

Queensland



PUBLIC SECTOR ETHICS BILL 1994

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1994

A BILL

FOR

An Act about public sector ethics and conduct

The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

2

Short title

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1. This Act may be cited as the *Public Sector Ethics Act 1994*.

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Definitions

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2. In this Act—

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“**agricultural college**” means an agricultural college under the *Agricultural Colleges Act 1994*.

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“**approved code of conduct**” means a code of conduct approved under section 17.

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“**chief executive officer**” of a public sector entity means—

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- (a) for the Parliamentary Service—the Clerk of the Parliament; or

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- (b) for the administrative office of a court or tribunal—the chief executive of the department in which is administered the legislation under which the court or tribunal is established; or

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- (c) for a department—the chief executive of the department; or

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- (d) for a local government—the local government’s chief executive officer; or

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- (e) for a university or university college—the vice-chancellor of the university or university college; or

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- (f) for another public sector entity—the person prescribed by regulation or, if no person is prescribed, the person responsible to the Minister for the management of the entity.

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“**chief executive officer**” of a local government includes the town clerk of Brisbane City Council.

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“**commission of inquiry**” means a commission of inquiry under the

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Public Sector Ethics

<i>Commissions of Inquiry Act 1954</i> , and includes an inquiry under commission mentioned in section 4(2) of that Act.	1 2
“conduct obligation” means an obligation stated in an approved code of conduct that must be complied with by public officials.	3 4
“ethics obligations” see section 5(2).	5
“ethics principles” see section 4.	6
“judicial officer” includes a registrar or deputy registrar of a court or tribunal performing delegated judicial tasks.	7 8
“local government legislation” means—	9
(a) the following Acts—	10
• <i>Local Government Act 1993</i>	11
• <i>City of Brisbane Act 1924</i>	12
• <i>Community Services (Aborigines) Act 1984</i>	13
• <i>Community Services (Torres Strait) Act 1984</i> ; or	14
(b) an Act prescribed by regulation.	15
“maladministration” means maladministration within the meaning of the <i>Whistleblowers Protection Act 1994</i> .	16 17
“Parliamentary Commissioner” means the Parliamentary Commissioner for Administrative Investigations.	18 19
“public official” means—	20
(a) an officer or employee of a public sector entity; or	21
(b) a constituent member of a public sector entity, whether holding office by election or selection;	22 23
but does not include a judicial officer or local government councillor.	24
“public sector entity” means any of the following—	25
(a) the Parliamentary Service;	26
(b) the administrative office of a court or tribunal;	27
(c) a department;	28
(d) a local government;	29

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- (e) a university, university college, State college or agricultural college; 1
2
- (f) a commission, authority, office, corporation or instrumentality established under an Act or under State or local government authorisation for a public, State or local government purpose; 3
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5
- (g) an entity, prescribed by regulation, that is assisted by public funds; 6
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- but does not include any of the following— 8
- (h) a GOC; 9
- (i) the following entities under, or within the meaning of, the *Education (General Provisions) Act 1989*— 10
11
- (i) a parents and citizens association; 12
- (ii) a school that is not a State school; 13
- (iii) an advisory committee;¹ 14
- (iv) an international educational institution;² 15
- (j) an entity prescribed by regulation. 16
- “responsible authority”**, for a public sector entity, means— 17
- (a) for the Parliamentary Service—the Parliamentary Service Commission; or 18
19
- (b) for the administrative office of a court or tribunal—the Minister responsible for administering the Act under which the court or tribunal is established; or 20
21
22
- (c) for a department—the Minister administering the department; or 23
- (d) for a university or university college—the council of the university or university college; or 24
25
- (e) for a local government—the local government; or 26
- (f) for another public sector entity established under an Act—the 27

¹ See *Education (General Provisions) Act 1989*, section 9.

² See *Education (General Provisions) Act 1989*, section 75.

Minister administering the Act; or	1
(g) for another public sector entity—the Minister administering the entity.	2 3
“State college” has the same meaning as in the <i>Vocational Education, Training and Employment Act 1991</i> .	4 5
“State educational institution” has the same meaning as in the <i>Education (General Provisions) Act 1989</i> .	6 7
“tribunal” means—	8
(a) a tribunal constituted by a person acting judicially; or	9
(b) a body or person performing a function under an Act to hear appeals by employees about dismissal from employment, disciplinary action or other unfair treatment; or	10 11 12
(c) a commission of inquiry; or	13
(d) a Misconduct Tribunal under the <i>Criminal Justice Act 1989</i> .	14
Act binds all persons	15
3. This Act binds all persons, including the State.	16
PART 2—ETHICS PRINCIPLES FOR PUBLIC OFFICIALS	17 18
Declaration of ethics principles	19
4.(1) The ethics principles mentioned in subsection (2) are declared to be fundamental to good public administration.	20 21
(2) The “ethics principles” for public officials are—	22
• respect for the law and the system of government	23
• respect for persons	24
• integrity	25

- diligence 1
- economy and efficiency. 2

PART 3—ETHICS OBLIGATIONS FOR PUBLIC OFFICIALS

Division 1—Nature, purpose and application of ethics obligations

Nature and purpose of obligations 6

5.(1) In recognition of the ethics principles, ethics obligations are to apply to public officials. 7
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(2) The obligations mentioned in Division 2 are the “**ethics obligations**” for public officials. 9
10

(3) The ethics obligations are intended to provide the basis for codes of conduct for public officials and are not of themselves legally enforceable. 11
12

Application of obligations 13

6. The ethics obligations apply to all public officials. 14

Division 2—The obligations

Respect for the law and system of government 16

7.(1) A public official should— 17

(a) uphold the laws of the State and Commonwealth; and 18

(b) carry out official public sector decisions and policies faithfully and impartially. 19
20

(2) Subsection (1)(b) does not detract from a public official’s duty to act independently of government if the official’s independence is required by 21
22

legislation or government policy, or is a customary feature of the official's work.	1 2
Respect for persons	3
8.(1) A public official should treat members of the public and other public officials—	4 5
(a) honestly and fairly; and	6
(b) with proper regard for their rights and obligations.	7
(2) A public official should act responsively in performing official duties.	8
Integrity	9
9.(1) In recognition that public office involves a public trust, a public official should seek—	10 11
(a) to maintain and enhance public confidence in the integrity of public administration; and	12 13
(b) to advance the common good of the community the official serves.	14 15
(2) Having regard to the obligation mentioned in subsection (1), a public official—	16 17
(a) should not improperly use his or her official powers or position, or allow them to be improperly used; and	18 19
(b) should ensure that any conflict that may arise between the official's personal interests and official duties is resolved in favour of the public interest; and	20 21 22
(c) should disclose fraud, corruption and maladministration of which the official becomes aware.	23 24
Diligence	25
10. In performing his or her official duties, a public official should—	26
(a) exercise proper diligence, care and attention; and	27
(b) seek to achieve high standards of public administration.	28

Economy and efficiency

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11. In performing his or her official duties, a public official should ensure that public resources are not wasted, abused, or used improperly or extravagantly.

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PART 4—CODES OF CONDUCT FOR PUBLIC OFFICIALS

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Division 1—Codes of conduct

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Nature and purpose of codes

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12.(1) In recognition of the ethics obligations for public officials, codes of conduct are to apply to public officials in performing their official functions.

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(2) The purpose of a code of conduct is to provide standards of conduct for public officials consistent with the ethics obligations.

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Application of codes

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13.(1) A code of conduct must relate to a particular public sector entity, and applies to all public officials of the entity.

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(2) However, a code of conduct may make different provision, consistent with the ethics obligations, for different types of public officials.

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Contents of codes

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14.(1) A code of conduct for a public sector entity may contain anything the responsible authority for the entity considers necessary or useful for achieving the purpose of a code of conduct.

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(2) In particular, a code may provide obligations public officials must comply with.

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(3) A code also may contain—

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|---|----------|
| (a) information explaining the purpose of— | 1 |
| (i) the ethics obligations generally or a particular ethics obligation; or | 2
3 |
| (ii) the conduct obligations generally or a particular conduct obligation; and | 4
5 |
| (b) information explaining the object intended to be achieved by the application of— | 6
7 |
| (i) the ethics obligations generally or a particular ethics obligation; or | 8
9 |
| (ii) the conduct obligations generally or a particular conduct obligation; and | 10
11 |
| (c) guidelines about the application of an ethics or conduct obligation; and | 12
13 |
| (d) examples of the operation of an ethics or conduct obligation; and | 14 |
| (e) explanatory notes about an ethics or conduct obligation; and | 15 |
| (f) references to Acts applying to public officials in performing their official functions. | 16
17 |

Division 2—Preparation and approval of codes of conduct 18**Preparation of codes of conduct** 19

15. The chief executive officer of a public sector entity must ensure that a code of conduct is prepared for the entity. 20
21

Consultations in preparation of codes 22

16.(1) This section applies to the preparation of a code of conduct for a public sector entity. 23
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(2) The public sector entity's chief executive officer must ensure that consultation about the code takes place, or reasonable steps are taken to consult about the code, with— 25
26
27

- | | |
|--|----|
| (a) the public officials to whom the code is to apply; and | 28 |
|--|----|

-
- (b) industrial organisations representing the interests of any of the officials; and 1
2
 - (c) other appropriate entities representing the interests of any of the officials. 3
4

Approval of codes 5

17.(1) The responsible authority for a public sector entity may approve a code of conduct prepared by the entity's chief executive officer. 6
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(2) The responsible authority may approve the code of conduct only if it is accompanied by a written statement by the chief executive officer outlining— 8
9
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- (a) the nature and extent of the consultations that took place during the preparation of the code; and 11
12
- (b) the outcome of the consultations. 13

(3) In deciding whether to approve the code of conduct, the responsible authority must have regard to the statement. 14
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Division 3—Public officials to comply with codes 16

Compliance with codes 17

18. A public official of a public sector entity must comply with the conduct obligations stated in the entity's code of conduct that apply to the official. 18
19
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PART 5—ADDITIONAL RESPONSIBILITIES OF CHIEF EXECUTIVE OFFICERS 21 22

Access to ethics principles and obligations and codes of conduct 23

19. The chief executive officer of a public sector entity must ensure that each public official of the entity has reasonable access to a copy of the ethics 24
25

principles and obligations for public officials and the conduct obligations
stated in the entity's code of conduct that apply to the official. 1
2

Inspection of codes of conduct 3

20.(1) The chief executive officer of a public sector entity must keep
available for inspection by any person an appropriate number of copies of
the entity's approved code of conduct. 4
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(2) In particular, the chief executive officer must permit any person— 7

(a) to inspect the code of conduct without fee; and 8

(b) to take extracts from the code without fee; and 9

(c) to obtain a copy of the code, or any part of the code, on payment
of the fee prescribed by regulation. 10
11

(3) The chief executive officer also must keep available copies of the code
for purchase by any person, at a price prescribed by regulation. 12
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(4) The copies must be available during office hours on business days
at— 14
15

(a) the entity's head office; and 16

(b) each regional office (if any) of the entity; and 17

(c) any other places the chief executive officer considers appropriate. 18

(5) To remove any doubt, it is declared that a reference in this section to a
person includes a reference to a member of the public. 19
20

Education and training 21

21.(1) The chief executive officer of a public sector entity must ensure
that public officials of the entity are given appropriate education and training
about public sector ethics. 22
23
24

(2) In particular, the education and training must relate to— 25

(a) the operation of this Act; and 26

(b) the application of ethics principles and obligations to the public
officials; and 27
28

(c) the contents of the entity's approved code of conduct; and 29

- (d) the rights and obligations of the officials in relation to
contraventions of the approved code of conduct. 1
2

Procedures and practices of public sector entities 3

22. The chief executive officer of a public sector entity must ensure that
the administrative procedures and management practices of the entity have
proper regard to— 4
5
6

- (a) this Act and, in particular, the ethics obligations of public officials;
and 7
8
- (b) the entity's approved code of conduct. 9

Implementation statements 10

23. The chief executive officer of a public sector entity must ensure that
each annual report of the entity includes an implementation statement giving
details of the action taken during the reporting period to comply with the
following sections— 11
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13
14

- section 15 (Preparation of codes of conduct) 15
- section 19 (Access to ethics principles and obligations and codes
of conduct) 16
17
- section 20 (Inspection of codes of conduct) 18
- section 21 (Education and training) 19
- section 22 (Procedures and practices of public sector entities). 20

PART 6—DISCIPLINARY ACTION FOR CONTRAVENTION OF APPROVED CODES OF CONDUCT 21 22 23

Disciplinary action 24

24. It is the intention of Parliament that any disciplinary action for a 25

contravention of an approved code of conduct by a public official of a public sector entity should be dealt with under—	1 2
(a) if the official is an officer of the public service—the <i>Public Service Management and Employment Act 1988</i> and the <i>Public Sector Management Commission Act 1990</i> ; or	3 4 5
(b) if the official is a local government employee—the local government legislation applying to the local government; or	6 7
(c) if the official is not an officer of the public service or a local government employee but there are disciplinary processes applying to the official—the disciplinary processes; or	8 9 10
(d) if there are no disciplinary processes applying to the official—the regulations.	11 12

PART 7—MISCELLANEOUS

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Regulation making power

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25. The Governor in Council may make regulations under this Act. 15

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