queensland Ombudsman. Consequential amendments will also be made to the *Parliament of Queensland Act 2001* (Qld).

To facilitate the effective performance of the Inspector's functions and powers and/or to make consequential amendments, this Bill amends the:

- *Corrective Services Act 2006* (Qld);
- *Crime and Corruption Act 2001* (Qld);

- *Hospital and Health Boards Act 2011* (Qld);
- *Mental Health Act 2016* (Qld);
- *Ombudsman Act 2001*(Qld);
- *Parliament of Queensland Act 2001* (Qld); and
- *Youth Justice Act 1992* (Qld).

Alternative ways of achieving policy objectives

The proposed Bill is essential to give effect to the Government’s commitment to establish an independent inspectorate in response to relevant recommendations in the QPSR Report, the IRYD Report, Taskforce Flaxton, QPC Report and the Royal Commission Final Report. There is no alternative way of achieving the policy objectives.

Estimated cost for government implementation

The Queensland Government has set aside funding to ensure the Inspector can fulfill the functions set out in this Bill.

Consistency with fundamental legislative principles

The Bill is generally consistent with the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* (Qld). Aspects of the Bill that raise possible FLP issues, and justifications for any breaches, are addressed below.

Legislation has sufficient regard to the rights and liberties of individuals, including confidentiality, privacy and administrative power should be sufficiently defined and subject to appropriate review – *Legislative Standards Act 1992* (Qld), sections 4(2)(a) and 4(3)(a)

Access to documents/information sharing

The successful performance of the Inspector’s functions will rely on information being provided by people about their experiences and/or observations of places of detention. This includes people who work in or provide services to places of detention, people detained in places of detention, and people who work in entities that oversee places of detention.

The Bill provides the Inspector with the power to:

- access any document relating to a place of detention; and
- access any document that relates to a detention service in relation to a place of detention and/or a person detained (whether current or former).

The Bill also provides that the Inspector may require the provision of information (including documents) from staff of a place of detention and people providing services to a place of detention (including private contractors). It is an offence to fail to comply with a request made by the Inspector for information without reasonable excuse.

The Bill enables the Inspector to access confidential personal information, including health information, from a range of sources and represents a potential departure from the fundamental legislative principle that requires legislation to have sufficient regard to the rights and liberties, including privacy and confidentiality.

The power of the Inspector to obtain this information is necessary to:

- ensure the Inspector has access to all information relating to places of detention, in particular the treatment and conditions of people detained;
- enable the Inspector to fulfil the statutory functions of inspecting, examining and reviewing places of detention and the services within places of detention;
- enable the Inspector to assess the conditions and treatment of people detained against national and international materials that establish best practice in relation to the treatment and conditions of detained persons; and
- enable the Inspector to identify opportunities and develop recommendations for the improvement of the operations of places of detention that will prevent harm and ill treatment of people detained.

For access to a detainee's health information, it is intended that a detainee's consent is sought in the first instance. Where consent is denied or not possible, the Inspector must be advised and may request the information be provided in the absence of consent (in line with clinical best practice).

The Bill includes appropriate safeguards and limitations regarding the disclosure of confidential information obtained by the Inspector. The Bill provides it is an offence to disclose information obtained by the Inspector except in specified circumstances, including:

- for confidential information about a person who is an adult – with the person's consent or if the person is unable to consent – with the consent of a legal guardian of the person; or
- for confidential information about a child – with the consent of the child, if the child has been told the information to be disclosed or used and to whom, as well as the reason for disclosing or using the information, or with the consent of a parent or legal guardian of the child; or
- for the purposes of providing information to the Ombudsman, the Public Guardian, Queensland Human Rights Commission or Health Ombudsman regarding a referral of a complaint, and with the consent of the individual; or
- in accordance with the general power of disclosure in the public interest or a person's interest; and
- as otherwise required under another Act (for example, pursuant to section 38 of the *Crime and Corruption Act 2001* (Qld)).

An additional safeguard relates to the publication of reports in that the Inspector must keep aspects of a report confidential and not provide it to the Speaker of the Legislative Assembly if there is an overriding public interest against disclosure of the information which overrides the public interest in favour of disclosure. Factors that may support a public interest against disclosure include whether the information could identify or allow identification of any person detained or staff at a place of detention. This test must also be applied if the Inspector intends to exercise the general power of disclosure in the public interest.

The public interest in permitting the Inspector to access all relevant information to fulfill its preventative, proactive and independent mandate outweighs the potential infringement of an individual's right to privacy and confidentiality.

The Bill also provides evidential immunity for individuals if they provide information or produce a document in response to a request by the Inspector. This is to ensure that evidence of the information or document, directly or indirectly derived, cannot be used as evidence against the individual in any civil, disciplinary or criminal proceeding.

Penalties

This Bill includes offence provisions to support the effective performance of the Inspector's functions.

In order to facilitate and encourage full and frank disclosure by people to the Inspector it is intended that information obtained by the Inspector is protected, except in specified circumstances. Disclosure of confidential information in breach of this provision will attract a maximum penalty of 100 penalty units.

To facilitate the sharing of information with the Inspector, particularly by people who are detained and people working at places of detention, a person will be protected from victimisation or reprisals as a result of providing information to the Inspector. A person who commits a reprisal will be subject to a maximum penalty of 100 penalty units.

It will be an offence, with a maximum penalty of 100 penalty units to, without reasonable excuse:

- fail to comply with any lawful requirement of the Inspector or the Inspector's delegate (such as to give information, attend or answer questions, ensure access to a place of detention or detention service or to talk to a detainee, or give Inspector reasonable help to carry out the review or inspection); or
- obstruct, hinder or resist, or attempt to obstruct and threaten to obstruct the Inspector or the Inspector's delegate in the exercise of the Inspector's functions.

It will also be an offence for a person to give an official information that the person knows is false or misleading in a material particular. The maximum penalty is 100 penalty units. However, the offence does not apply if the person, when giving information in a document, tells the official to the best of their ability how the document is false or misleading, and if the person has, or can reasonably obtain, the correct information and subsequently provides the correct information to an official.

The Bill also provides that a person following the end of their appointment as an officer authorised to exercise the Inspector's powers must return their identity card to the Inspector within 14 days. Failure to return an identity card, without a reasonable excuse, is an offence with a maximum penalty of 10 penalty units.

These offence provisions will assist the Inspector and the Inspector's delegates to effectively perform their functions and encourage cooperation with the Inspector and the Inspector's delegates.

Legislation provides for appropriate protection against self-incrimination - section 4(3)(f) *Legislative Standards Act 1992 (Qld)*

The Inspector (or delegate) in exercising the Inspector's functions may require a person who performs functions or provides services at a place of detention to answer the Inspector's questions and provide information or produce documents that relate to a detention service. The Bill provides that a person must comply with any lawful requirement of the Inspector or delegate unless there is a reasonable excuse. Self-incrimination will not constitute a reasonable excuse in this circumstance.

The Bill abrogates an individual's right to claim privilege against self-incrimination in complying with a lawful requirement of the Inspector or the Inspector's delegate, such as providing information to the Inspector, and may be perceived to breach a fundamental legislative principle.

The abrogation of the privilege is balanced by the provisions in the Bill that prohibit the use of information (both primary and derived) obtained by the Inspector (or delegate) in any criminal, civil or disciplinary proceeding against the person, with the exception of proceedings relating to the false or misleading nature of the information provided.

The objective of the Inspector's activities is to promote the improvement of places of detention, with a focus on preventing harm by promoting and upholding the humane treatment and conditions of people detained. Empowering the Inspector to obtain information about treatment and/or harm that has occurred in places of detention will allow the Inspector to make recommendations that may prevent future harm and improve the conditions and treatment of people detained. The public interest in preventing future harm outweighs any potential infringement of an individual's right to protection against self-incrimination.

Legislation is consistent with principles of natural justice - section 4(3)(b) *Legislative Standards Act 1992 (Qld)*

The Bill establishes a framework of independent and transparent reporting by the Inspector. The Inspector's reports will be provided to the Speaker of the Legislative Assembly to be tabled in Parliament. These reports will relate to the exercise of the Inspector's functions with regard to inspections of places of detention and reviews of detention services, as well as any other report the Inspector considers appropriate, relevant to performing its functions.

The Inspector's annual report on operations must also include a description of the Inspector's activities for that year and an evaluation of any action taken in response to the Inspector's recommendations.

Reports of the Inspector relating to reviews and inspections may include information that could be considered adverse to individuals, impacting on their rights. Accordingly, the Bill provides for natural justice in that the Inspector must not publish or make a report to Parliament that sets out an opinion that may be expressly or impliedly critical of a person or entity without first providing an opportunity to that person or entity to make submissions regarding the matter. The Inspector is not bound to amend a report

in light of any submissions but must ensure the report adequately reflects the submissions received.

The Inspector must keep aspects of a report confidential if there is an overriding public interest against disclosure of the information, which outweighs the public interest in favour of disclosure. The fact that disclosure of information might cause embarrassment to, or loss of confidence in, the government is irrelevant and must not be taken into account.

By providing the Inspector's reports to the Speaker of the Legislative Assembly and publishing them separately, there will be greater transparency and accountability about how places of detention are managed, and the conditions and treatment of persons detained. The Bill strikes an appropriate balance between the rights of individuals to natural justice, and the public interest in transparent and independent reporting on how places of detention are managed.

Legislation allows the delegation of administrative power only in appropriate cases to appropriate persons - section 4(3)(c) *Legislative Standards Act 1992 (Qld)*

The Bill provides the Inspector with the power to delegate the exercise of the Inspector's functions under this Bill to an appropriately qualified officer of the Queensland Ombudsman. It may be considered that this provision infringes on a fundamental legislative principle, in that it may be perceived that delegation of an administrative power should only be allowed to appropriate persons. However, the provision is limited to delegation of functions to an officer of the Office of the Queensland Ombudsman, and the Inspector must consider the person, the subject of the delegation, to be appropriately qualified to perform the functions or exercise the powers delegated to them. Furthermore, the delegation would only be for the period of time the person is engaged by the Inspector to carry out the particular functions. A further safeguard is that the Inspector may not delegate to any other person the functions and powers to provide reports to Parliament and publish those reports.

To further safeguard the independence of the Inspector, the Bill also provides that officers of the Queensland Ombudsman cannot be delegated functions of the Inspector if they are already delegated a function under the *Ombudsman Act 2001 (Qld)*.

For these reasons it is considered the power of delegation is appropriately justified.

Legislation confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer - section 4(3)(e) *Legislative Standards Act 1992 (Qld)*

The Bill confers power on the Inspector to, when performing the Inspector's functions, at any time, enter premises without notice and without a warrant issued by a judge or other judicial officer. The Inspector has the power to inspect any part of a place of detention, including equipment used. Following entry, an Inspector may request and be provided with access to any part of the place of detention. The Inspector may, for the purposes of providing or receiving information, have access to a person detained or person who works at or provides services to a place of detention. The Inspector may

also access, copy and retain copies of any document relating to the place of detention or services provided at the place of detention.

The Bill provides that it is an offence to obstruct the Inspector in the performance of the Inspector's functions (without a reasonable excuse); or knowingly provide the Inspector with false or misleading statements or documents. It is also an offence, without reasonable excuse, to fail to comply with a request to provide the Inspector with documents or information.

With regard to these powers, the Bill contains the following safeguards and restrictions:

- the Inspector's power to enter premises is limited to places of detention within scope;
- any person authorised to exercise the Inspector's powers will be issued with an identity card and must show the card when exercising a power (or at the first reasonable opportunity) and return the card at the end of the appointment (failure to do so without a reasonable excuse is an offence under this Bill);
- the Inspector's power to request and be given access to any part of a place of detention must be balanced against the Inspector's duty to be mindful of the good order and security of a place of detention and the safety of people at the facility;
- the Inspector's power to seize property is limited to taking copies of documents for the purpose of fulfilling the Inspector's functions;
- the power to require a person to answer the Inspector's questions and produce documents is limited to particular persons at the place of detention or who perform a detention service at the place of detention; and
- any information obtained by the Inspector may only be disclosed in specified circumstances outlined in the Bill.

These powers are considered justified given the objective of the Inspector is to promote the improvement of places of detention, with a focus on preventing harm by promoting and upholding the humane treatment and conditions of people detained. In order to protect against harm occurring, a proactive regime is required which enables the Inspector to observe the operations of places of detention as well as the gathering of information on the operations of facilities and the lived experiences of places of detention.

It is considered that the public interest in ensuring the humane treatment and conditions of people detained prevails over the potential infringement of the rights and liberty of individuals by the Inspector's powers of access to places of detention and accessing information or people.

Legislation has sufficient regard to the institution of Parliament, allowing the delegation of legislative power in appropriate cases and to appropriate persons - section 4(2)(b) *Legislative Standards Act 1992 (Qld)*

Under this Bill, the Inspector has jurisdiction to conduct inspections and reviews in relation to places of detention, a core function of the Inspector. The Bill provides for mandatory inspections, including being able to inspect a particular place of detention prescribed by regulation at least once every five years.

It is arguable this regulation-making power breaches the fundamental legislative principle that a Bill is to have sufficient regard to the institution of Parliament by prescribing particular places of detention to which the Inspector's functions relate via regulation, as opposed to including these places in the Bill. However, the provision is justified in that it prescribes particular places that are within the Inspector's jurisdiction already provided in the Bill in the definition of 'places of detention'; and the Bill provides for the frequency that they must be inspected (at least once every five years). Prescribing particular places of detention via regulation is intended to create flexibility regarding five-yearly mandatory inspections of other places of detention.

Consultation

Key government and non-government stakeholders across a range of sectors that either have direct involvement with, or an interest in, the detention environment in Queensland were consulted, including through information sessions convened by the Department of Justice and Attorney-General (in consultation with QCS, QPS and DCYJMA).

Feedback received during targeted consultation has been considered and, where possible, has informed finalisation of the Bill.

Statutory bodies consulted include: Crime and Corruption Commission, Queensland Ombudsman, Health Ombudsman, Commonwealth Ombudsman, Office of the Public Guardian, Queensland Family and Child Commission, Queensland Human Rights Commission, Queensland Mental Health Commission, and the Queensland Productivity Commission.

Key legal stakeholders consulted include: Aboriginal and Torres Strait Islander Legal Service; National Aboriginal and Torres Strait Islander Legal Services; Legal Aid Queensland; Prisoners' Legal Service; Change the Record; Human Rights Law Centre; Australia Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) Network; Queensland Council for Civil Liberties; Queensland Law Society; and Sisters Inside.

Unions and peak bodies were also consulted including: PeakCare Queensland; Human Rights Watch; Queensland Nurses and Midwives Union; Queensland Police Union of Employees; Queensland Police Commissioned Officers' Union of Employees; Aged and Disability Advocacy Australia; Queenslanders with Disability Network; and Queensland Advocacy Incorporated.

Stakeholders with an interest in the custodial environment and others consulted included: education, health, wellbeing and support, and religious service providers; hospital and health services.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland. However, the Bill was informed by the independent inspectorate legislation in other Australian states and territories, in particular, WA, NSW, Tas and the ACT.

Notes on provisions

Part 1 Preliminary

Clause 1 establishes the short title of the Act as the *Inspector of Detention Services Act 2021*.

Clause 2 states that the Act is to commence on a day to be fixed by proclamation.

Clause 3 subclause (1) states the main purpose of this Act is to promote the improvement of detention services and places of detention, with a focus on promoting and upholding the humane treatment of detainees, including humane conditions of their detention, as well as preventing detainees from being subjected to harm, including torture and cruel, inhuman or degrading treatment. Subclause (2) specifies that the main purpose is to be achieved by providing a framework for the review of detention services and inspection of places of detention and independent and transparent reporting.

Clause 4 states that the dictionary is provided in schedule 1.

Clause 5 defines ‘detention service’ to mean the operation, management, direction, control or security of a place of detention, as well as the security, management, control, safety, care or wellbeing (this would include, for example, healthcare, disability services and education) of persons detained in a place of detention. It also provides that a ‘detention service’ includes the transportation of detainees (while in the custody of a relevant custodial entity) from any place of detention; or to a place of detention other than a watch-house; or to a watch-house from a court in which the person has appeared or another watch-house or place of detention. A ‘relevant custodial entity’ is defined in schedule 1.

The transportation of detainees while in the custody of a relevant custodial entity is intended to capture detainees transported from any place of detention to another place. It is intended that transport by QCS, QPS and/or DCYJMA (youth justice) to and from a place of detention would be covered where the person has been remanded in custody or sentenced to imprisonment. This could include, for example, DCYJMA transporting a detainee from a youth detention centre to attend a funeral or medical appointment; QPS transporting an adult to or from a place of detention, or QCS transporting a prisoner from a prison to an authorised mental health service for treatment (as they are still in the custody of QCS).

It does not include those people who are transported or detained for treatment or care under the *Mental Health Act 2016* (Qld) (as they are in the custody of the Chief Psychiatrist). It also does not include the journey after arrest to a watch-house for processing as this is before a person is remanded in custody by a prescribed police officer.

Clause 6 provides that each of the following is a ‘place of detention’: a community corrections centre; a prison; a watch-house; a work camp; and a youth detention centre.

The terms ‘community corrections centre’, ‘prison’, ‘work camp’, and ‘youth detention centre’ are defined in schedule 1.

Part 2 Inspector of detention services

Division 1 Establishment

Clause 7 establishes that there is to be an Inspector of Detention Services who will be an officer of the Parliament of Queensland.

The Inspector’s primary objective is the improvement of detention services and places of detention, with a focus on preventing harm by promoting and upholding the humane treatment and conditions of people detained. The focus is on the prevention of harm rather than the ability to respond when harm occurs. This preventative focus will examine the systems and lived experiences of people who are deprived of their liberty.

Division 2 Functions

Clause 8 outlines the functions of the Inspector of Detention Services in subclause (1) as follows:

- to review or monitor a detention service at any time;
- to inspect a place of detention at any time;
- without limiting the Inspector’s function to inspect a place of detention at any time, to conduct mandatory inspections as follows:
 - each youth detention centre at least once every year;
 - each prison that is a secure facility at least once every five years; and
 - all or part of a particular place of detention prescribed by regulation at least once every five years;
- to prepare and publish standards regarding the carrying out of inspections;
- to report to the Legislative Assembly on:
 - each review carried out by the Inspector;
 - each mandatory inspection carried out by the Inspector; and
 - other inspections carried out by the Inspector, as the Inspector considers appropriate;
- to report to the Legislative Assembly on any matter relating to the functions of the Inspector if, in the Inspector’s opinion, it is in the interest of any person or in the public interest to do so;
- to include in any report to the Legislative Assembly advice or recommendations the Inspector considers appropriate about a detention service or a place of detention; and
- any other functions conferred on the Inspector under this Act or any other Act.

Subclause (2) requires the Inspector to have regard to the cultural background or vulnerability of detainees to whom a review or inspection mentioned in subclause (1)(a)-(c) is relevant.

Subclause (3) provides that the Inspector may perform any function on the Inspector’s own initiative.

Subclause (4) provides that the Inspector may, but is not required to, perform a function (except a mandatory inspection provided for in subclause (1)(c)) at the request of either the Minister or a responsible Minister in relation to a relevant matter of interest for the Minister.

Subclause (5) defines ‘secure facility’ in this section by reference to schedule 4 of the *Corrective Services Act 2006* (Qld).

Note that the Inspector will be required under clause 48 to be mindful of the security and safety considerations at the places of detention when exercising the Inspector’s functions and powers, including when visiting places of detention.

Clause 9 applies where the Inspector is carrying out a review of a detention service or an inspection of a place of detention and the review or inspection is relevant to a detainee, as set out in subclause (1).

Subclause (2) provides that the Inspector must, if appropriate and practicable, arrange for a person, whom the Inspector considers is a suitable person, to help carry out a review or inspection.

Subclause (3) provides that without limiting subclause (2), in considering who is a suitable person, the Inspector may have regard to the cultural background or vulnerability of a detainee and any views or wishes expressed by the detainee about who may be a suitable person to help the Inspector carry out the review or inspection.

This helps ensure that the experiences of vulnerable and culturally diverse detainees, and the views and wishes of the detainee about who may be suitable to help the Inspector carry out the review or inspection, are appropriately considered. For example, in relation to a detainee with disability, it may be appropriate for the Inspector to consult with a legal guardian or close friend of the detainee, or a representative from an advocacy services agency whom the Inspector considers can help the detainee communicate their views or wishes relevant to the review, if required. For an inspection involving interviewing a detainee who is unable to speak with reasonable fluency in English, it may be appropriate for the Inspector to engage an interpreter to translate during an interview.

Subclauses (4) and (5) provide that if the review or inspection relates to a detainee who identifies as an Aboriginal person or Torres Strait Islander, that without limiting subclause (2), the Inspector must arrange for an appropriate representative for the detainee to help the Inspector carry out the review or inspection. An appropriate representative is defined in subclause (8) to mean a person who identifies as an Aboriginal person or Torres Strait Islander and has appropriate authority to speak about Aboriginal tradition or Island custom in relation to the detainee.

Subclauses (6) and (7) provide that where a review or inspection relates to the detention of a child, that without limiting subclause (2), the Inspector must arrange for a suitable person who the Inspector considers has appropriate expertise in the areas of child trauma and the prevention and identification of child sexual abuse to help the Inspector carry out a review or inspection. These provisions are included in response to Recommendation 15.10 of the Royal Commission into Institutional Responses to Child

Sexual Abuse which recommended that new and existing bodies should have expertise in child-trauma and the prevention and identification of child sexual abuse.

Subclause (8) inserts definitions for this section: ‘appropriate representative’, ‘arrange’ and ‘trauma’.

Clause 10 states that, subject to any other Act or law, the Inspector is not subject to direction by any person about the way the Inspector performs the Inspector’s functions under this Act.

Division 3 Powers

Clause 11 provides that the Inspector has the power to do all things necessary and convenient to be done for, or in connection with, the performance of the Inspector’s functions under this Act, including the other powers given to the Inspector under this Act or another Act.

Clause 12 applies where the Inspector is carrying out a review of a detention service or has carried out, or proposes to carry out, an inspection of a place of detention and believes a person can give ‘information’ (defined in schedule 1 to include a document) the Inspector believes is information relevant to the review or inspection.

Subclause (2) provides that the Inspector may, by (written) notice given to the person, require the person to give the information to the Inspector within a stated reasonable time and in a stated reasonable way; and/or if the person is employed or engaged to provide a detention service for a place of detention - the Inspector can require that the person attend before the Inspector at a stated reasonable place and time, and answer questions relevant to the review or inspection that the Inspector reasonably requires to be answered.

Subclause (3) creates an offence for failing to comply with the Inspector’s requirement to provide information or attend for a review or inspection without reasonable excuse, with the maximum penalty being 100 penalty units.

Subclause (4) states that it is not a reasonable excuse for failing to comply with the requirement on the basis that complying might trend to incriminate the person or expose the person to a penalty. See clause 49 regarding evidential immunity that may be afforded to an individual who gives information in response to a requirement of the Inspector under subclause (2) of this provision.

Clause 13 provides in subclause (1) that if the Inspector is carrying out a review of a detention service provided at a place of detention, or has carried out (or proposes to carry out) an inspection of a place of detention, the Inspector may ask:

- the responsible officer for the place of detention to give the Inspector relevant information about the detention service or place of detention, as per subclause (2);
- the health service chief executive of a Hospital and Health Service, or of the health department, to give the Inspector relevant information relating to a health service provided by or for the service or department to a detainee at the place of detention, as per subclause (3);

- a person who has provided a service relating to the education of a detainee (whether at, or away from, the place of detention) to give the Inspector relevant information relating to the service as per subclauses (4) and (5).

Subclause (6) provides that a person must comply with a request of the Inspector under this section unless the person has a reasonable excuse.

Subclause (7) specifies that this section does not limit clause 12.

Subclause (8) provides the meaning in this section of ‘detainee’ (which includes a former detainee) and ‘relevant’ (in relation to information, means information the Inspector believes is relevant to the review or inspection).

Clause 14 provides in subclause (1) that the Inspector may at any time, enter a place of detention to carry out a review of a detention service provided for the place of detention; or carry out an inspection of the place of detention.

Subclause (2) provides that the Inspector need not notify the person in charge of the place of detention or any other person of the proposed entry.

Subclause (3) provides that the Inspector may require the person in charge of the place of detention, or a person involved in providing a detention service for the place of detention, to ensure: the Inspector is given access to all parts of the place of detention; and any vehicle, equipment or other thing used at the place of detention or for providing a detention service; and the Inspector is able to talk to any detainee at the place of detention at any time.

Subclause (4) creates an offence for failing to comply with a requirement of the Inspector made under subclause (3) unless the person has a reasonable excuse. The maximum penalty is 100 penalty units.

Clause 15 provides the Inspector with the necessary powers for carrying out a review of a detention service provided for a place of detention or an inspection at a place of detention. Subclause (1) provides that the Inspector may:

- inspect or film any part of the place of detention or any vehicle, equipment or other thing used for providing the detention service; and
- speak to or privately interview:
 - a detainee, or
 - a person involved in providing a detention service for the place of detention; or
 - an official visitor assigned to visit the place of detention under the *Corrective Services Act 2006* (Qld), section 286 (in the case of a place of detention that is a community corrections centre, prison or work camp); or
 - another person at the place of detention; and
- inspect any document relating to a detainee (or a person who was a detainee) at the place of detention or the provision of a detention service for the place of detention; and
- inspect any document or other thing required to be kept by the responsible officer for the place of detention; and

- take an extract from, or copy, a document that may be inspected and remove and keep the extract or copy; and
- produce an image or writing from an electronic document that may be inspected; and
- take to, into or onto the place of detention a person mentioned in clause 9 or 38 to help the inspector carry out the review or inspection and enable the person to give the help as arranged with the Inspector; and
- take to, into or onto the place of detention and use any person, equipment or other thing the Inspector reasonably requires for exercising the Inspector's powers under this clause. Examples listed in this clause include a camera, a recording device, a document scanner or an electronic device including software for helping a detainee communicate with the Inspector. Other examples might include text, symbol or picture boards to help people express themselves, if required; and
- remain at the place of detention for the time necessary to carry out the review or inspection.

Subclause (2) makes it clear that the Inspector may speak to a person involved in providing a detention service for the place of detention or another person at a place of detention, at a place other than the place of detention.

Subclause (3) defines 'film' and 'privately interview' for this clause.

Clause 16 provides the Inspector with the power to require a person involved in providing a detention service for a place of detention to give the Inspector reasonable help to exercise a power for carrying out the review or inspection. This includes, for example, to give information.

Subclause (3) creates an offence for failing to comply with this requirement without a reasonable excuse. This offence carries a maximum penalty of 100 penalty units.

Subclause (4) provides that it is not a reasonable excuse for failing to comply with the requirement on the basis that complying might tend to incriminate the person or expose the person to a penalty (see also clause 49 regarding evidential immunity).

Clause 17 provides a process for the referral of relevant matters to the responsible Minister if the Inspector suspects on reasonable grounds that there is, or has been, a serious risk to the security, management, control, safety, care or wellbeing of a detainee at a place of detention (a *relevant matter*); or that a detainee is being, or has been subjected to torture or cruel, inhuman or degrading treatment at a place of detention (also a *relevant matter*).

Subclause (2) provides that the Inspector must give the responsible officer for the place of detention a notice stating that the Inspector proposes to refer the relevant matter to the responsible Minister, the details of the facts and circumstances of the relevant matter; and provide the responsible officer with an opportunity to, within a stated period of at least 3 days (the *show cause period*), show why the Inspector should not refer the relevant matter to the responsible Minister. This provision supports the interests of natural justice by providing the responsible officer an opportunity to make submissions before a determination or potential adverse commentary is made by the Inspector.

Subclause (3) provides that the responsible officer for the place of detention must, within the show cause period, make oral or written submissions or provide evidence about the relevant matter, which the Inspector must consider under subclause (4).

Subclause (5) provides that following the end of the show cause period, the Inspector may decide to take no further action about the proposed referral or if the Inspector still has reasonable suspicion about the relevant matter, refer the relevant matter to the Minister. Subclause (6) provides that the Inspector must give notice to the responsible officer for the place of detention of their decision under subclause (5).

Subclause (7) provides that if the Inspector refers the relevant matter to the Minister, the Inspector is required to give advice or make recommendations to the Minister about the relevant matter, as the Inspector considers appropriate.

Subclause (8) specifies that, in this section, ‘detainee’ includes a former detainee.

Division 4 Relationship with other entities

Clause 18 subclause (1) provides that the Inspector may enter into an arrangement with a service provider about the performance of a function of the Inspector in relation to a detention service or another service provided by or for the service provider. This is to facilitate the effective exercise of, and address protocols with respect to, the Inspector’s functions. It is not intended to limit the exercise of the Inspector’s functions.

‘Service provider’ in this section is defined in subclause (2)(a)-(d).

Clause 19 provides in subclause (1) that the Inspector must ensure that the Inspector’s functions are performed in a way that does not delay, interfere with or duplicate the statutory functions performed by existing oversight bodies or positions listed in paragraphs (a) to (c). Subclause (2) enables the Inspector to enter into an arrangement with these existing oversight bodies to help avoid delay and unnecessary duplication of statutory functions of the parties to the arrangement.

Clause 20 enables the Inspector to enter into an arrangement with a referral entity in relation to matters set out in subclause (1)(a)-(c) and to perform their respective functions in accordance with the arrangement entered into. A referral entity is defined in subclause (7) to mean the Health Ombudsman, the Human Rights Commissioner, the Ombudsman or the Public Guardian. Subclauses (3) and (4) provide that the Inspector may decide not to perform a function in relation to a matter and refer the matter if the Inspector considers a matter can be more appropriately dealt with by a referral entity than by the Inspector. However, nothing in this section requires a referral entity to deal with a matter referred by the Inspector under this section.

Subclause (5) allows the Inspector to refer a matter, if the Inspector considers the matter may be dealt with by the referral entity as a complaint under the referral entity’s authorising Act, only with the consent of the person who would be the complainant if the referral entity dealt with the matter.

Subclause (7) defines ‘action’, ‘authorising Act’ and ‘referral entity’.

Part 3 Reporting

Division 1 Annual reporting

Clause 21 requires the Inspector to give the Speaker and the Minister, as soon as practicable after the end of each financial year, but no later than 31 October, a report about the Inspector's operations during the preceding financial year (the *reporting period*), which must include the particulars listed in subclauses (2)(a)-(e).

Note that in accordance with section 63 of the *Financial Accountability Act 2009* and section 87 of the *Ombudsman Act 2001*, the financial and performance reporting for the Inspector will be reported separately in the Queensland Ombudsman's annual report.

Subclause (3) specifies that the Speaker must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

Subclause (4) provides the meaning of 'ministerial request' for this section.

Division 2 Other reports to Parliament

Clause 22 requires the Inspector to provide reports to the Legislative Assembly, which will be tabled via the Speaker, following each review of a detention service that is carried out; and each mandatory inspection of a place of detention that is carried out. The Inspector also has discretion to prepare a report for the Speaker about a non-mandatory inspection; or the performance of another function as the Inspector considers appropriate. Subclause (3) provides guidance on what may and must be included in these reports.

Subclause (4) defines, in this section, 'mandatory inspection' to mean an inspection mentioned in section 8(1)(c)(i), (ii) or (iii).

Clause 23 provides that for preparing a report under clause 22(1) or (2), the Inspector must consider whether any information in the report must be kept confidential because there are public interest considerations against disclosing the information; and those considerations outweigh the public interest in favour of disclosing the information. Factors against disclosing the information are outlined in subclause (2)(a)-(h). Subclause (3) states the matters that must not be taken into account in deciding whether there is a public interest against disclosing the information.

Subclause (4) provides the meaning in this section of 'corrective services officer', 'national security' and 'youth justice staff member'.

Clause 24 states that this clause applies if the Inspector prepares a report under clause 22(1) or (2). In the interests of natural justice, the Inspector must not publish a report or make a report to Parliament under this Act without first giving to each notifiable entity a copy of the draft report and notice (stating the person may make submissions and a reasonable period to make any submissions).

Subclauses (2)-(6) set out the procedure and timeframes for providing a draft report to, and dealing with submissions from, notifiable entities. Subclause (3) provides the

Inspector may also give a copy of the draft report to another person whom the Inspector considers has an interest in the subject matter of the report.

Subclause (7)(a)-(f) defines ‘notifiable entity’ for the purposes of a report prepared under clause 22(1) or (2).

Clause 25 specifies that the Inspector must give a report prepared under clause 22(1) or (2) to the Speaker; and give a copy of the report to each notifiable entity for the report.

Clause 26 sets out the requirements for the tabling of a report given under clause 25.

Part 4 Disclosure of information

Division 1 Disclosure of information to Inspector

Clause 27 authorises a person to disclose to the Inspector any information that is relevant to the Inspector performing a function under this Act, including certain information from the specific persons mentioned in subclauses (2) and (3).

Subclause (4) provides the definition of ‘relevant information’ for this section.

Clause 28 maintains and protects the confidentiality of Cabinet materials and discussions by providing that this Act does not require or authorise a person to give any information or answer any question; or to produce or inspect a document, relating to proceedings of Cabinet or a committee of Cabinet.

Subclause (2) enables the Premier to certify that any information or question, or any document or part of a document, relates to any proceedings of Cabinet or a committee of Cabinet. Subclause (3) provides that the Inspector must not require the giving of any information or answer, or the production of any document, if the Attorney-General certifies in writing that it might prejudice the security of the State or the investigation or detection of offences.

Subclause (4) specifies that in this section ‘information’ does not include a document.

Division 2 Disclosure of information obtained by or for Inspector

Clause 29 defines the meaning of ‘confidential information’ within division 2 to include information set out in paragraphs (a)(i)-(iv). However, confidential information does not include information referred to in paragraph (b)(i)-(ii).

Clause 30 specifies that this section applies to persons mentioned in subclause (1).

Subclause (2) creates an offence in that the person must not disclose the confidential information to anyone else, or use the information, other than under this section, with the maximum penalty being 100 penalty units. Subclauses (3), (4) and (5) specify the circumstances where disclosing confidential information is permitted, subject to clause 32.

Subclause (4)(b) prescribes the process for disclosing confidential information in relation to children. It is intended that the Inspector will first seek the consent of the child however, as this is not always possible, this subclause provides an option for the Inspector or relevant officer to seek the consent of a parent or legal guardian of the child.

Subclause (6) allows persons mentioned in subclause (1), other than the Inspector or a relevant officer of the Ombudsman, to disclose or use confidential information under subclause (4)(a) or (b) only with the consent of the Inspector or a relevant officer of the Ombudsman.

Consequential amendments are made to the *Hospital and Health Boards Act 2011* (Qld) (clause 61) and the *Mental Health Act 2016* (Qld) (clause 63) to enable the provision of confidential information or personal information by a designated person to the Inspector. It is intended that the Inspector may request access to a detainee's health information where relevant to the Inspector's functions. A detainee's consent must be sought in the first instance in line with clinical best practice. Where consent is denied or not possible, the information may be provided in the absence of consent. Consequential amendments to the *Hospital and Health Boards Act 2011* (Qld) and *Mental Health Act 2016* (Qld) are made to enable the provision of this information.

Clause 31 permits disclosure of information if the Inspector believes on reasonable grounds that disclosing the information is in the interests of any person, or otherwise in the public interest, in accordance with subclauses (2) to (5).

Clause 32 provides an additional layer of protection by placing limits on the use of confidential information acquired by a person mentioned in clause 30(1)(a), or to which the person had access under clause 30(1)(b); or any information or other thing that may be subsequently obtained as a direct or indirect result of that confidential information (derived evidence).

Subclauses (2)-(3) provide that the confidential information or derived evidence cannot be accessed under any order, whether of a judicial or administrative nature, and is not admissible in any proceeding. A person cannot be compelled to produce the confidential information or derived evidence, or give evidence relating to the confidential information or derived evidence in any proceeding or in compliance with a requirement under an Act or legal process.

Subclause (4) defines the meaning of 'order' in this section and provides examples.

Part 5 Administration

Clause 33 states that the Ombudsman is appointed as the Inspector of Detention Services under section 58(2) of the *Ombudsman Act 2001* (Qld) for the term mentioned in section 61 of that Act. This section includes a note that part 7 of the *Ombudsman Act 2001*(Qld) provides for matters that relating to the appointment of the Inspector.

Clause 34 specifies that the Inspector controls the Ombudsman office to the extent that officers of the Ombudsman are involved, and other resources of the office are used, exclusively in the administration of this Act.

Clause 35 requires the Ombudsman office to give the Inspector the administrative support services the Inspector requires to perform the Inspector's functions effectively. This section also includes a note that Part 8 of the *Ombudsman Act 2001* (Qld) provides for other matters relating to the administration of the Ombudsman office.

Clause 36 provides that the Inspector may delegate the Inspector's functions under this Act to an appropriately qualified officer of the Ombudsman, subject to subclauses (2) and (3).

Under subclause (3), it is intended that the Inspector will take into account the desirability of delegate having a range of knowledge, experience or skills relevant to the performance of the functions of the Inspector, as well as the social and cultural diversity and vulnerabilities of the population of detainees in the State when delegating functions of the Inspector. For example, this includes, but is not limited to, lived experience of disability as well as incarceration, and trauma-informed practice and engagement, particularly in relation to children. It is also intended that the Inspector will take into account the knowledge, skills and experience of persons who identify as Aboriginal persons and/or Torres Strait Islanders when delegating functions of the Inspector in relation to both adult and children detainees who identify as Aboriginal persons and/or Torres Strait Islanders.

Where it may not be possible to delegate a function to a person and have sufficient regard to the requirements under clause 36(3), the Inspector can either arrange for a suitable person to help carry out a review or inspection under clause 9 or consult with or engage professionals and others under clause 38, to ensure that the Inspector is appropriately supported when engaging with socially and culturally diverse and vulnerable detainees.

Clause 37 provides that an officer of the Ombudsman, either to whom a function is delegated under clause 36, or any other officer of the Ombudsman, is subject to the direction of the Inspector in performing the function or exercising a power under this Act, or to the extent they are involved in the administration of this Act.

Clause 38 enables the Inspector to consult with or engage persons with professional skills or expertise or other skills or experience the Inspector considers appropriate to help in performing the Inspector's functions. Examples of a person with professional skills or expertise, or other skills or experience are provided in paragraphs (a) and (b).

Part 6 Miscellaneous

Division 1 Offences

Clause 39 provides the meaning of 'official' in this division.

Clause 40 provides protection from reprisals for a person who has provided or may provide information or other assistance to an official accordance with subclauses (1)-(5).

Subclause (6) provides a definition of 'detriment' in this division.

Clause 41 creates an offence for a person who takes a reprisal, with a maximum penalty of 100 penalty units.

Clause 42 creates an offence for giving an official information that the person knows is false or misleading in a material particular. The maximum penalty for giving an official false or misleading information is 100 penalty units however, subclause (3) provides the circumstances in which subsection (1) does not apply.

Clause 43 provides that, subject to subclause (2), this section creates an offence for obstructing an official exercising a power, or someone helping an official exercising a power, unless the person has a reasonable excuse. The maximum penalty for this offence is 100 penalty units. Subclause (3) defines 'obstruct' in this section, which includes hinder, resist, attempt to obstruct and threaten to obstruct.

Division 2 Identity cards

Clause 44 states the definition of 'officer' in this division, which means an officer of the Ombudsman involved in performing a function mentioned in clause 8(1)(a), (b) or (c).

Clause 45 requires the Inspector to issue an identity card to each officer, which meets the requirements set out in subclause (2).

Clause 46 requires an officer, to produce their identity card when exercising a power in relation to another person for that person to inspect; or have their identity card clearly displayed so it is visible when exercising the power. However, subclause (2) provides that, if it is not practicable for an officer to produce or display their identity card in accordance with this clause, the officer must produce the identity card for the other person's inspection at the first reasonable opportunity.

Clause 47 requires a person following the end of their appointment as an officer to return their identity card to the Inspector within 14 days, unless the person has a reasonable excuse. Failure to return an identity card under this division is an offence with a maximum penalty of 10 penalty units.

Division 3 Other provisions

Clause 48 requires a person to have regard to the good order and security of the place of detention; and the safety of any person at, or whose work is connected with, the place of detention, when performing a function under this Act at, or relating to, a place of detention.

Clause 49 provides individuals with evidential immunity when complying with particular requirements of the Inspector made under clauses 12(2) or 16(2), as evidence of the information, and other evidence directly or indirectly derived from the information, is not admissible in any proceeding against the individual to the extent that it tends to incriminate them or expose them to a penalty in the proceeding. However, this immunity does not apply to a proceeding about the false or misleading nature of

the information or anything in which the false or misleading nature of the information is relevant evidence.

Clause 50 provides for review of this Act by the Minister, as soon as practicable after the period of five years from the commencement of this Act, to determine whether the policy objectives and provisions remain valid and appropriate for achieving the objectives. As soon as practicable after finishing the review, the Minister must table a report about the outcome of the review in the Legislative Assembly.

Clause 51 allows the Governor in Council to make regulations under this Act.

Part 7 Amendment of this and other Acts

Division 1 Amendment of this Act

Clause 52 states that this division amends this Act.

Clause 53 omits from the long title of this Act, ‘, and to amend’.

Division 2 Amendment of *Corrective Services Act 2006*

Clause 54 states this division amends the *Corrective Services Act 2006* (Qld).

Clause 55 Amends section 52(2) (Recording or monitoring prisoner communication) to insert a new subsection—

- (e) the Inspector of Detention Services.

Clause 56 amends section 132 (Interviewing and photographing prisoner etc.). Subsection (1) inserts in 132(2)—

- (ca) the Inspector of Detention Services; or

Subclause (2) renumbers section 132(2)(ca) and (d), to section 132(2)(d) and (e).

Clause 57 amends schedule 4 (Dictionary). Subsection (1) inserts a definition of *inspector of detention services* to mean the inspector of detention services under the *Inspector of Detention Services Act 2021*. Subsection (2) expands the meaning of *accredited visitor* to include—

- (fa) the Inspector of Detention Services; or

Subclause (3) renumbers schedule 4, definition *accredited visitor*, paragraphs (fa) to (i), as paragraphs (g) to (j).

Division 3 Amendment of *Crime and Corruption Act 2001*

Clause 58 states that this division amends the *Crime and Corruption Act 2001* (Qld).

Clause 59 amends schedule 2 (Dictionary), definition *public official* by inserting—
(d) the Inspector of Detention Services under the *Inspector of Detention Services Act 2021*.

Division 4 Amendment of *Hospital and Health Boards Act 2011*

Clause 60 states this division amends the *Hospital and Health Boards Act 2011* (HHBA).

Clause 61 inserts after section 157 new section 157A (Disclosure to inspector of detention services). Section 157A(1) enables disclosure of confidential information to the Inspector that is relevant to the performance of the Inspector's functions under this Act by a designated person if the either of the following conditions has been satisfied:

- the designated person has made a reasonable attempt to obtain the consent of the relevant person for the disclosure under section 144(a), (b), or (c) of the HHBA; or
- it is not practicable for the designated person to obtain the consent of the relevant person for the disclosure under section 144(a), (b) or (c) of the HHBA.

Section 157A(2) specifies that in this section 'inspector of detention services' is as provided for under this Act and 'relevant person', for the disclosure of confidential information, means the person who may consent to the disclosure under section 144(a), (b)(ii) or (c)(ii) of the HHBA.

Division 5 Amendment of *Mental Health Act 2016*

Clause 62 states this division amends the *Mental Health Act 2016*.

Clause 63 inserts after section 785 new section 785A (Disclosure to inspector of detention services). Section 785A(1) enables disclosure of confidential information to the Inspector that is relevant to the performance of the Inspector's functions under this Act by a designated person if either of the following conditions have been satisfied:

- the designated person has made a reasonable attempt to obtain the consent of the person to whom the information relates; or
- it is not practicable for the designated person to obtain the consent of the person to whom the information relates.

Subclause 785A(2) specifies that in this section 'inspector of detention services' is as provided for under this Act.

Division 6 Amendment of *Ombudsman Act 2001*

Clause 64 states that this division amends the *Ombudsman Act 2001*.

Clause 65 amends the heading in Part 7 (Particular provisions about the ombudsman) by inserting in the heading after ‘ombudsman’—and inspector of detention services.

Clause 66 omits section 58 (Appointment) and inserts a new section 58 (Appointment as ombudsman and inspector of detention services) which provides that the Ombudsman is also appointed by the Governor in Council to be the Inspector of Detention Services under this Act and not under the *Public Service Act 2008*, and that if a person stops holding office as the Ombudsman, the person also stops holding office as the Inspector of Detention Services, and the reverse situation.

Clause 67 amends section 59 (Procedure before appointment) by omitting ‘as ombudsman’ and inserting ‘as the ombudsman and the inspector of detention services’.

Clause 68 amends section 60 (Ineligibility for appointment) by omitting ‘as ombudsman’ and inserting ‘as the ombudsman or the inspector of detention services’.

Clause 69 replaces section 61 (Term of appointment) with new section 61 which provides that the ombudsman holds the office of the Ombudsman and the office of the Inspector of Detention Services for the term, of no more than five years, stated in the instrument of appointment. A person may be reappointed as the Ombudsman and the Inspector of Detention Services however, a person must not be reappointed if the total of the person’s terms of appointment as the Ombudsman would be more than 10 years.

Clause 70 amends section 62 (Remuneration and conditions) by replacing ‘ombudsman is’ with ‘ombudsman, as the ombudsman and the inspector of detention services, is’. Subclause (2) amends section 62(2) by replacing ‘to the ombudsman’ with ‘under subsection (1)’. Subclause (3) amends section 62(3) by replacing ‘ombudsman is’ with ‘ombudsman, as the inspector of detention services, is’.

Clause 71 inserts in section 63 (Oath before performing duties) under subsection (1), by replacing ‘of office’ with ‘of office as the ombudsman and the inspector of detention services’. Subsection (2) further amends section 63(1) by omitting ‘the office’ and inserting ‘each office’.

Clause 72 inserts in section 63A (Declaration of interests) under subsection (1), after ‘appointment’, ‘as the ombudsman or the inspector of detention services’.

Clause 73 subclause (1) amends section 63B (Conflicts of interest) by inserting before subsection (1), new subsection (1AA) which provides that this section applies to the Queensland Ombudsman in relation to the Ombudsman’s official responsibilities as the Ombudsman and the Inspector of Detention Services.

Subsection (2) renumbers section 63B (1AA) to (3) as section 63B(1) to (4).

Clause 74 subclause (1) amends section 64(1) (Restriction on outside employment) by omitting paragraph (a) and inserting new paragraph (a) to provide ‘hold any offices of profit other than those of the ombudsman and the inspector of detention services; or’. Subclause (2) amends section 64(1)(b) by omitting ‘the office’ and inserting ‘each office’.

Clause 75 replaces section 65 (Acting ombudsman) with new section 65 (Acting ombudsman and inspector of detention services) to provide that the Governor in Council may appoint a person to act as the Ombudsman and the Inspector of Detention Services during a vacancy as the Ombudsman or Inspector of Detention Services, or during any period when the Ombudsman is absent from duty as the Ombudsman or Inspector of Detention Services or is unable, for another reason, to perform the duties of the Ombudsman or Inspector of Detention Services.

Sections 65(2) and (3) provide that the person appointed under subsection (1) to act as the Ombudsman and the Inspector of Detention Services must be eligible for appointment as the Ombudsman and Inspector of Detention Services, and that the person appointed to act in these positions is appointed under this Act and not the *Public Service Act 2008* (Qld). Subsection (4) provides that the *Acts Interpretation Act 1954* (Qld), section 25(1)(b)(iv) and (v) does not apply to the offices of the acting Ombudsman and the acting Inspector of Detention Services.

Clause 76 replaces the heading in Part 7, division 2 with ‘Removal or suspension from office’.

Clause 77 amends section 66 (Grounds for removal or suspension from office) by inserting after ‘office’, ‘as the ombudsman and Inspector of detention services’.

Clause 78 amends section 67 (Removal of ombudsman on address) by inserting in the heading ‘and inspector of detention services’ after ‘ombudsman’. Subclause (2) amends section 67(1) by inserting after ‘office’, ‘as the ombudsman and the inspector of detention services’.

Clause 79 amends section 68 (Suspension of ombudsman on address) by inserting ‘and inspector of detention services’ after ‘ombudsman’. Subclause (2) amends section 68(1) by inserting after ‘office’, ‘as the ombudsman and the inspector of detention services’. Subclause (3) amends section 68(4) by inserting after ‘paid salary and allowances’, ‘as the ombudsman and inspector of detention services’. Subclause (4) amends section 68(4)(a) and (b) ‘salary’ by replacing with ‘the salary’.

Clause 80 amends section 69 (Suspension of ombudsman if Assembly not sitting) by inserting in the heading ‘and inspector of detention services’ after ‘ombudsman’. Subclause (2) inserting after ‘office’, ‘as the ombudsman and the inspector of detention services’. Subclause (3) amends section 69(4)(b) by omitting from ‘suspended’ to ‘Assembly’, and inserting ‘removed or suspected from office on an address from the Assembly under section 67 or 68’. Subclause (4) amends section 69(5) by inserting ‘as the ombudsman and inspector of detention services’ after ‘allowances’.

Clause 81 amends section 70 (Acts Interpretation Act 1954) by inserting after ‘ombudsman’, ‘or the inspector of detention services’.

Clause 82 amends section 71 (Resignation) by omitting ‘as ombudsman’ and inserting ‘as the ombudsman and the inspector of detention services’.

Clause 83 amends section 72 (Vacation of office) by omitting ‘as ombudsman’ and inserting ‘as the ombudsman and the inspector of detention services’.

Clause 84 amends section 73 (Office of the Ombudsman) by omitting subsection (2) and inserting new subsection (2) to specify that the ombudsman office consists of the Ombudsman, the Inspector of Detention Services and the officers of the Ombudsman. New subsection (3) is inserted to provide that the functions of the Ombudsman's office are to help the Ombudsman perform the Ombudsman's functions under the *Ombudsman Act 2001* (Qld) and to help the Inspector of Detention Services perform the Inspector's functions under the *Inspector of Detention Services Act 2021*.

Clause 85 replaces section 74 (Control of office) with new section 74 (Control of the ombudsman office) to provide that the Ombudsman controls the Ombudsman office subject to section 34 of the *Inspector of Detention Services Act 2021*.

Clause 86 amends section 75 (Officers not subject to outside direction) by inserting new paragraph (c), 'the way the powers of the inspector of detention services are to be exercised'. New subsection (2) is inserted to provide that subsection (1)(c) applies subject to section 37 of the *Inspector of Detention Services Act 2021*.

Clause 87 amends section 76 (Officers) by omitting 'this Act' from paragraph (3) and inserting 'this Act, the *Inspector of Detention Services Act 2021*'.

Clause 88 amends section 78 (Temporary and casual employees) by omitting subsections (1) and (2), and inserting new subsections (1) and (2) to provide that the Ombudsman may employ the temporary and casual employees whom the Ombudsman considers are necessary for this Act; and the Ombudsman as the Inspector of Detention Services considers are necessary for the *Inspector of Detention Services Act 2021*. Subsection (2) provides that the Ombudsman may decide the terms of employment of an employee mentioned in subsection (1).

Clause 89 amends section 78C (Confidentiality of criminal history information) by omitting 'the ombudsman or' from subsection (1) and inserting 'the ombudsman, the inspector of detention services or', as well as inserting 'or the *Inspector of Detention Services Act 2021*' after 'this Act' in subsection (3)(a). Subsection (3) omits from section 78C(4) 'The ombudsman' and inserts 'The person'.

Clause 90 amends section 79 (Preservation of rights if public service officer appointed) by omitting from 'who' to 'Act' in subsection (1) and inserting 'who is appointed, under this Act, to an office'.

Clause 91 amends section 80 (Preservation of rights if person becomes public service officer) by omitting 'ombudsman office under this Act' under subsection (1) and inserting 'ombudsman office'. Subsection (2) omits subsection (2) in section 80 and inserts new subsection (2) to provide that subsection (1) does not apply to a person holding office as the Ombudsman, Inspector of Detention Services, acting Ombudsman or acting Inspector of Detention Services if the person is guilty of misconduct in the office.

Clause 92 amends section 81 (Preservation of ombudsman's rights if not previously public service officer) by: replacing 'office as ombudsman' in section 81(1) with 'office as the ombudsman and the inspector of detention services'; replacing 'in the office of

ombudsman under this Act' with 'as the ombudsman and the inspector of detention services' in section 81(2); and 'as ombudsman' in section 81(3) with 'as the ombudsman or the inspector of detention services'. Subsection (4) amends section 81(4) to provide that in this section 'inspector of detention services' includes the acting inspector of detention services, and 'ombudsman' includes the acting ombudsman.

Clause 93 amends section 83 (Strategic review of ombudsman office) by omitting from subsection (9) paragraph (a), the definition of 'strategic review' and inserting new paragraph (a) to provide 'a review of the functions of the ombudsman and the inspector of detention services; and'. Subsection (2) amends the definition of 'strategic review' in section 83(9)(b) to remove 'ombudsman's'.

Clause 94 amends section 86 (Delegation) by inserting new subsection (1A) to provide that 'However, the ombudsman may not delegate a function under the *Ombudsman Act 2001* to an officer of the ombudsman if the ombudsman as the inspector of detention services has delegated a function to the officer under the *Inspector of Detention Services Act 2021*'.

Clause 95 amends section 88 (Estimates) by omitting 'to the ombudsman' from subsection (1) and inserting 'to the ombudsman office', as well as omitting 'ombudsman' from subsection (3) and inserting 'ombudsman office'.

Clause 96 replaces section 89 (Functions) with new section 89 (Functions), to provide that the parliamentary committee has the following functions:

- to monitor and review the performance by the Ombudsman of the Ombudsman's functions under the *Ombudsman Act 2001*; and
- to monitor and review the performance by the Inspector of Detention Services of the Inspector's functions under the *Inspector of Detention Services Act 2021*; and
- to report to the Assembly on any matter the committee considers should be drawn to the Assembly's attention, relating to:
 - the Ombudsman; or
 - the functions, or the performance of the functions, of the Ombudsman; or
 - the Inspector of Detention Services; or
 - the functions, or the performance of the functions, of the Inspector of Detention Services, in particular, the function of inspecting places of detention under the *Inspector of Detention Services Act 2021*, section 8(1)(c);
- to examine each annual report table in the Assembly under this Act and any report tabled under the *Inspector of Detention Services Act 2021*, section 21(3) and, if appropriate, to comment on any aspect of the report;
- to report to the Assembly any changes to the functions, structures and procedures of the ombudsman or the Inspector of Detention Services that the committee considers desirable for the more effective operation of this Act or the *Inspector of Detention Services Act 2001*;
- the other functions conferred on the parliamentary committee by the *Ombudsman Act 2001*.

Clause 97 amends section 92A (Protection in particular proceedings) by inserting ‘or the *Inspector of Detention Services Act 2021* in subsection (1) after ‘this Act’, as well as amending subsection (3), definition ‘officer of the ombudsman’ to include the ombudsman holding office as the ombudsman and the inspector of detention services. Subsection (3) amends definition ‘relevant offence’ paragraph (a) to include ‘or the *Inspector of Detention Services Act 2021*’ after ‘this Act’.

Clause 98 amends section 93 (Protection from liability) to note there is protection from civil liability in relation to the Ombudsman as the Inspector of Detention Services, or another officer of the Ombudsman performing a function under the *Inspector of Detention Services Act 2021* as provided in the *Public Service Act 2008*, section 26C.

Clause 99 inserts new Part 12, division 5 (Provision for Inspector of Detention Services Act 2021). New section 112 (Application of s 59) is inserted to provide that section 59 does not apply in relation to the appointment of the Inspector of Detention Services that is in effect on the commencement.

Clause 100 amends schedule 3 (Dictionary) by inserting definition, ‘inspector of detention services’, to mean the Inspector of Detention Services under the *Inspector of Detention Services Act 2021*.

Division 7 Amendment of *Parliament of Queensland Act 2001*

Clause 101 states this division amends the *Parliament of Queensland Act 2001*.

Clause 102 amends section 67 (Resignation of particular office holders on becoming candidates) by inserting new paragraph (ka) ‘inspector of detention services;’, and renumbering.

Division 8 Amendment of *Youth Justice Act 1992*

Clause 103 states that this division amends the *Youth Justice Act 1992*.

Clause 104 amends section 263A (Recordings in detention centres and use of body-worn cameras) by inserting under subsection (3) new paragraph (g) ‘the inspector of detention services.’

Clause 105 amends section 272(1) (Ordinary visitor) to omit from ‘(child)’ and insert ‘(child), a child advocacy officer or the inspector of detention services’.

Clause 106 amends section 277(6) (Complaints generally) to omit from ‘(child)’ and insert ‘(child), or the inspector of detention services’.

Clause 107 inserts under schedule 4 (Dictionary) new definition, ‘inspector of detention services’, to mean the Inspector of Detention Services under the *Inspector of Detention Services Act 2021*.

Schedule 1 Dictionary

Schedule 1 is the dictionary and defines particular words used in this Act.