

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, November 2022*



Queensland

**No.
A BILL for**

An Act to amend the Auditor-General Act 2009, the Integrity Act 2009, the Magistrates Act 1991, the Ombudsman Act 2001, the Public Sector Act 2022 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Integrity and Other Legislation Amendment Bill 2022

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Auditor-General Act 2009	
3	Act amended	8
4	Amendment of s 6 (Auditor-general and audit office)	8
5	Amendment of s 8 (Auditor-general not subject to direction)	9
6	Insertion of new ss 8A–8C	9
	8A Audit office not public sector entity	9
	8B Audit office to comply with obligations relating to equity, diversity, respect and inclusion	9
	8C Application of provisions of Public Sector Act 2022	9
7	Insertion of new s 11A	10
	11A Oath before performing duties	10
8	Omission of s 14 (Preservation of rights)	11
9	Amendment of s 15 (Leave of absence)	11
10	Insertion of new s 19A	11
	19A Restriction on employment after office ends	11
11	Replacement of s 22 (Deputy auditor-general employed under Public Sector Act 2022)	11
	22 Employment of deputy auditor-general	11
12	Amendment of s 24 (Deputy auditor-general subject only to direction of auditor-general)	12
13	Insertion of new ss 25A and 25B	12
	25A Oath of office before acting as auditor-general	12

Contents

	25B	Acting deputy auditor-general	12
14		Replacement of pt 2, divs 4 and 5	13
	Division 4	Staff of audit office	
	26	Employment of staff	13
	27	Secondment of public service employees	13
	28	Restriction on employment or secondment of person	14
	29	Criminal history report	14
	29A	Confidentiality of criminal history information	15
	Division 5	Preservation of rights	
	29B	Preservation of rights if public service employee appointed or employed	16
	29C	Preservation of rights if person becomes public service employee	16
	29D	Preservation of rights if public service employee seconded	17
16		Amendment of s 37A (Performance audit of public sector entities)	18
17		Omission of s 38 (Audit of performance management systems) .	18
18		Amendment of s 38A (Preparation of strategic audit plans for performance audits)	18
19		Amendment of s 56 (Audit fees)	18
20		Insertion of new s 56A	19
	56A	Basic rates of fees	19
21		Replacement of pt 4, hdg (Strategic review of the audit office) . .	20
	Part 4	Monitoring and oversight	
	Division 1	Role of parliamentary committee	
	67A	Functions of parliamentary committee	21
	Division 2	Strategic review of audit office	
22		Replacement of pt 5, hdg (Independent audit of Queensland Audit Office)	21
23		Renumbering of pt 6 (General provisions)	21
24		Renumbering of pt 7 (Transitional provisions)	22
25		Insertion of new pt 6, div 4	22
	Division 4	Transitional provisions for the Integrity and Other Legislation Amendment Act 2022	
	Subdivision 1	Provisions about office of auditor-general	
	90	Definitions for subdivision	22
	91	Existing appointment unaffected	22

	92	Oath of office	23
		Subdivision 2 Provision about audits	
	93	Existing audits	23
		Subdivision 3 Provisions about employment arrangements	
	94	Definitions for subdivision	24
	95	Change of employment	24
	96	Right of return to public service	25
26		Amendment of schedule (Dictionary)	26
Part 3		Amendment of Integrity Act 2009	
27		Act amended	26
28		Replacement of ch 2, hdg (Integrity commissioner)	26
29		Amendment of s 6 (Integrity commissioner)	26
30		Amendment of s 7 (Functions of integrity commissioner)	27
31		Insertion of new s 7A	27
	7A	Integrity commissioner not subject to direction	27
32		Amendment of s 8 (Protection for integrity commissioner)	28
33		Insertion of new ss 8A–8D	28
	8A	Duties of deputy integrity commissioner	28
	8B	Deputy integrity commissioner subject only to direction of integrity commissioner	28
	8C	Control of integrity office	29
	8D	Integrity officers subject only to direction of integrity commissioner	29
34		Amendment of s 12 (Meaning of designated person)	29
35		Insertion of new s 12A	30
	12A	Meaning of ministerial advisor	30
36		Insertion of new ch 3, pt 2, div 1, hdg	30
37		Amendment of s 15 (Request for advice)	31
38		Insertion of new ch 3, pt 2, div 2, hdg	31
39		Amendment of s 17 (Request by Minister)	31
40		Omission of s 18 (Request by Assistant Minister)	32
41		Insertion of new ch 3, pt 2, div 3, hdg	32
42		Insertion of new ss 20B–20D and ch 3, pt 2, div 4, hdg	32
	20B	Request by Minister about ministerial advisor	32
	20C	Request by Assistant Minister about ministerial advisor	32
	20D	Request by former ministerial advisor	32

Contents

	Division 4	Advice	
43	Amendment of s 21 (Advice)		33
44	Amendment of s 25 (Definitions for division)		34
45	Amendment of s 26 (Disclosure)		34
46	Amendment of s 27 (Disclosure by designated person to whom a relevant document relates)		34
47	Amendment of s 28 (Disclosure to designated person to whom a relevant document relates)		34
48	Amendment of s 30 (Disclosure to Minister)		35
49	Amendment, renumbering and relocation of s 31 (Disclosure to Assistant Minister)		35
50	Amendment of s 40E (Declaration of interests)		35
51	Insertion of new s 71A		36
	71A	Offence for conduct by lobbyist if not registered	36
52	Amendment of ch 5, hdg (Administrative provisions for integrity commissioner)		37
53	Insertion of new ch 5, pt 1, hdg		37
54	Amendment of s 83 (Delegation of powers)		37
55	Amendment of s 84 (Acting integrity commissioner)		38
56	Amendment of s 85 (Annual reports of integrity commissioner)		38
57	Insertion of new ch 5, pts 2 and 3		38
	Part 2	Deputy integrity commissioner	
	85A	Employment of deputy integrity commissioner	39
	85B	Declaration of interests	39
	Part 3	Integrity office	
	85C	Employment of staff	39
	85D	Directives under Public Sector Act 2022	39
58	Insertion of new ch 8, div 4		40
	Division 4	Transitional provision for the Integrity and Other Legislation Amendment Act 2022	
	103	Designated persons who are no longer designated persons	40
59	Amendment of sch 2 (Dictionary)		41
	Part 3A	Amendment of Magistrates Act 1991	
59A	Act amended		42
59B	Insertion of new pt 10, div 11		42
	Division 11	Validation provision for particular acting magistrates	

	74	Validation of purported appointment of particular acting magistrates	42
Part 4		Amendment of Ombudsman Act 2001	
60		Act amended	44
61		Amendment of s 83 (Strategic review of ombudsman office) ...	44
62		Insertion of new pt 12, div 6	44
	Division 6	Provision for Integrity and Other Legislation Amendment Act 2022	
	113	Period for next strategic review of ombudsman office	44
Part 5		Amendment of Public Sector Act 2022	
63		Act amended	45
64		Amendment of s 177 (Functions and responsibilities of chief executive)	45
65		Amendment of s 192 (Functions)	45
66		Amendment of s 254 (Minister or council may ask for public sector review)	45
67		Amendment of sch 1 (Public service entities under section 9(b))	46
68		Amendment of sch 2 (Dictionary)	46
Part 6		Other amendments	
69		Legislation amended	47
Schedule 1		Other amendments	48
		Superannuation (State Public Sector) Act 1990	48

2022

A Bill

for

An Act to amend the Auditor-General Act 2009, the Integrity Act 2009, the Magistrates Act 1991, the Ombudsman Act 2001, the Public Sector Act 2022 and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Integrity and Other Legislation Amendment Act 2022*.

2 Commencement

- (1) This Act, other than sections 50 and 56 and part 3A, commences on a day to be fixed by proclamation.
- (2) Sections 50 and 56 commence on 1 March 2023, immediately after the commencement of the *Public Sector Act 2022*, section 3.

Part 2 Amendment of Auditor-General Act 2009

3 Act amended

This part amends the *Auditor-General Act 2009*.

4 Amendment of s 6 (Auditor-general and audit office)

- (1) Section 6—
insert—
 - (1A) The auditor-general is an officer of the Parliament.
- (2) Section 6(1A) to (4)—
renumber as section 6(2) to (5).

5 Amendment of s 8 (Auditor-general not subject to direction)

Section 8(2)—
omit.

6 Insertion of new ss 8A–8C

After section 8—
insert—

8A Audit office not public sector entity

The audit office is an entity prescribed not to be a public sector entity for the *Public Sector Act 2022*, section 8(2)(s).

8B Audit office to comply with obligations relating to equity, diversity, respect and inclusion

The audit office is an entity prescribed for the *Public Sector Act 2022*, section 25, definition *prescribed entity*, paragraph (c).

8C Application of provisions of Public Sector Act 2022

- (1) A regulation may—
 - (a) apply particular provisions of the *Public Sector Act 2022*, including, for example, particular directives made under the *Public Sector Act 2022*, to the audit office, the auditor-general and employees; and
 - (b) provide for the way in which the provisions mentioned in paragraph (a) are to apply, including, for example, that they apply with or without change.
- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1),

[s 7]

the Minister must consult with the auditor-general about the proposed regulation.

- (3) If a regulation is made under subsection (1)—
 - (a) the *Public Sector Act 2022* applies to the audit office, the auditor-general and employees only to the extent provided for under the regulation; and
 - (b) the *Public Sector Act 2022* applies in the way mentioned in paragraph (a) with necessary changes.
- (4) Also, a regulation may prescribe anything necessary or convenient to be prescribed—
 - (a) to enable a regulation under subsection (1) to be made; or
 - (b) to carry out or give effect to a regulation made under subsection (1); or
 - (c) because of the making of a regulation under subsection (1), including, for example, the portability of employment rights and entitlements.

7 Insertion of new s 11A

After section 11—

insert—

11A Oath before performing duties

- (1) Before performing the duties of office, the auditor-general must make an oath or affirmation to the effect that they will faithfully and impartially perform the duties of the office.
- (2) The oath must be administered by the Speaker, or if there is no Speaker or the Speaker is unavailable, the clerk of the Parliament.

8 Omission of s 14 (Preservation of rights)

Section 14—

omit.

9 Amendment of s 15 (Leave of absence)

Section 15, ‘Minister’—

omit, insert—

Speaker

10 Insertion of new s 19A

After section 19—

insert—

19A Restriction on employment after office ends

- (1) This section applies to a person who stops holding office as the auditor-general, whether because of resignation or ending a term of appointment.
- (2) For 2 years after the person stops holding the office, the person must not hold an office in or be employed by a public sector entity.

11 Replacement of s 22 (Deputy auditor-general employed under Public Sector Act 2022)

Section 22—

omit, insert—

22 Employment of deputy auditor-general

- (1) The auditor-general may employ a deputy auditor-general.
- (2) Division 4 applies in relation to the employment of the deputy auditor-general as if the deputy auditor-general were a member of the staff of the audit office.

[s 12]

12 Amendment of s 24 (Deputy auditor-general subject only to direction of auditor-general)

Section 24(2)—

omit.

13 Insertion of new ss 25A and 25B

After section 25—

insert—

25A Oath of office before acting as auditor-general

- (1) Before performing the duties of office while acting as auditor-general, the deputy auditor-general must make an oath or affirmation under section 11A as if the deputy auditor-general were the auditor-general.
- (2) Subsection (1) does not apply to a person employed as the deputy auditor-general if—
 - (a) the person has previously made an oath or affirmation before performing the duties of office while acting as auditor-general; and
 - (b) the person has continued in the person's employment as deputy auditor-general since the oath or affirmation was made.

25B Acting deputy auditor-general

The auditor-general may appoint a person to act as the deputy auditor-general during—

- (a) a vacancy in the office of deputy auditor-general; or
- (b) a period when the deputy auditor-general is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office.

14 Replacement of pt 2, divs 4 and 5

Part 2, divisions 4 and 5—

omit, insert—

Division 4 Staff of audit office

26 Employment of staff

- (1) The auditor-general may employ the persons the auditor-general considers necessary for staffing the audit office.
- (2) The staff of the audit office are employed under this Act and not the *Public Sector Act 2022*.
- (3) Subject to this Act and any relevant industrial instrument within the meaning of the *Industrial Relations Act 2016*, the conditions of service of the staff of the audit office are those decided by the auditor-general.
- (4) The employment of a member of the staff of the audit office may be—
 - (a) full-time or part-time; or
 - (b) on a permanent, temporary or casual basis.

27 Secondment of public service employees

- (1) A public service employee may be seconded to the audit office.
- (2) While seconded under this section—
 - (a) the person is taken to be a member of the staff of the audit office; and
 - (b) the *Public Sector Act 2022* does not apply to the person.

28 Restriction on employment or secondment of person

A person may not be employed under section 22 or 26, or seconded under section 27, unless the person has given the auditor-general written consent to obtain the information mentioned in section 29(1)(a) and (b) in relation to the person's criminal history.

29 Criminal history report

- (1) To decide if a person is suitable to be employed under section 22 or 26, or seconded under section 27, the auditor-general may ask the commissioner of the police service for—
 - (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the auditor-general may make the request only if the person has given the auditor-general written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) Before using information obtained under subsection (1) to decide if the person should be employed or seconded, the auditor-general must—
 - (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the auditor-general about the information.

(6) In this section—

criminal history, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

29A Confidentiality of criminal history information

- (1) This section applies to a person who possesses criminal history information because the person is or was the auditor-general, deputy auditor-general or a member of the staff of the audit office.
- (2) The person must not, directly or indirectly, disclose the criminal history information to another person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may disclose the criminal history information to another person—
 - (a) to the extent necessary to perform the person's functions under this Act; or
 - (b) if the disclosure is authorised under an Act; or
 - (c) if the disclosure is otherwise required or permitted by law; or
 - (d) if the person to whom the information relates consents to the disclosure; or
 - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
 - (f) if the information is, or has been, lawfully accessible to the public.
- (4) The auditor-general must ensure the criminal history information is destroyed as soon as practicable after it is no longer needed for the

[s 14]

purpose for which it was requested.

(5) In this section—

criminal history information means a report or information given to the auditor-general under section 29.

Division 5 Preservation of rights

29B Preservation of rights if public service employee appointed or employed

- (1) This section applies if a person who is a public service employee is appointed or employed as—
 - (a) the auditor-general; or
 - (b) the deputy auditor-general; or
 - (c) a member of the staff of the audit office.
- (2) The person is entitled to retain all existing and accruing rights to superannuation or recreation, sick, long service or other leave as if service in the audit office under this Act were a continuation of service as a public service employee.

29C Preservation of rights if person becomes public service employee

- (1) This section applies if—
 - (a) a person is appointed or employed as a public service employee; and
 - (b) immediately before the appointment or employment, the person was the deputy auditor-general or a member of the staff of the audit office.
- (2) The person's service in the audit office under this Act must be regarded as service as a public

service employee.

29D Preservation of rights if public service employee seconded

- (1) A public service employee seconded under section 27—
 - (a) keeps the person's existing and accruing rights to superannuation or recreation, sick, long service or other leave as if employment as a member of the staff of the audit office were a continuation of employment as a public service employee; and
 - (b) may apply for positions, and be employed, in the public service as if the person were a public service employee.
- (2) On ending the secondment, the person's employment on secondment as a member of the staff of the audit office is taken to be employment of the same nature in the public service for working out the person's rights as a public service employee.
- (3) If the secondment ended for a reason other than misconduct, the person is entitled—
 - (a) to return to the person's employment as a public service employee; and
 - (b) to be employed on the same terms of employment as applied to the person's employment as a public service employee before the secondment, subject to any subsequent variation of the terms under—
 - (i) any relevant laws or industrial instruments applying to the person's employment; or
 - (ii) the person's contract of employment.

[s 16]

16 Amendment of s 37A (Performance audit of public sector entities)

(1) Section 37A(3)—

omit, insert—

(3) The object of the performance audit includes—

- (a) deciding whether the objectives of the public sector entity are being achieved economically, efficiently and effectively and in compliance with all relevant laws; and
- (b) identifying any opportunities for the public sector entity to achieve its objectives more economically, efficiently and effectively.

(2) Section 37A(6) and (7)—

omit.

(3) Section 37A(8)—

renumber as section 37A(6).

17 Omission of s 38 (Audit of performance management systems)

Section 38—

omit.

18 Amendment of s 38A (Preparation of strategic audit plans for performance audits)

Section 38A(1), ‘sections 37A and 38’—

omit, insert—

section 37A

19 Amendment of s 56 (Audit fees)

(1) Section 56(3)—

omit.

- (2) Section 56(4), ‘subsection (3)’—

omit, insert—

section 56A

- (3) Section 56(4) and (5)—

renumber as section 56(3) and (4).

20 Insertion of new s 56A

After section 56—

insert—

56A Basic rates of fees

- (1) The auditor-general may decide the basic rates of fees for section 56.
- (2) In deciding the basic rates of fees, the auditor-general must have regard to—
 - (a) the reasonable costs that may be incurred for conducting an audit; and
 - (b) amounts ordinarily charged for conducting an audit by entities that provide audit services.
- (3) The auditor-general may increase the basic rates of fees once each financial year, with the approval of the parliamentary committee.
- (4) The auditor-general must include the reasons for a proposed increase in the basic rates of fees for a financial year when seeking the parliamentary committee’s approval for the increase.
- (5) For deciding whether or not to approve a proposed increase in the basic rates of fees for a financial year, the parliamentary committee may—

[s 21]

- (a) have regard to the government indexation rate for the financial year; and
 - (b) obtain, and have regard to, advice from the Treasurer about the proposed increase.
- (6) As soon as practicable after deciding to approve or not approve a proposed increase in the basic rates of fees for a financial year, the parliamentary committee must prepare a report to the Legislative Assembly stating—
- (a) whether or not the parliamentary committee approved the increase; and
 - (b) the reasons for the parliamentary committee's decision, including, details about whether the parliamentary committee considered either of the following in making the decision—
 - (i) the government indexation rate for the financial year;
 - (ii) advice obtained from the Treasurer about the proposed increase.
- (7) In this section—
- government indexation rate***, for a financial year, means the government indexation rate for fees and charges published in the State budget for the financial year.

21 Replacement of pt 4, hdg (Strategic review of the audit office)

Part 4, heading—

omit, insert—

Part 4

Monitoring and oversight

Division 1 Role of parliamentary committee

67A Functions of parliamentary committee

The parliamentary committee has the following functions—

- (a) to monitor and review the performance by the auditor-general of the auditor-general's functions under this Act;
- (b) to report to the Legislative Assembly on any matter concerning the auditor-general's functions or the performance of the auditor-general's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- (c) the other functions conferred on the committee by this Act or another Act.

Division 2 Strategic review of audit office

22 Replacement of pt 5, hdg (Independent audit of Queensland Audit Office)

Part 5, heading—

omit, insert—

Division 3 Independent audit of audit office

23 Renumbering of pt 6 (General provisions)

Part 6—

renumber as part 5.

[s 24]

24 Renumbering of pt 7 (Transitional provisions)

Part 7—

renumber as part 6.

25 Insertion of new pt 6, div 4

Part 6, as renumbered by this Act—

insert—

**Division 4 Transitional provisions for
the Integrity and Other
Legislation Amendment
Act 2022**

**Subdivision 1 Provisions about office of
auditor-general**

90 Definitions for subdivision

In this subdivision—

existing auditor-general means the person who, immediately before the commencement, was holding office as the auditor-general.

existing deputy auditor-general means the person who, immediately before the commencement, was holding office as the deputy auditor-general.

91 Existing appointment unaffected

The amendment of this Act by the *Integrity and Other Legislation Amendment Act 2022* does not affect the appointment of the existing auditor-general.

92 Oath of office

- (1) The existing auditor-general must comply with section 11A—
 - (a) if, on the commencement, the existing auditor-general is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office—before the auditor-general starts performing the duties of office after the commencement; or
 - (b) otherwise—within 28 days after the commencement.
- (2) If, on the commencement, the existing deputy auditor-general is acting as auditor-general, the existing deputy auditor-general must comply with section 25A within 28 days after the commencement.
- (3) Subsection (2) does not apply, or stops applying, if the existing deputy auditor-general stops acting as auditor-general before the 28-day period mentioned in the subsection ends.

Subdivision 2 Provision about audits

93 Existing audits

- (1) This section applies in relation to an audit under this Act started but not finished before the commencement.
- (2) The audit must be continued under this Act as in force before the commencement as if the *Integrity and Other Legislation Amendment Act 2022* had not been enacted.

Subdivision 3 Provisions about employment arrangements

94 Definitions for subdivision

In this subdivision—

existing deputy auditor-general means the person who, immediately before the commencement, was holding office as the deputy auditor-general.

existing staff member means a person who, immediately before the commencement, was employed as a member of the staff of the audit office.

95 Change of employment

- (1) On the commencement, a person who is the existing deputy auditor-general or an existing staff member—
 - (a) is taken to be employed under this Act; and
 - (b) stops being employed as a public service employee.
- (2) The person's employment continues on the same terms of employment as applied to the person immediately before the commencement, subject to any subsequent variation of the terms under—
 - (a) any relevant laws or industrial instruments applying to the person's employment; or
 - (b) the person's contract of employment.
- (3) The change in the person's employment under subsection (1) does not—
 - (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (b) interrupt continuity of service, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or

- (c) constitute a termination of employment, retrenchment or redundancy.
- (4) Subsection (1)(a) applies despite sections 28 and 29.

96 Right of return to public service

- (1) A person who is the existing deputy auditor-general or an existing staff member may, within 6 months after the commencement, elect to return to being a public service employee by giving written notice to the auditor-general.

Note—

See also section 29C in relation to a person who is appointed as a public service employee after being the deputy auditor-general or a member of the staff of the audit office.

- (2) An election under subsection (1) takes effect when the person who made the election is transferred to a department or public service entity as a public service employee.
- (3) On a person's return to the public service—
 - (a) the person is taken not to have stopped being a public service employee when the person's employment changed under section 95(1); and
 - (b) the person's service as a public service employee is taken to have continued while the person was employed in the audit office under this Act; and
 - (c) the person's terms of employment are the same terms of employment that applied to the person immediately before the person's employment changed under section 95(1), subject to any changes in relevant laws or industrial instruments applying to the person's employment.

[s 26]

- (4) Subsection (3) does not allow the person to claim the benefit of a right or entitlement more than once in relation to the same period of service.

26 Amendment of schedule (Dictionary)

Schedule, definition *audit office*, ‘section 6(3)’—
omit, insert—
section 6(4)

**Part 3 Amendment of Integrity Act
2009**

27 Act amended

This part amends the *Integrity Act 2009*.

28 Replacement of ch 2, hdg (Integrity commissioner)

Chapter 2, heading—
omit, insert—

**Chapter 2 Queensland Integrity
Commissioner and
Office of the
Queensland Integrity
Commissioner**

29 Amendment of s 6 (Integrity commissioner)

- (1) Section 6, heading, after ‘commissioner’—
insert—

and integrity office

(2) Section 6(2), note—

omit.

(3) Section 6—

insert—

- (3) There is to be a Queensland Deputy Integrity Commissioner.
- (4) An office called the Office of the Queensland Integrity Commissioner is established.
- (5) The integrity office consists of the integrity commissioner, the deputy integrity commissioner and the integrity officers.

Note—

The administrative provisions for the integrity commissioner, deputy integrity commissioner and integrity office are set out in chapter 5.

30 Amendment of s 7 (Functions of integrity commissioner)

Section 7(1)(a), ‘or former designated person’—

omit, insert—

, former designated person or former ministerial advisor

31 Insertion of new s 7A

After section 7—

insert—

7A Integrity commissioner not subject to direction

Subject to any other Act or law, the integrity commissioner is not subject to any direction by any person about—

[s 32]

- (a) the way the integrity commissioner performs the integrity commissioner's functions under this Act; or
- (b) the priority given to ethics or integrity issues.

32 Amendment of s 8 (Protection for integrity commissioner)

- (1) Section 8, heading, after 'commissioner'—

insert—

and deputy integrity commissioner

- (2) Section 8(1) and (2), after 'commissioner'—

insert—

or deputy integrity commissioner

33 Insertion of new ss 8A–8D

After section 8—

insert—

8A Duties of deputy integrity commissioner

The deputy integrity commissioner is to perform the duties directed by the integrity commissioner.

8B Deputy integrity commissioner subject only to direction of integrity commissioner

- (1) The deputy integrity commissioner is not subject to direction by any person, other than the integrity commissioner, about—
- (a) the way the integrity commissioner's functions under this Act are to be performed; or
 - (b) the priority given to ethics or integrity issues.

- (2) Subsection (1) applies despite the *Public Sector Act 2022*.

8C Control of integrity office

- (1) The integrity commissioner controls the integrity office.
- (2) Subsection (1) does not prevent the attachment of the integrity office to the department for the purpose of ensuring that the office is supplied with the administrative support services that it requires to carry out its functions effectively and efficiently.

8D Integrity officers subject only to direction of integrity commissioner

- (1) An integrity officer is not subject to direction by any person, other than from within the integrity office, about—
- (a) the way the integrity commissioner's functions under this Act are to be performed; or
 - (b) the priority given to ethics or integrity issues.
- (2) Subsection (1) applies despite the *Public Sector Act 2022*.

34 Amendment of s 12 (Meaning of *designated person*)

- (1) Section 12(1)(d), 'or senior officer'—
omit.
- (2) Section 12(1)(f) to (h)—
omit, insert—

[s 35]

- (f) a ministerial staff member who performs the role of chief of staff (however called) in the office of a Minister;
 - (g) a person, or a person within a class of persons, prescribed by regulation.
- (3) Section 12(2), ‘or (h)’—
omit.
- (4) Section 12(3)—
omit, insert—
- (3) 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 this Act.

35 Insertion of new s 12A

After section 12—

insert—

12A Meaning of *ministerial advisor*

- (1) A *ministerial advisor* is—
- (a) a ministerial staff member who gives, or a person engaged to give, advice to a Minister; or
 - (b) an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister.
- (2) However, a person who is a designated person is not a *ministerial advisor*.

36 Insertion of new ch 3, pt 2, div 1, hdg

Chapter 3, part 2—

insert—

[s 40]

40 Omission of s 18 (Request by Assistant Minister)

Section 18—

omit.

41 Insertion of new ch 3, pt 2, div 3, hdg

After section 20—

insert—

**Division 3 Requests about other
persons**

42 Insertion of new ss 20B–20D and ch 3, pt 2, div 4, hdg

After section 20A—

insert—

20B Request by Minister about ministerial advisor

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.

**20C Request by Assistant Minister about
ministerial advisor**

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.

20D Request by former ministerial advisor

- (1) Within 2 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.

(2) In this section—

post-separation obligation means—

- (a) an obligation (including an obligation under an Act, contract of employment, directive, policy or code of conduct) that—
 - (i) applies to the person because the person was, but is no longer, a ministerial advisor; and
 - (ii) relates to contact with a government representative or Opposition representative; or
- (b) an obligation applying to the person under section 70.

Division 4 Advice

43 Amendment of s 21 (Advice)

(1) Section 21(1), after ‘a designated person’—

insert—

, former designated person or former ministerial advisor (each ***an advisee***)

(2) Section 21(1) and (4)(b), ‘the designated person’—

omit, insert—

the advisee

(3) Section 21(5)—

omit.

[s 44]

44 Amendment of s 25 (Definitions for division)

- (1) Section 25, definition *designated person to whom a relevant document relates*—

omit.

- (2) Section 25—

insert—

person to whom a relevant document relates
means the designated person or ministerial advisor involved in an ethics or integrity issue and to whom the relevant document relates.

45 Amendment of s 26 (Disclosure)

- (1) Section 26(1), ‘or former designated person’—

omit, insert—

, former designated person or former ministerial advisor

- (2) Section 26(3), after ‘designated person’—

insert—

or ministerial advisor

46 Amendment of s 27 (Disclosure by designated person to whom a relevant document relates)

- (1) Section 27, heading, ‘designated’—

omit.

- (2) Section 27, ‘who is or has been a designated person’—

omit.

47 Amendment of s 28 (Disclosure to designated person to whom a relevant document relates)

- (1) Section 28, heading, ‘designated’—

omit.

- (2) Section 28, ‘who is or has been the designated person’—
omit.

48 Amendment of s 30 (Disclosure to Minister)

- (1) Section 30, after ‘equivalent,’—
insert—

or a ministerial advisor who gives advice to the
Minister,

- (2) Section 30(b), after ‘section 17’—
insert—

or 20B

**49 Amendment, renumbering and relocation of s 31
(Disclosure to Assistant Minister)**

- (1) Section 31, from ‘designated’ to ‘equivalent,’—
omit, insert—

ministerial advisor who gives advice to the
Assistant Minister

- (2) Section 31(b), ‘section 18’—
omit, insert—

section 20C

- (3) Section 31—

renumber as section 33A and *relocate* to after section 33.

50 Amendment of s 40E (Declaration of interests)

- (1) Section 40E(2) and (5), ‘the integrity commissioner and’—
omit.

- (2) Section 40E(3), ‘*Public Service Act 2008*, section 101(3)’—

[s 51]

omit, insert—

Public Sector Act 2022, section 182(3)

- (3) Section 40E(4)(b), ‘*Public Service Act 2008, section 101(4)(b)*’—

omit, insert—

Public Sector Act 2022, section 182(4)(b)

- (4) Section 40E(7)—

omit.

51 Insertion of new s 71A

After section 71—

insert—

71A Offence for conduct by lobbyist if not registered

- (1) An unregistered lobbyist must not—
- (a) carry out a lobbying activity for a third party client; or
 - (b) carry on, or purport to carry on, a business of providing services constituting, or including, lobbying activities for third party clients; or
 - (c) hold out that the lobbyist is—
 - (i) a registered lobbyist; or
 - (ii) a listed person for a registered lobbyist; or
 - (iii) authorised or permitted to carry out a lobbying activity for a third party client under this Act; or
 - (d) take or use a title, name or description that, having regard to the circumstances in which it is taken or used, indicates or could be

reasonably understood to indicate the lobbyist is—

- (i) a registered lobbyist; or
- (ii) a listed person for a registered lobbyist; or
- (iii) authorised or permitted to carry out a lobbying activity for a third party client under this Act.

Maximum penalty—200 penalty units.

(2) In this section—

unregistered lobbyist means a lobbyist that is not—

- (a) a registered lobbyist; or
- (b) a listed person for a registered lobbyist.

52 Amendment of ch 5, hdg (Administrative provisions for integrity commissioner)

Chapter 5, heading, after ‘commissioner’—

insert—

, deputy integrity commissioner and integrity office

53 Insertion of new ch 5, pt 1, hdg

Chapter 5—

insert—

Part 1 Integrity commissioner

54 Amendment of s 83 (Delegation of powers)

(1) Section 83, before subsection (1)—

insert—

[s 55]

(1A) The integrity commissioner may delegate the integrity commissioner's functions under this Act to the deputy integrity commissioner.

(2) Section 83(1), 'The'—
omit, insert—

Also, the

(3) Section 83(1A) to (2)—
renumber as section 83(1) to (3).

55 Amendment of s 84 (Acting integrity commissioner)

Section 84(2), after 'appoint'—
insert—

the deputy integrity commissioner or

56 Amendment of s 85 (Annual reports of integrity commissioner)

(1) Section 85(2)—
omit, insert—

(2) The report must include, in relation to the financial year to which it relates, the matters prescribed by regulation.

(2) Section 85(4)—
omit.

(3) Section 85(5)—
renumber as section 85(4).

57 Insertion of new ch 5, pts 2 and 3

Chapter 5, after section 85—
insert—

Part 2 Deputy integrity commissioner

85A Employment of deputy integrity commissioner

- (1) The integrity commissioner may employ a person to be the deputy integrity commissioner.
- (2) The deputy integrity commissioner is to be employed under the *Public Sector Act 2022*.

85B Declaration of interests

Section 80 applies to the deputy integrity commissioner in the same way it applies to the integrity commissioner.

Part 3 Integrity office

85C Employment of staff

- (1) The integrity commissioner may employ the staff the commissioner considers appropriate to perform the commissioner's functions.
- (2) Integrity officers are to be employed under the *Public Sector Act 2022*.

85D Directives under Public Sector Act 2022

- (1) 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 integrity commissioner's approval.
- (2) Subsection (1)—

[s 58]

- (a) applies to a directive whether or not the directive also applies to other public sector units; but
 - (b) does not apply to a directive that applies generally to all public sector units.
- (3) In this section—
- industrial relations Minister* means the Minister administering the *Industrial Relations Act 2016*.
- Public Sector Commissioner* means the Public Sector Commissioner appointed under the *Public Sector Act 2022*, section 212(1).

58 Insertion of new ch 8, div 4

Chapter 8—

insert—

Division 4 Transitional provision for the Integrity and Other Legislation Amendment Act 2022

103 Designated persons who are no longer designated persons

- (1) This section applies in relation to a person who—
 - (a) immediately before the commencement, was a designated person under former section 12(1)(f), (g) or (h); and
 - (b) on the commencement, is not a designated person under new section 12.
- (2) The person ceases to be a designated person on the commencement.
- (3) The integrity commissioner must comply with any existing request for advice on an ethics or

integrity issue by or about the person, under this Act, as if the person were still a designated person.

(4) However, the integrity commissioner may refuse to give the advice if the integrity commissioner—

(a) reasonably believes—

(i) the ethics or integrity issue is not related to the person's role in relation to which the person was a designated person; or

(ii) it is otherwise not appropriate for the integrity commissioner to give advice on the issue; and

(b) gives the person who made the request written reasons for refusing to give the advice.

(5) This section does not affect the application of section 16 or 20A in relation to the person as a person who ceased to be a designated person.

(6) In this section—

existing request means a request for the integrity commissioner's advice made before the commencement that the integrity commissioner had not complied with immediately before the commencement.

former, for a provision of this Act, means the provision as in force immediately before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

59 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *designated person to whom a relevant document relates*—

[s 59A]

omit.

(2) Schedule 2—

insert—

deputy integrity commissioner means the Queensland Deputy Integrity Commissioner.

integrity office means the Office of the Queensland Integrity Commissioner.

integrity officer means a member of the staff of the integrity office.

ministerial advisor see section 12A.

person to whom a relevant document relates, for chapter 3, part 4, division 2, see section 25.

Part 3A Amendment of Magistrates Act 1991

59A Act amended

This part amends the *Magistrates Act 1991*.

59B Insertion of new pt 10, div 11

Part 10—

insert—

Division 11 Validation provision for particular acting magistrates

74 Validation of purported appointment of particular acting magistrates

(1) This section applies if—

- (a) during the period from 27 June 2019 to 1 July 2022 a person was purportedly appointed to act as a magistrate under section 6(1)(b); and
 - (b) on the day of the purported appointment the person was 70 years or more.
- (2) It is declared that the purported appointment of the person is, was and always has been, as valid as it would be or would have been had the person been less than 70 years throughout the period of the purported appointment.
- (3) It is also declared that—
- (a) a relevant exercise of jurisdiction by the person is, was and always has been as valid as it would be or would have been had the person been less than 70 years throughout the period of the purported appointment; and
 - (b) the person did not cease to act as a magistrate under section 42(d) only because the person was 70 years or more while purportedly acting as a magistrate.
- (4) In this section—
- relevant exercise of jurisdiction***, by a person, means an exercise of the jurisdiction, powers and functions conferred on a magistrate, or on 2 justices, by or under any law of the State (including the making of any decision or order), by the person, during the period of the purported appointment of the person to act as a magistrate.

[s 60]

Part 4 **Amendment of Ombudsman Act 2001**

60 Act amended

This part amends the *Ombudsman Act 2001*.

61 Amendment of s 83 (Strategic review of ombudsman office)

Section 83(2) and (3), ‘7 years’—
omit, insert—
5 years

62 Insertion of new pt 12, div 6

Part 12—
insert—

Division 6 **Provision for Integrity and Other Legislation Amendment Act 2022**

113 Period for next strategic review of ombudsman office

- (1) The review period under section 83 as in force before the commencement continues to apply in relation to the next strategic review of the ombudsman office under part 8, division 4 after the commencement.
- (2) In this section—
review period means the period within which a strategic review of the ombudsman office must be conducted under part 8, division 4.

Part 5 Amendment of Public Sector Act 2022

63 Act amended

This part amends the *Public Sector Act 2022*.

64 Amendment of s 177 (Functions and responsibilities of chief executive)

(1) Section 177(3), note, before first dot point—

insert—

- the integrity commissioner, deputy integrity commissioner and members of the staff of the integrity office (see the *Integrity Act 2009*)

(2) Section 177(3), note, last dot point—

omit.

65 Amendment of s 192 (Functions)

(1) Section 192(4)(c)—

omit, insert—

- (c) the integrity office;

(2) Section 192(4)(e)—

omit.

(3) Section 192(4)(f)—

renumber as section 192(4)(e).

66 Amendment of s 254 (Minister or council may ask for public sector review)

(1) Section 254(2)(c)—

omit, insert—

[s 67]

(c) the integrity office;

(2) Section 254(2)(e)—

omit.

(3) Section 254(2)(f)—

renumber as section 254(2)(e).

67 Amendment of sch 1 (Public service entities under section 9(b))

(1) Schedule 1, entry for audit office—

omit.

(2) Schedule 1—

insert—

integrity office

integrity commissioner

68 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *audit office* and *auditor-general*—

omit.

(2) Schedule 2—

insert—

deputy integrity commissioner means the Queensland Deputy Integrity Commissioner under the *Integrity Act 2009*.

integrity commissioner means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

integrity office means the Office of the Queensland Integrity Commissioner under the *Integrity Act 2009*.

(3) Schedule 2, definition *disqualified person*, paragraph (a)(i)—

omit, insert—

- (i) the Queensland Auditor-General under the *Auditor-General Act 2009*;
- (4) Schedule 2, definition *disqualified person*, paragraph (a)(iii)—

omit, insert—

- (iii) the integrity commissioner;

Part 6 Other amendments

69 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 69

Superannuation (State Public Sector) Act 1990

1 Schedule 1—

insert—

5A the Queensland Audit Office established
under the *Auditor-General Act 2009*

2 Schedule 1, items 5A to 15—

renumber as schedule 1, items 6 to 16.

© State of Queensland 2022