

# Integrity and Other Legislation Amendment Bill 2022

## Explanatory Notes

### Short title

The short title of the Bill is the Integrity and Other Legislation Amendment Bill 2022.

### Policy objectives and the reasons for them

On 28 June 2022, Professor Peter Coaldrake AO delivered *Let the Sunshine In: Review of culture and accountability in the Queensland public sector* (the Coaldrake Report) to the Government.

The report makes 14 direct recommendations and recommends implementation of a suite of other recommendations from former reviews and inquiries, all with the purpose of strengthening the integrity and oversight framework in Queensland.

Mr Kevin Yearbury's September 2021 report, *Strategic Review of the Integrity Commissioner's Functions* (the Yearbury Report), also recommended a number of changes to the functions of the Integrity Commissioner.

It is proposed to implement some of the recommendations from these reports through two Bills.

The objectives of this first Bill are to effect amendments to the following Acts to better promote the independence and authority of the Queensland Auditor-General, the Queensland Ombudsman and the Queensland Integrity Commissioner:

- *Auditor-General Act 2009*
- *Ombudsman Act 2001*
- *Integrity Act 2009*.

The Bill also amends the *Public Sector Act 2022*.

The proposed amendments will make those changes to legislation that are considered uncontroversial, are largely supported by the respective integrity body they impact, and do not have any, or only very minor, funding or policy implications for Government.

### Achievement of policy objectives

#### *Auditor-General Act 2009*

To better enhance the independence of the Queensland Auditor-General, the Bill will amend the *Auditor-General Act 2009* to establish the Auditor-General as an officer of the Parliament,

and introduce a requirement that the Auditor-General take an oath before performance of their duties.

The Deputy Auditor-General will no longer be employed under the proposed *Public Sector Act 2022*, but will be employed as if they were a member of staff of the audit office. They will also be required to take an oath before acting in the role of Auditor-General. The Auditor-General will have the power to appoint a person to act as the Deputy Auditor-General.

Staff of the audit office will be appointed under the *Auditor-General Act 2009* and not the proposed *Public Sector Act 2022*. The Bill introduces new requirements regarding secondment to the audit office, employment of temporary and casual staff, restrictions on employment, and the preservation of rights of public service officers (not just the Auditor-General), which is consistent with the *Ombudsman Act 2001*, the *Crime and Corruption Act 2001* (in respect of the chairperson, chief executive officer or senior officers) and the *Right to Information Act 2009*.

Also in keeping with these Acts (and also, in this instance, the *Integrity Act 2009*), the Bill sets out the functions of the parliamentary committee as they relate to the Auditor-General.

To further the objective of independence of the office, the Bill will also restrict the employment of a person who has held office as Auditor-General upon the termination of that office, so that the person may not hold an office in, or be employed by, a public sector entity within 2 years after the person stops holding the office.

The Bill removes the obligation for the Auditor-General to conduct an audit at the request of the Legislative Assembly, and instead inserts a clause providing that the Auditor-General *may* conduct such an audit. Similarly, the obligation that the Legislative Assembly, the parliamentary committee, or the Treasurer or appropriate Minister have requested a performance audit of the activities of a public sector entity that is a Government Owned Corporation or controlled entity of a Government Owned Corporation for the Auditor-General to conduct such an audit, is removed.

The Bill removes the requirement for the Treasurer to approve the basic rate of fees for an audit and inserts a new basic fee approval function for the parliamentary committee.

These amendments combine to create more independence and autonomy for the Auditor-General.

#### *Integrity Act 2009*

The Bill amends the *Integrity Act 2009* to provide that the Integrity Commissioner is not subject to direction in the way in which the Integrity Commissioner performs their functions or the priority to be given to integrity issues. This is consistent with provisions in the *Auditor-General Act 2009*, the *Right to Information Act 2009* and the *Ombudsman Act 2009*.

The Bill also creates the Office of the Queensland Integrity Commissioner, which is controlled by the Integrity Commissioner. The Bill provides that the officers of the Queensland Integrity Commissioner are subject only to the direction of the Integrity Commissioner.

Consistent with the intent of Recommendation 7 from the Yearbury Report, the Bill amends the *Integrity Act 2009* to remove the requirement for stated statutory officer holders to provide a copy of their declaration of interests to the Integrity Commissioner. Declarations of interests still need to be provided to the relevant Minister.

The Bill also removes the requirement for the Integrity Commissioner to report annually on compliance by stated statutory office holders and departmental chief executives in relation to declarations of interests.

The Bill introduces an offence for unregistered lobbying.

A new section 71A of the *Integrity Act 2009* provides that a lobbyist (as defined in the Act) that is not a registered lobbyist must not carry out a lobbying activity for a third party client.

The offence is a simple offence with a penalty of 200 penalty units.

This characterisation is consistent with the prohibition of a success fee under the *Integrity Act 2009*, which carries a maximum penalty of 200 penalty units. This prohibition goes to the heart of the requirement that lobbying be engaged in ethically and not with the promise of reward for “success”.

Similarly, creating an offence for unregistered lobbying will encourage “ethical” lobbying and will underline the fact that lobbying can and does have a significant impact on the business of government. The public should be able to easily access information about who is lobbying government, and this information should be up to date and accurate.

### *Ombudsman Act 2001*

The Bill amends the *Ombudsman Act 2001* to reduce the strategic review period for the Ombudsman’s Office from 7 years to 5 years. As suggested in the Coaldrake Report, this is consistent with the timing of the strategic reviews of the other integrity bodies.

## **Estimated cost for government implementation**

The costs of implementing the Coaldrake Report and Yearbury Report recommendations which are given effect in this Bill are minimal.

## **Consistency with fundamental legislative principles**

### **Legislation should have sufficient regard to the rights and liberties of individuals**

#### Transfer of employees from the proposed *Public Sector Act 2022* to *Auditor-General Act 2009*

The Bill provides that the staff of the audit office, including the Deputy Auditor-General, are to be appointed under the *Auditor-General Act 2009* rather than the *Public Sector Act 2022*.

On commencement, existing staff of the audit office will become employees of the audit office and stop being employed as public service employees. This may be considered to be inconsistent with the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals.

However, any potential breach is balanced by the protections offered to eligible employees. Clauses 14 and 25 of the Bill include provisions to continue the terms of employment of staff currently appointed, employed or seconded to the audit office until new employment arrangements are negotiated in the future. The Bill ensures that staff retain existing rights to superannuation and leave entitlements, as well as continuity of service. The Bill also contains transitional provisions to ensure existing employees retain a right to remain a public servant if they so choose.

#### Restriction on employment of Auditor-General after office ends

The Bill provides that for two years after a person stops holding the office of Auditor-General, the person must not hold an office in or be employed by a public sector entity.

This may be considered to be inconsistent with the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. However, this provision seeks to achieve the main objects of the Act by strengthening provisions relating to the independence of the Auditor-General in carrying out independent audits of the Queensland public sector and related entities.

Given this key function, it is essential to safeguard the potential for any real or perceived lack of independence of the Auditor-General and audit office.

The approach adopted in the Bill is consistent with a requirement in sections 324CI and 324CJ of the Commonwealth *Corporations Act 2001*, which provides that a private sector auditor cannot become an officer of a former audit client for a two year period.

## **Consultation**

Due to the short timeframes, targeted consultation was undertaken with the Integrity Commissioner and the Auditor-General.

Stakeholders consulted largely supported the amendments in the Bill relevant to them.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland, and the extent to which it is uniform with or complementary to the Commonwealth or another state is not relevant in this context.

## Notes on provisions

### Part 1 Preliminary

*Clause 1* states that, when enacted, the Bill will be cited as the *Integrity and Other Legislation Amendment Act 2022*.

*Clause 2* states that the Bill is intended to commence on a day to be fixed by proclamation, except for sections 50 and 56. These will commence on 1 March 2023 to enable effective operation with the *Public Sector Act 2022*.

### Part 2 Amendment of *Auditor-General Act 2009*

*Clause 3* provides that this part amends the *Auditor-General Act 2009*.

*Clause 4* amends section 6 (Auditor-General and audit office) to make the Auditor-General an officer of the Parliament.

*Clause 5* amends section 8 (Auditor-General not subject to direction) to omit section 8(2), which provides that section 8(1) applies despite the *Public Sector Act 2022*.

*Clause 6* inserts new sections 8A to 8C.

New section 8A (Audit office not public sector entity) provides that the audit office is prescribed not to be a public sector entity for the *Public Sector Act 2022*, section 8(2)(s).

New section 8B (Audit office to comply with obligations relating to equity, diversity, respect and inclusion) provides that the audit office is an entity prescribed for the purposes of section 25, definition *prescribed entity*, paragraph (c) of the *Public Sector Act 2022*.

New section 8C (Application of provisions of *Public Sector Act 2022*) provides that a regulation may apply particular provisions of the *Public Sector Act 2022*, including directives made under that Act, to the audit office, as well as how the regulation applies, its scope and consultation requirements.

Before a regulation can be recommended to the Governor in Council, the Minister must consult with the Auditor-General about it.

These amendments are based on the yet to be enacted *Public Sector Act 2022*.

*Clause 7* inserts a new section 11A (Oath before performing duties) to provide for the Auditor-General to take an oath or affirmation before performing the duties of office. The oath must be administered by the Speaker, or if there is no Speaker or the Speaker is unavailable, the clerk of the Parliament. This requirement is consistent with oaths taken by other officers of the Parliament such as the Integrity Commissioner (section 79, *Integrity Act 2009*) and the Queensland Ombudsman (section 63, *Ombudsman Act 2001*).

*Clause 8* omits section 14 (Preservation of Rights). The preservation of rights of public service employees appointed or employed as the Auditor-General or Deputy Auditor-General, or a

member of staff of the audit office, is provided for at clause 14, which introduces a new section 29B (Preservation of rights if public service employee appointed or employed).

The amendment is consistent with making the Queensland Audit Office more independent and removing the application of the *Public Sector Act 2022*. The amendment is also consistent with the restriction on employment for a person who stops holding office as the Auditor-General, inserted in Clause 10.

*Clause 9* amends section 15 (Leave of absence) to provide that the Speaker, rather than the Minister, may grant a leave of absence to the Auditor-General.

*Clause 10* inserts a new section 19A (Restriction on employment after office ends). This applies to a person who stops holding office as the Auditor-General. For two years after the person stops holding the office, the person must not hold an office in or be employed by a public sector entity.

This amendment seeks to address any real or perceived lack of independence of the Auditor-General by removing any doubts about the work undertaken during their term.

*Clause 11* replaces section 22 (Deputy Auditor-General employed under *Public Sector Act 2022*) to provide that the Auditor-General may employ a Deputy Auditor-General. Division 4 (Staff of audit office) will apply to the Deputy Auditor-General as if the Deputy Auditor-General were a member of the staff of the audit office.

*Clause 12* amends section 24 (Deputy Auditor-General subject only to direction of Auditor-General) to remove reference to the *Public Sector Act 2022*, as the *Public Sector Act 2022* does not apply to the person.

*Clause 13* inserts new sections 25A and 25B.

New section 25A (Oath of office before acting as Auditor-General) provides that before acting as Auditor-General, the Deputy Auditor-General must make an oath or affirmation as if the Deputy Auditor-General was the Auditor-General. It does not apply if the person had previously made an oath or affirmation before performing the duties of office while acting as Auditor-General, or if the person has continued in their employment as Deputy Auditor-General since the oath or affirmation was made.

New section 25B (Acting Deputy Auditor-General) provides that the Auditor-General may appoint a person to act as the Deputy Auditor-General in certain circumstances.

The powers and functions applying to the person appointed to act as the Deputy Auditor-General are provided for in section 24B of the *Acts Interpretation Act 1954*.

*Clause 14* replaces Part 2, divisions 4 (Staff of audit office) and 5 (Other matters) with a new division 4 (Staff of audit office) and new division 5 (Preservation of rights).

Part 2 deals with the employment, and various employment conditions, of a person appointed as Auditor-General or appointed or seconded to the audit office.

New division 4 (Staff of audit office) includes new sections 26, 27, 28, 29 and 29A.

New section 26 (Employment of staff) provides that the Auditor-General may employ the persons the Auditor-General considers necessary for staffing the audit office. The staff of the audit office are appointed under the *Auditor-General Act 2009* and not the *Public Sector Act 2022*. The conditions of service of the staff of the audit office are those decided by the Auditor-General, subject to the *Auditor-General Act 2009* and any relevant industrial instrument within the meaning of the *Industrial Relations Act 2016*.

New section 27 (Secondment of public service employees) provides that a public service employee may be seconded to the audit office and taken to be a member of the staff of the audit office. The *Public Sector Act 2022* does not apply to the secondee.

New section 28 (Restriction on employment or secondment of person) provides that a person may not be employed or seconded unless the person has given the Auditor-General written consent to obtain the criminal history information of the person.

New section 29 (Criminal history report) provides that, to decide if a person is suitable to be employed or seconded, the Auditor-General may ask the commissioner of the police service for certain information about the criminal history of the person. The person must consent to the request. Before using the information to decide if the person should be employed or seconded, the Auditor-General must disclose the information to the person and allow the person a reasonable opportunity to make representations about the information.

Given this position of trust and the functions of the Audit Office, it is necessary for all prospective staff members to be subject to a robust screening regime. The section provides a prospective employee or secondee with natural justice by providing an opportunity for that person to make representations about any information received by the Auditor-General as a result of the criminal history request.

New section 29A (Confidentiality of criminal history information) provides for the confidentiality of a person's criminal history information, including by introducing a maximum penalty of 100 penalty units for unauthorised disclosure; providing a discrete list of circumstances in which disclosure is authorised; and requiring that the Auditor-General ensure that the criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

New division 5 (Preservation of rights) includes new sections 29B, 29C and 29D.

The purpose of the new sections in this new division is to ensure that employment with the Queensland Audit Office can be considered as eligible employment for continuity of service in the public service, while also supporting the independence of the Queensland Audit Office.

New section 29B (Preservation of rights if public service employee appointed or employed) applies if a person who is a public service employee is appointed or employed as the Auditor-General, Deputy Auditor-General or a member of the staff of the audit office. The section provides that the person is entitled to retain all existing and accruing rights to superannuation or recreation, sick, long service or other leave as if the service in the audit office were a continuation of service as a public service employee. The intent of the section is that the person's rights to both their superannuation and their recreation, sick, long service or other leave is preserved.

New section 29C (Preservation of rights if person becomes public service employee) provides for a person's service in the audit office to be regarded as service as a public service employee, if the person is appointed as a public service employee and immediately before that appointment, was the Deputy Auditor-General or a member of the staff of the audit office.

New section 29D (Preservation of rights if public service employee seconded) provides for the rights to existing and accruing superannuation or recreation, sick, long service or other leave of a public service employee seconded to the audit office. This includes providing that their employment as a member of the staff of the audit office is to be taken as if it were a continuation of employment as a public service employee, and entitling them to return to their employment as a public service employee, on the same terms of employment, at the end of their secondment. This ensures that public service employees are not disadvantaged by accepting a secondment with the audit office. The section intends that the person's rights to both their superannuation and their recreation, sick, long service or other leave is preserved.

*Clause 15* amends section 35 (Audits at request of Legislative Assembly) by omitting section 35(1) and replacing it to provide that the Auditor-General may conduct an audit relating to the financial administration of a public sector entity if the Legislative Assembly, by resolution, requests the audit.

This amendment is necessary to ensure that the Auditor-General operates autonomously and independently and cannot be directed by any other entity or person.

*Clause 16* amends section 37A (Performance audit of public sector entities) by providing that the object of a performance audit includes deciding whether the objectives of the public sector entity are being achieved economically, efficiently and effectively, and identifying any opportunities for improvement in those areas.

Clause 16 also omits sections 37A(6) and 37A(7), which require that the Auditor-General may conduct a performance audit of the activities of a public sector entity that is a Government-Owned Corporation (GOC) or a controlled entity of a GOC only if requested by the Legislative Assembly by resolution, the parliamentary committee, the Treasurer or an appropriate Minister requested the audit in writing.

*Clause 17* omits section 38 (Audit of performance management systems) which provides for the audit of performance management systems of a GOC or a controlled entity of a GOC.

The effect of Clause 16 and Clause 17 is that the Auditor-General may conduct a performance audit or a performance management systems audit of a GOC or a controlled entity of a GOC without first requiring approval or direction.

*Clause 18* amends section 38A (Preparation of strategic audit plans for performance audits) to omit the reference to 'sections 37A and 38' from section 38A(1) and insert 'section 37A'.

*Clause 19* amends section 56 (Audit fees) to omit section 56(3) and remove the requirement for the Treasurer's approval of basic rates of fees.

*Clause 20* inserts a new section 56A (Basic rates of fees) to provide that the Auditor-General may decide the basic rates of fees for the purposes of section 56, having regard to the reasonable costs that may be incurred for conducting an audit and amounts ordinarily charged for



conducting an audit. The Auditor-General may increase the basic rates of fees once each financial year, with approval of the parliamentary committee. The parliamentary committee may have regard to the government indexation rate and advice from the Treasurer in deciding whether to approve a proposed increase in fees.

The parliamentary committee must provide a report to the Legislative Assembly detailing the reasons for approving or not approving any requested increase.

Providing for the parliamentary committee to consider the government index rate and advice from the Treasurer enables the parliamentary committee to consider broader economic factors that may impact on appropriate annual costs to government of audits.

The amendments in Clauses 19 and 20 will allow the Auditor-General greater autonomy over the operation of the audit office, in that the Auditor-General will no longer need the Treasurer's approval to decide the basic rate of fees.

*Clause 21* replaces Part 4 (Strategic review of the audit office) with new Part 4 (Monitoring and Oversight).

New Part 4 (Monitoring and oversight) includes new Division 1, Division 2, Division 3 and Division 4.

New Division 1 (Role of parliamentary committee) includes new section 67A (Functions of parliamentary committee) which provides for the functions of the parliamentary committee in relation to monitoring and reviewing the performance of the Auditor-General's functions; and reporting to the Legislative Assembly on any matter concerning the Auditor-General's functions or the performance of those functions.

New Division 2 is named as Strategic Review of Audit Office.

*Clause 22* replaces Part 5 (Independent audit of Queensland Audit Office) with new Division 3 (Independent audit of audit office).

*Clauses 23 and 24* renumber the relevant parts accordingly, with Part 6 (General provisions) renumbered to Part 5, and Part 7 (Transitional provisions) renumbered to Part 6.

*Clause 25* inserts new Part 6, Division 4 (Transitional provisions for the *Integrity and Other Legislation Amendment Act 2022*) and Subdivision 1 (Provisions about office of Auditor-General), Subdivision 2 (Provision about audits) and Subdivision 3 (Provisions about employment arrangements).

New section 90 (Definitions for subdivision) provides the definition of existing Auditor-General and existing Deputy Auditor-General.

New section 91 (Existing appointment unaffected) provides that the amendment of the *Auditor-General Act 2009* by the *Integrity and Other Legislation Amendment Act 2022* does not affect the appointment of the existing Auditor-General.

New section 92 (Oath of office) provides 28 days after the commencement of this Act for the Auditor-General's compliance with section 11A and, if the Deputy Auditor-General is acting as Auditor-General, for their compliance with section 25A, to make an Oath of office.

A new subdivision 2 (Provision about audits) is inserted, which encompasses new section 93 (Existing audits). That section provides that an audit that had started but not finished before the commencement must be continued under the *Auditor-General Act 2009* as if the *Integrity and Other Legislation Amendment Act 2022* had not been enacted.

A new subdivision 3 (Provisions about employment arrangements) is inserted, which includes new sections 94, 95 and 96.

New section 94 (Definitions for subdivision) provides the definition of existing Deputy Auditor-General and existing staff member.

New section 95 (Change of employment) provides that on the commencement, a person who is the existing Deputy Auditor-General or an existing staff member is taken to be employed under the *Auditor-General Act 2009* and stops being employed as a public service employee. Their employment continues to be on the same terms of employment as applied to them before the commencement. The change in the person's employment does not prejudice their rights to superannuation or recreation, sick, long service or other leave, nor does it interrupt continuity of service. The section intends that the person's rights to both their superannuation and their recreation, sick, long service or other leave is preserved.

New section 96 (Right of return to public service) provides for a person who is the existing Deputy Auditor-General or an existing staff member to return to being a public service employee within 6 months after the commencement. If the staff member so elects, they are taken not to have stopped being a public service employee and their terms of employment are the same as they were immediately before their employment changed. The section prescribes the time at which such an election by a staff member takes effect.

*Clause 26* amends the Schedule (Dictionary) to omit, under the definition of 'audit office', 'section 6(3)', and insert 'section 6(4)'.

### **Part 3      Amendment of *Integrity Act 2009***

*Clause 27* provides that this part amends the *Integrity Act 2009*.

*Clause 28* amends Chapter 2 heading (Integrity Commissioner) to 'Queensland Integrity Commissioner and Office of the Queensland Integrity Commissioner'.

*Clause 29* amends section 6 (Integrity commissioner) to 'Integrity commissioner and integrity office'.

*Clause 29* also omits the note at section 6(2) and inserts section 6(3) to section 6(5), to provide for a Deputy Integrity Commissioner, an Office of the Queensland Integrity Commissioner and that the integrity office consists of the Integrity Commissioner, the Deputy Integrity Commissioner and the integrity officers.

*Clause 30* amends section 7 (Functions of Integrity Commissioner) to omit ‘or former designated person’ in section 7(1)(a) and insert ‘former designated person or former ministerial advisor’. This clause is a consequential amendment to changes to the definitions of ‘designated person’ in section 12.

*Clause 31* inserts a new section 7A (Integrity Commissioner not subject to direction), which provides that the Integrity Commissioner is not subject to direction about the way they perform their functions nor the priority given to ethics or integrity issues, subject to any other Act or law.

*Clause 32* amends section 8 (Protection for Integrity Commissioner) to extend the protections provided to the Integrity Commissioner to the Deputy Integrity Commissioner in performing the functions under the Act.

*Clause 33* inserts new sections 8A to 8D. It inserts provisions that improve the Integrity Commissioner’s autonomy and independence in the performance of the Integrity Commissioner’s functions.

New section 8A (Duties of Deputy Integrity Commissioner) provides that the Deputy Integrity Commissioner is to perform the duties directed by the Integrity Commissioner.

New section 8B (Deputy Integrity Commissioner subject only to direction of Integrity Commissioner) provides that that the Deputy Integrity Commissioner is not subject to direction by any person, other than the Integrity Commissioner, about the way in which the Integrity Commissioner’s functions under the *Integrity Act 2009* are to be performed or the priority to be given to certain issues. It also clarifies that this provision applies despite the *Public Sector Act 2022*.

New section 8C (Control of integrity office) provides that the Integrity Commissioner controls the integrity office, although this does not prevent the attachment of the integrity office to the department for administrative support purposes.

New section 8D (Integrity officers subject only to direction of Integrity Commissioner) provides that an integrity officer is not subject to direction by any persons, other than from within the integrity office, about the way the Integrity Commissioner’s functions under the *Integrity Act 2009* are to be performed or the priority given to ethics or integrity issues. It also clarifies that this provision applies despite the *Public Sector Act 2022*.

*Clause 34* amends section 12 (Meaning of *designated person*) to omit from section 12(1)(d) ‘or senior officer’. It also omits section 12(1)(f) ‘a ministerial staff member who gives, or a person engaged to give, advice to a Minister’; s 12(1)(g) ‘an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister’; and section 12(1)(h) ‘without limiting paragraph (f) or (g), a person, or a person within a class of person, nominated by a Minister or Assistant Minister.’

It inserts a new section 12(1)(f) ‘a ministerial staff member who performs the role of chief of staff (however called) in the office of a Minister’ and new section 12(1)(g) ‘a person, or a person within a class of persons, prescribed by regulation’.

It subsequently amends section 12(2) to omit ‘or (h)’.

The effect of this provision is that the persons previously referred to at sections 12(1)(f) to 12(1)(h) are no longer ‘designated persons’ who may directly request advice from the Integrity Commissioner. The provision intends to redirect employees to seek advice from the department’s ethical standards or integrity units in the first instance, with advice from the Integrity Commissioner sought where required.

However, this does not limit the ability for these persons to identify, consider and recommend to Ministers or Assistant Ministers or their respective Chiefs of staff or for senior officers, via the relevant department’s ethical standards or integrity units to the department’s chief executive, that independent advice from the Integrity Commissioner should be sought.

Clause 34 also omits section 12(3) and inserts a new section 12(3) that provides that a regulation under subsection (1)(g) may prescribe the period for which the person, or a person of the class, is a designated person under the *Integrity Act 2009*.

*Clause 35* inserts a new section 12A (Meaning of *ministerial advisor*), which provides the definition of that term.

*Clause 36* inserts a new Division 1 (Preliminary) at Chapter 3, Part 2.

*Clause 37* amends section 15 (Request for advice) to omit ‘or former designated person’ from section 15(2) and insert ‘former designated person or former ministerial advisor’. It also amends reference to section numbers within the section and inserts at section 15(5) ‘or ministerial advisor’ after ‘designated person’.

*Clause 38* inserts a new Division 2 (Requests about designated persons) after section 15.

*Clause 39* amends section 17 (Request by Minister) to omit section 17(e) and insert a new section 17(e) ‘a designated person under section 12(1)(g)’.

*Clause 40* omits section 18 (Request by Assistant Minister).

*Clause 41* inserts a new Division 3 (Requests about other persons) after section 20.

*Clause 42* inserts new sections 20B to 20D and the heading for Chapter 3, Part 2, Division 4.

New section 20B (Request by Minister about ministerial advisor) provides that a Minister may ask for the Integrity Commissioner’s advice on an ethics or integrity issue involving a ministerial advisor who gives advice to the Minister.

New section 20C (Request by Assistant Minister about ministerial advisor) provides that an Assistant Minister may ask for the Integrity Commissioner’s advice on an ethics or integrity issue involving a ministerial advisor who gives advice to the Assistant Minister.

The purpose of these new sections is to enable a Minister or Assistant Minister to seek integrity advice about a ministerial advisor without needing to make the ministerial advisor a designated person who would be able to continue to seek advice after the initial request. These provisions seek to find a balance between controlling the unintended growth of the number of ‘designated persons’ that can seek advice, and the understanding that sometimes integrity advice will be needed for or about those working in ministerial offices.

New section 20D (Request by former ministerial advisor) provides that within two years after being a ministerial advisor, a person may ask for the Integrity Commissioner's advice on an ethics or integrity issue involving the person that arises from a post-separation obligation. The section provides the definition of post-separation obligation.

The heading inserted by clause 42, after section 20D, is Division 4 (Advice).

*Clause 43* amends section 21 (Advice) by inserting, after 'a designated person' in section 21(1), 'former designated person or former ministerial advisor (each an advisee)'.

It also omits 'the designated person' from sections 21(1) and 21(4)(b) and inserts 'the advisee', and omits the definition of 'designated person' in section 21(5).

*Clause 44* amends section 25 (Definitions for division) by omitting the definition of 'designated person to whom a relevant document relates' and inserting a new definition for 'person to whom a relevant document relates'.

*Clause 45* amends section 26 (Disclosure) to omit from section 26(1) 'or former designated person' and insert 'former designated person or former ministerial advisor'. It also inserts, at section 26(3), after 'designated person', 'or ministerial advisor'.

*Clause 46* amends section 27 (Disclosure by designated person to whom a relevant document relates) to omit 'designated' from the section heading and omit the phrase 'who is or has been a designated person'.

*Clause 47* amends section 28 (Disclosure to designated person to whom a relevant document relates) to omit 'designated' from the section heading and omit the phrase 'who is or has been a designated person'.

*Clause 48* amends section 30 (Disclosure to Minister) to insert after 'equivalent', 'or a ministerial advisor who gives advice to the Minister' and at section 30(b), after 'section 17', to insert 'or 20B'.

*Clause 49* amends, renumbers and relocates section 31 (Disclosure to Assistant Minister) by omitting from 'designated' to 'equivalent' and inserting 'ministerial advisor who gives advice to the Assistant Minister'; omitting 'section 18' from section 31(b) and inserting 'section 20C'; and renumbering the section as section 33A and relocating it to after section 33.

*Clause 50* amends section 40E (Declaration of interests) to omit 'the integrity commissioner and' from section 40E(2) and 40E(5); omit the reference to the *Public Service Act 2008* in sections 40E(3) and 40E(4)(b) and insert a reference to the *Public Sector Act 2022*; and omit section 40E(7).

*Clause 51* inserts, after section 71, a new section 71A (Offence for conduct by lobbyist if not registered), which provides that an unregistered lobbyist must not carry out lobbying activities, and activities so associated with such carrying out, and the maximum penalty is 200 penalty units.

*Clause 52* amends the Chapter 5 heading (Administrative provisions for Integrity Commissioner) to ‘Administrative provisions for Integrity Commissioner, Deputy Integrity Commissioner and Integrity office.’

*Clause 53* inserts a new Chapter 5, Part 1 heading ‘Part 1 Integrity Commissioner’.

*Clause 54* amends section 83 (Delegation of powers) to insert, a section (1A) before section 53(1), that the Integrity Commissioner may delegate the Integrity Commissioner’s functions under the *Integrity Act 2009* to the Deputy Integrity Commissioner. It also renumbers parts of the section.

*Clause 55* amends section 84 (Acting Integrity Commissioner) to insert, at section 84(2), ‘the deputy Integrity Commissioner or’ after ‘appoint’.

*Clause 56* amends section 85 (Annual reports of integrity commissioner) to omit section 85(2) and insert a new section 85(2), and omit section 85(4).

*Clause 57* inserts new Part 2 and Part 3 under Chapter 5.

New Part 2 (Deputy Integrity Commissioner) includes new sections 85A and 85B.

New section 85A (Employment of Deputy Integrity Commissioner) provides for the employment of the Deputy Integrity Commissioner to be under the *Public Sector Act 2022*.

New section 85B (Declaration of interests) provides that section 80 applies to the Deputy Integrity Commissioner in the same way it applies to the Integrity Commissioner.

New Part 3 (Integrity Office) includes new sections 85C and 85D.

New section 85C (Employment of staff) provides that the Integrity Commissioner may employ the staff the Commissioner considers appropriate, and that integrity officers are to be employed under the *Public Sector Act 2022*.

New section 85D (Directives under Public Sector Act 2022) provides that the industrial relations Minister or the Public Sector Commissioner may make a directive under the *Public Sector Act 2022* that applies specifically to the integrity office only with the approval of the Integrity Commissioner. This does not apply to a directive that applies generally to all public sector units.

*Clause 58* inserts a new Division 4 (Transitional provision for the Integrity and Other Legislation Amendment Act 2022) in Chapter 8, and inserts a new section 103.

New section 103 (Designated persons who are no longer designated persons) applies to existing requests for a person who is a former designated person on commencement of the *Integrity and Other Legislation Amendment Act 2022*.

The Integrity Commissioner must comply with any existing request for advice on an ethics or integrity issue by or about the person as if the person were still a designated person. However, the Integrity Commissioner may refuse to give the advice in the circumstances provided at subsection (4).

*Clause 59* amends Schedule 2 (Dictionary) to omit the definition of ‘designated person to whom a relevant document relates’ and insert the meaning of Deputy Integrity Commissioner, integrity office, integrity officer, ministerial advisor and ‘person to whom a relevant document relates’.

## **Part 4      Amendment of *Ombudsman Act 2001***

*Clause 60* provides that this part amends the *Ombudsman Act 2001*.

*Clause 61* amends section 83 (Strategic review of Ombudsman Office) to provide that the strategic review of the Ombudsman Office is to occur every 5 years, rather than every 7 years. This timeframe is consistent with the strategic review timeframes for other Queensland integrity bodies.

*Clause 62* inserts a new Division 6 (Provision for Integrity and Other Legislation Amendment Act 2022) and a new transitional provision, section 113 (Period for next strategic review of ombudsman office), to provide for when the reduced time frame between strategic reviews of the Ombudsman Office is to commence.

## **Part 5      Amendment of *Public Sector Act 2022***

*Clause 63* provides that this part amends the *Public Sector Act 2022*.

*Clause 64* amends section 177 (Functions and responsibilities of chief) to insert, in the note at section 177 (3), before the first dot point, ‘the integrity commissioner, deputy integrity commissioner and members of the staff of the integrity office (See the *Integrity Act 2009*)’. It also omits the last dot point in the note at section 177 (3).

*Clause 65* amends section 192 (Functions) to omit section 192 (4)(c) and insert as the new section 192 (4)(c) ‘the integrity office’; to omit section 192(4)(e); and to renumber sections accordingly.

*Clause 66* amends section 254 (Minister or council may ask for public sector review) to omit section 254(2)(c) and insert as the new section 254(2)(c) ‘the integrity office’; to omit section 254(2)(e); and to renumber sections accordingly.

*Clause 67* amends Schedule 1 (Public service entities under section 9(b)) to omit the entry for ‘audit office’ and to insert ‘integrity office’ and ‘integrity commissioner’.

*Clause 68* amends Schedule 2 (Dictionary) to omit the definitions of audit office and Auditor-General, and insert the definitions of Deputy Integrity Commissioner, Integrity Commissioner and integrity office. It also omits, from the definition of disqualified person, paragraph (a)(i), and inserts a new (i): the Queensland Auditor-General under the *Auditor-General Act 2009*; and from that same definition, omits paragraph (a)(iii) and inserts a new (iii): the integrity commissioner.

## **Part 6      Other amendments**

*Clause 69* introduces schedule 1 that amends other legislation that it mentions.

## **Schedule 1      Other amendments**

### ***Superannuation (State Public Sector) Act 1990***

*Clause 1* amends Schedule 1 of the *Superannuation (State Public Sector) Act 1990* to insert a new item, 5A – the Queensland Audit Office established under the *Auditor-General Act 2009*, to the list of units of the State public sector.

*Clause 2* amends Schedule 1 to renumber the items from 5A to 15 to 6 to 16.