



# **Integrity Act 2009**

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Queensland

# Integrity Act 2009

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# Integrity Act 2009

**An Act to provide for an integrity commissioner, to facilitate the giving of advice to Ministers and others on ethics or integrity issues, to ensure Ministers and others appropriately manage conflicts of interest, and to establish a register of lobbyists and provide appropriate limitations on the contact between lobbyists and government representatives and contact between lobbyists and key representatives for the Opposition, including by providing for a code of conduct and prohibiting the payment of success fees**

## Chapter 1 Preliminary

### 1 Short title

This Act may be cited as the *Integrity Act 2009*.

### 2 Commencement

This Act commences on a day to be fixed by proclamation.

### 3 Dictionary

The dictionary in schedule 2 defines particular words used in this Act.

*Note—*

Core concepts for chapter 3 are defined in chapter 3, part 1, and core concepts for chapter 4 are defined in chapter 4, part 1, with signposts to those definitions set out in schedule 2.

#### **4 Purpose**

The purpose of this Act is to encourage confidence in public institutions by—

- (a) helping Ministers, members of the Legislative Assembly, and others to deal appropriately with ethics or integrity issues; and
- (b) regulating contact between lobbyists and State or local government representatives, and contact between lobbyists and key representatives for the Opposition, so that lobbying is conducted in accordance with public expectations of transparency and integrity.

#### **5 Act binds all persons**

- (1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and all the other States.
- (2) Subsection (1) does not make the State, the Commonwealth or another State liable for an offence.

## **Chapter 2 Integrity commissioner**

#### **6 Integrity commissioner**

- (1) There is to be a Queensland Integrity Commissioner.
- (2) The integrity commissioner is an officer of the Parliament.

*Note—*

The administrative provisions for the integrity commissioner are set out in chapter 5.

#### **7 Functions of integrity commissioner**

- (1) The integrity commissioner has the following functions—

- (a) to give written advice to a designated person or former designated person on ethics or integrity issues as provided for under chapter 3, part 2;
  - (b) to meet with, and give written or oral advice to, members of the Legislative Assembly as provided for under chapter 3, part 3;
  - (c) to keep the lobbyists register and have responsibility for the registration of lobbyists under chapter 4;
  - (d) to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the integrity commissioner's functions.
- (2) However, in performing the function mentioned in subsection (1)(d), the integrity commissioner must not disclose information likely to identify a specific request for the integrity commissioner's advice on an ethics or integrity issue, including information likely to identify an individual—
- (a) who requested the integrity commissioner's advice on an ethics or integrity issue; or
  - (b) about whom the integrity commissioner's advice on an ethics or integrity issue was requested.

## **8 Protection for integrity commissioner**

- (1) The integrity commissioner is not liable in a civil proceeding or under an administrative process for an act or omission done or made by the integrity commissioner acting in good faith, and without negligence, for the purposes of this Act.
- (2) If subsection (1) prevents a civil liability attaching to the integrity commissioner, the liability attaches instead to the State.

## Chapter 3      Advice on ethics or integrity issues

### Part 1              Core concepts

#### 9              Meaning of *ethics or integrity issue*

- (1) An *ethics or integrity issue* is an issue concerning ethics or integrity and includes a conflict of interest issue.
- (2) Also, only for a request by the Premier under part 2, an *ethics or integrity issue* includes standard setting for ethics or integrity issues.

#### 10              Meaning of *conflict of interest issue* and references to *interest or conflict of interest*

- (1) A *conflict of interest issue*, involving a person, is an issue about a conflict or possible conflict between a personal interest of the person and the person's official responsibilities.
- (2) A reference to an *interest* or to a *conflict of interest* is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1 does not apply.

#### 11              Meaning of *interests issues*

*Interests issues*, for a member of the Legislative Assembly, means ethics or integrity issues relevant to the member for, or in, the register of members' interests, or the register of related persons' interests, kept under the *Parliament of Queensland Act 2001*, section 69C.

#### 12              Meaning of *designated person*

- (1) Each of the following persons is a *designated person*—

- (a) a member of the Legislative Assembly;
  - (b) a statutory office holder;
  - (c) a chief executive of a department of government or a public service office;
  - (d) a senior executive or senior officer;
  - (e) a chief executive of, or a senior officer equivalent employed in, a government entity who is nominated by the Minister responsible for administering the entity;
  - (f) a ministerial staff member who gives, or a person engaged to give, advice to a Minister;
  - (g) an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister;
  - (h) without limiting paragraph (f) or (g), a person, or a person within a class of person, nominated by a Minister or Assistant Minister.
- (2) A nomination under subsection (1)(e) or (h) must be by signed notice given to the integrity commissioner.
- (3) A non-government member may not be nominated under subsection (1)(h).

### **13 Meaning of *information***

*Information*, in this chapter, includes a document.

## **Part 2 Advice for designated persons on ethics or integrity issues**

### **14 Application of pt 2**

This part does not apply in relation to advice for a member of the Legislative Assembly on interests issues.

*Note—*

Part 3 applies in relation to advice for a member on interests issues.

## **15 Request for advice**

- (1) A designated person (the *advisee*) may, by written request to the integrity commissioner, ask for the integrity commissioner's advice on an ethics or integrity issue involving the person.
- (2) Also, a particular designated person or former designated person (also the *advisee*) may, by written request to the integrity commissioner, ask for the integrity commissioner's advice on an ethics or integrity issue as provided for by sections 16 to 20A.
- (3) The advisee must disclose to the integrity commissioner all information relevant to the ethics or integrity issue.
- (4) The integrity commissioner may ask the advisee for further information for the purpose of giving the advice on the ethics or integrity issue.
- (5) To remove any doubt, it is declared that, subject to sections 16 and 20A, the integrity commissioner's advice must not be requested by or about a person who has been, but is not presently, a designated person.

## **16 Request by Premier**

The Premier may ask for the integrity commissioner's advice on—

- (a) an ethics or integrity issue involving any person who is, or has been, a designated person other than a non-government member; or
- (b) standard setting for ethics or integrity issues.

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## **17 Request by Minister**

A Minister who is not the Premier may ask for the integrity commissioner's advice on an ethics or integrity issue involving a designated person who is—

- (a) a statutory office holder whose office is established under an Act administered by the Minister; or
- (b) the chief executive of a department or public service office administered by the Minister or a senior executive or senior officer employed in the department or public service office; or
- (c) a chief executive of a government entity, or a senior officer equivalent employed in a government entity, nominated by the Minister under section 12(1)(e); or
- (d) mentioned in section 12(1)(f); or
- (e) nominated by the Minister under section 12(1)(h).

## **18 Request by Assistant Minister**

An Assistant Minister may ask for the integrity commissioner's advice on an ethics or integrity issue involving a designated person who is—

- (a) mentioned in section 12(1)(g); or
- (b) nominated by the Assistant Minister under section 12(1)(h).

## **19 Request by Leader of the Opposition**

The Leader of the Opposition may ask for the integrity commissioner's advice on an ethics or integrity issue involving a non-government member who is a member of the political party to which the Leader of the Opposition belongs.

## **20 Request by chief executive**

- (1) The chief executive of a department or public service office may ask for the integrity commissioner's advice on an ethics or integrity issue involving a designated person employed in the department or public service office.
- (2) The chief executive of a government entity who is nominated by the Minister under section 12(1)(e) may ask for the integrity commissioner's advice on an ethics or integrity issue involving a senior officer equivalent who is—
  - (a) nominated by the Minister under section 12(1)(e); and
  - (b) employed in the entity managed by the chief executive.

## **20A Request by former designated person**

- (1) Within 2 years after ceasing to be a designated person, 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 designated person; and
    - (ii) relates to contact with a government representative or Opposition representative; or
  - (b) an obligation applying to the person under section 70.

## **21 Advice**

- (1) If, under section 15, a designated person asks the integrity commissioner for advice on an integrity or ethics issue, the integrity commissioner must give the designated person advice on the issue.



- (2) The integrity commissioner must give the advice in writing.
- (3) For giving the advice, the integrity commissioner—
  - (a) must have regard to the following—
    - (i) approved codes of conduct and approved standards of practice under the *Public Sector Ethics Act 1994*;
    - (ii) ethical standards or codes of conduct adopted by the Legislative Assembly by resolution;
    - (iii) ethical standards or codes of conduct approved by the Premier for Ministers; and
  - (b) may have regard to other ethical standards the integrity commissioner considers appropriate.
- (4) However, subsection (1) does not apply if the integrity commissioner—
  - (a) reasonably believes—
    - (i) the integrity commissioner does not have enough information in relation to the ethics or integrity issue to give the advice; or
    - (ii) the advice is asked for in circumstances where the giving of the advice would not be in keeping with the purpose of this Act; and
  - (b) gives the designated person written reasons for refusing to give the advice.
- (5) In this section—

*designated person* includes a person who may ask for the integrity commissioner’s advice under section 20A.

## **Part 3**

# **Meeting with and advice for members of Legislative Assembly on interests issues**

### **22 Meeting**

- (1) A member of the Legislative Assembly may request a meeting with the integrity commissioner on interests issues for the member.
- (2) The member must disclose to the integrity commissioner all information relevant to the interests issues.
- (3) The integrity commissioner may ask the member of the Legislative Assembly for further information for the purpose of having the meeting or giving advice on the interests issues.

### **23 Advice**

- (1) If a member of the Legislative Assembly meets with the integrity commissioner on interests issues, the integrity commissioner must give the member advice on the interests issues.
- (2) The integrity commissioner may give the advice orally or in writing.
- (3) For giving the advice, the integrity commissioner—
  - (a) must have regard to the following—
    - (i) approved codes of conduct and approved standards of practice under the *Public Sector Ethics Act 1994*;
    - (ii) ethical standards or codes of conduct adopted by the Legislative Assembly by resolution;
    - (iii) ethical standards or codes of conduct approved by the Premier for Ministers; and
  - (b) may have regard to other ethical standards the integrity commissioner considers appropriate.

- (4) However, subsection (1) does not apply if the integrity commissioner—
- (a) reasonably believes—
    - (i) the integrity commissioner does not have enough information in relation to the interests issues to give the advice; or
    - (ii) the advice is asked for in circumstances where the giving of the advice would not be in keeping with the purpose of this Act; and
  - (b) gives the member written reasons for refusing to give the advice.

## **Part 4                      Confidentiality and protection**

### **Division 1                Secrecy**

#### **24            Secrecy**

- (1) A person must not record, use or disclose information in relation to an ethics or integrity issue about another person that came to the person's knowledge because of the person's involvement in the administration of this chapter.

Maximum penalty—85 penalty units or 1 year's imprisonment.

- (2) Subsection (1) does not apply to a person's recording, use or disclosure of information if the recording, use or disclosure is—
- (a) in the performance of his or her functions under this chapter; or
  - (b) authorised under this or another Act.

- (3) A person who is or has been involved in the administration of this chapter is not, in any proceeding, compellable to disclose information in relation to an ethics or integrity issue about another person that came to the person's knowledge because of the person's involvement in the administration of this chapter.

## **Division 2                      Authorised disclosures—ethics or integrity issue**

### **25            Definitions for division**

In this division—

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

*relevant document*, for an ethics or integrity issue, means each of the following documents—

- (a) the request under section 15 for advice on the ethics or integrity issue;
- (b) any information given to the integrity commissioner under section 15(4);
- (c) any further information requested by the integrity commissioner under section 15(5) and given to the integrity commissioner;
- (d) any written advice given by the integrity commissioner on the ethics or integrity issue;
- (e) any written reasons of the integrity commissioner for refusing to give the advice.

### **26            Disclosure**

- (1) This section applies if a designated person or former designated person makes a request under section 15 for advice on an ethics or integrity issue.

- (2) A relevant document for the ethics or integrity issue may be disclosed under this division.
- (3) To remove any doubt, it is declared that the integrity commissioner must not disclose a relevant document relating to a person who has been, but is not presently, a designated person, other than under section 28.

**27 Disclosure by designated person to whom a relevant document relates**

A person who is or has been a designated person to whom a relevant document relates may disclose the document.

**28 Disclosure to designated person to whom a relevant document relates**

The integrity commissioner may disclose a relevant document to the person who is or has been the designated person to whom the relevant document relates.

**29 Disclosure to Premier**

- (1) The integrity commissioner must give to the Premier a copy of a relevant document relating to a particular designated person, other than a non-government member, a senior executive, senior officer or senior officer equivalent, if—
  - (a) the Premier asks for a copy of the document; or
  - (b) the integrity commissioner reasonably believes the designated person has an actual or perceived, and significant, ethics or integrity issue.
- (2) The integrity commissioner may give a copy of a relevant document to the Premier under subsection (1)(b) only if—
  - (a) the integrity commissioner gives the designated person written advice that the integrity commissioner has the belief mentioned in subsection (1)(b) and is required to give a copy of the document to the Premier; and

- (b) the designated person fails to resolve the issue to the integrity commissioner's satisfaction within 5 business days after being given the advice.

### **30 Disclosure to Minister**

The integrity commissioner must give to a Minister a copy of a relevant document relating to a particular designated person, other than a senior executive, senior officer or senior officer equivalent, if—

- (a) the Minister asks for a copy of the document; and
- (b) the person is a person about whom the Minister may request advice under section 17.

### **31 Disclosure to Assistant Minister**

The integrity commissioner must give to an Assistant Minister a copy of a relevant document relating to a particular designated person, other than a senior executive, senior officer or senior officer equivalent, if—

- (a) the Assistant Minister asks for a copy of the document; and
- (b) the person is a person about whom the Assistant Minister may request advice under section 18.

### **32 Disclosure to Leader of the Opposition**

- (1) The integrity commissioner must give to the Leader of the Opposition a copy of a relevant document relating to a non-government member who is a member of the political party to which the Leader of the Opposition belongs, if—
  - (a) the Leader of the Opposition asks for a copy of the document; or
  - (b) the integrity commissioner reasonably believes the person has an actual or perceived, and significant, ethics or integrity issue.

- 
- (2) The integrity commissioner may give a copy of a relevant document to the Leader of the Opposition under subsection (1)(b) only if—
- (a) the integrity commissioner gives the designated person written advice that the integrity commissioner has the belief mentioned in subsection (1)(b) and is required to give a copy of the document to the Leader of the Opposition; and
  - (b) the designated person fails to resolve the issue to the integrity commissioner's satisfaction within 5 business days after being given the advice.

### **33 Disclosure to chief executive officer**

- (1) The integrity commissioner must give to the chief executive of a department or public service office a copy of a relevant document relating to a particular designated person if—
- (a) the designated person is a person about whom the chief executive may request advice under section 20(1); and
  - (b) either—
    - (i) the chief executive asks for a copy of the document; or
    - (ii) the integrity commissioner reasonably believes the designated person has an actual or perceived, and significant, ethics or integrity issue.
- (2) The integrity commissioner must give to the chief executive of a government entity who is nominated by the Minister under section 12(1)(e) a copy of a relevant document relating to a particular designated person if—
- (a) the designated person is a person about whom the chief executive may request advice under section 20(2); and
  - (b) either—
    - (i) the chief executive asks for a copy of the document; or

- (ii) the integrity commissioner reasonably believes the designated person has an actual or perceived, and significant, ethics or integrity issue.
- (3) The integrity commissioner may give a copy of a relevant document to a chief executive under subsection (1)(b)(ii) or (2)(b)(ii) only if—
  - (a) the integrity commissioner gives the designated person written advice that the integrity commissioner has the belief mentioned in subsection (1)(b)(ii) or (2)(b)(ii) and is required to give a copy of the document to the chief executive; and
  - (b) the designated person fails to resolve the issue to the integrity commissioner's satisfaction within 5 business days after being given the advice.

## **Division 3                      Authorised disclosures—interests issues**

### **34            Definitions for division**

In this division—

*member to whom a relevant document relates* means the member of the Legislative Assembly involved in interests issues and to whom the relevant document relates.

*relevant document*, for interests issues, means each of the following documents—

- (a) the request under section 22 for a meeting with the integrity commissioner on the interests issues;
- (b) any information given to the integrity commissioner under section 22(2);
- (c) any further information requested by the integrity commissioner under section 22(3) and given to the integrity commissioner;



- (d) any written advice given by the integrity commissioner on the interests issues;
- (e) any written reasons of the integrity commissioner for refusing to give the advice.

### **35 Disclosure**

- (1) This section applies in relation to interests issues of a member of the Legislative Assembly.
- (2) A relevant document for interests issues may be disclosed under this division.

### **36 Disclosure by member to whom a relevant document relates**

A person who is or has been the member to whom a relevant document relates may disclose the document.

### **37 Disclosure to member to whom a relevant document relates**

The integrity commissioner may disclose a relevant document to the person who is or has been the member to whom the relevant document relates.

### **38 Disclosure to Premier**

- (1) The integrity commissioner must give to the Premier a copy of a relevant document relating to a particular member of the Legislative Assembly, other than a non-government member, if—
  - (a) the Premier asks for a copy of the document; or
  - (b) the integrity commissioner reasonably believes the member has an actual or perceived, and significant, interests issue.
- (2) The integrity commissioner may give a copy of a relevant document to the Premier under subsection (1)(b) only if—

- (a) the integrity commissioner gives the member of the Legislative Assembly written advice that the integrity commissioner has the belief mentioned in subsection (1)(b) and is required to give a copy of the document to the Premier; and
- (b) the member fails to resolve the interests issue to the integrity commissioner's satisfaction within 5 business days after being given the advice.

### **39 Disclosure to Leader of the Opposition**

- (1) The integrity commissioner must give to the Leader of the Opposition a copy of a relevant document relating to a non-government member who is a member of the political party to which the Leader of the Opposition belongs, if—
  - (a) the Leader of the Opposition asks for a copy of the document; or
  - (b) the integrity commissioner reasonably believes the member has an actual or perceived, and significant, interests issue.
- (2) The integrity commissioner may give a copy of a relevant document to the Leader of the Opposition under subsection (1)(b) only if—
  - (a) the integrity commissioner gives the non-government member written advice that the integrity commissioner has the belief mentioned in subsection (1)(b) and is required to give a copy of the document to the Leader of the Opposition; and
  - (b) the member fails to resolve the interests issue to the integrity commissioner's satisfaction within 5 business days after being given the advice.

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## **Division 4                      Protection**

### **40            Limited protection for acting on conflict of interest advice**

- (1) This section applies if a designated person—
  - (a) asks under section 15 for the integrity commissioner’s advice on a conflict of interest issue involving the designated person; and
  - (b) discloses all relevant information in relation to the issue to the integrity commissioner when seeking the advice; and
  - (c) does an act to resolve the conflict substantially in accordance with the integrity commissioner’s advice on the issue.
- (2) The designated person is not liable in a civil proceeding or under an administrative process for the act taken by the person to resolve the conflict.
- (3) To remove any doubt, it is declared that subsection (2) does not affect the designated person’s liability for an act or omission done or made in connection with the conflict of interest issue before the person receives the integrity commissioner’s advice.

## Chapter 3A Managing conflicts of interest

### Part 1 Ministers

#### 40A Conflicts of interest

- (1) This section applies if a Minister has an interest that conflicts or may conflict with the discharge of the Minister's responsibilities.
- (2) The Minister must not, with intent to dishonestly obtain a benefit for the Minister or another person, or to dishonestly cause a detriment to another person, fail to disclose the nature of the interest and conflict to—
  - (a) for a conflict relating to a matter being considered by Cabinet—Cabinet or, for a Minister other than the Premier, Cabinet or the Premier; or
  - (b) for a conflict relating to a matter being considered by a committee of Cabinet—the committee or Cabinet or, for a Minister other than the Premier, the committee, Cabinet or the Premier; or
  - (c) otherwise—Cabinet or, for a Minister other than the Premier, Cabinet or the Premier.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) In this section—

*benefit* includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

*detriment*, caused to a person, includes detriment caused to a person's property.

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## **40B Proceeding for offence against s 40A**

- (1) An offence against section 40A is a misdemeanour.
- (2) A proceeding for an offence against section 40A may be started only with the written consent of the director of public prosecutions.
- (3) A proceeding for an offence against section 40A may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 40A summarily if the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

- (5) If subsection (4) applies—
  - (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and
  - (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 40A—
  - (a) must be constituted by a magistrate; and

- (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.
- (7) In this section—

*director of public prosecutions* means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

#### **40C Use of information for investigation or prosecution**

- (1) This section applies to information about a person given to the integrity commissioner under this Act, including, for example—
- (a) information given in a request for advice under chapter 3, part 2; and
  - (b) information given in a meeting under chapter 3, part 3.
- (2) The information may be—
- (a) recorded, used and disclosed for the purpose of the investigation or prosecution of an offence against section 40A; and
  - (b) given in a proceeding against a person for an offence against section 40A to the extent necessary to prosecute the person for the offence.
- (3) Subsection (2) applies despite—
- (a) section 24; and
  - (b) any other law, rule or practice to the contrary.

## **Part 2 Statutory office holders**

#### **40D Definition for part**

In this part—

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*relevant Minister* means the Minister administering the Act under which a statutory office holder is appointed.

#### **40E Declaration of interests**

- (1) This section applies to the following on appointment—
  - (a) a statutory office holder mentioned in schedule 1;
  - (b) another statutory office holder prescribed under a regulation.

*Note—*

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, schedule 1, definition *appoint*.

- (2) The holder must, within 1 month, give the integrity commissioner and the relevant Minister a statement about his or her interests.

*Note—*

See section 10(2) for the meaning of a reference to an interest.

- (3) The statement must include the information required under the *Public Service Act 2008*, section 101(3).
- (4) Subsections (5) and (6) apply if—
  - (a) a change to the holder's interests happens after the giving of the statement; and
  - (b) the change is of a type mentioned in the *Public Service Act 2008*, section 101(4)(b).
- (5) The holder must give the integrity commissioner and the relevant Minister a revised version of the statement.
- (6) The revised version must—
  - (a) be given as soon as possible after the relevant facts about the change come to the holder's knowledge; and
  - (b) comply with subsection (3).
- (7) When giving the integrity commissioner a statement under subsection (2) or (5), the holder must also give the integrity

commissioner written advice that the holder has given the statement to the relevant Minister.

#### **40F Conflicts of interest**

- (1) If a statutory office holder has an interest that conflicts or may conflict with the discharge of the holder's responsibilities, the holder—
  - (a) must disclose the nature of the interest and conflict to the relevant Minister as soon as practicable after the relevant facts come to the holder's knowledge; and
  - (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the relevant Minister.

*Note—*

See section 10(2) for the meaning of a reference to an interest or to a conflict of interest.

- (2) The relevant Minister may direct a statutory office holder to resolve a conflict or possible conflict between an interest of the holder and the holder's responsibilities.

## **Chapter 4 Regulation of lobbying activities**

### **Part 1 Core concepts**

#### **41 Meaning of *lobbyist* and *third party client* and related concepts**

- (1) A *lobbyist* is an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client.



(2) A **third party client** is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.

(3) However, none of the following entities is a lobbyist—

- (a) a non-profit entity;
- (b) an entity constituted to represent the interests of its members;

*Examples—*

- an employer group
- a trade union
- a professional body, for example, the Queensland Law Society

- (c) members of trade delegations visiting Queensland;
- (d) an entity carrying out incidental lobbying activities;
- (e) an entity carrying out a lobbying activity only for the purpose of representing the entity's own interests.

(4) Also—

- (a) an employee or contractor of, or person otherwise engaged by, an entity mentioned in subsection (3)(a) to (d) is not a lobbyist in relation to contact carried out for the entity; and
- (b) an employee of an entity mentioned in subsection (3)(e) is not a lobbyist in relation to contact carried out for the entity.

(5) A **non-profit entity** is an entity that is not carried on for the profit or gain of its individual members.

*Examples of entities that may be non-profit entities—*

a charity, church, club or environmental protection society

(6) An entity carries out **incidental lobbying activities** if the entity undertakes, or carries on a business primarily intended to allow individuals to undertake, a technical or professional occupation in which lobbying activities are occasional only

and incidental to the provision of professional or technical services.

*Examples of entities for subsection (6)—*

- an entity carrying on the business of providing architectural services as, or by using, a practising architect under the *Architects Act 2002*
- an entity carrying on the business of providing professional engineering services as, or by using, a registered professional engineer under the *Professional Engineers Act 2002*
- an entity carrying on the business of providing legal services as an Australian legal practitioner or a law practice under the *Legal Profession Act 2007*
- an entity carrying on the business of providing accounting services as, or by using, an accountant who holds a practising certificate issued by CPA Australia, the Institute of Chartered Accountants in Australia or the Institute of Public Accountants

## **42 Meaning of *lobbying activity* and *contact***

(1) ***Lobbying activity*** is—

- (a) contact with a government representative in an effort to influence State or local government decision-making, including—
  - (i) the making or amendment of legislation; and
  - (ii) the development or amendment of a government policy or program; and
  - (iii) the awarding of a government contract or grant; and
  - (iv) the allocation of funding; and
  - (v) the making of a decision about planning or giving of a development approval under the *Planning Act 2016*; or
- (b) contact with an Opposition representative in an effort to influence the Opposition's decision-making, including—
  - (i) the making or amendment of legislation; and

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- (ii) the development or amendment of a policy or program of the Opposition; and
  - (iii) the Opposition's position or view in relation to State or local government decision-making, including, for example, the matters mentioned in paragraph (a)(i) to (v).
- (2) However, the following contact is not a lobbying activity—
- (a) contact with a committee of the Legislative Assembly or a local government;
  - (b) contact with a member of the Legislative Assembly, or a councillor, in his or her capacity as a local representative on a constituency matter;
  - (c) contact in response to a call for submissions;
  - (d) petitions or contact of a grassroots campaign nature in an attempt to influence a government policy or decision;
  - (e) contact in response to a request for tender;
  - (f) statements made in a public forum;
  - (g) responses to requests by government representatives or Opposition representatives for information;
  - (h) incidental meetings beyond the control of a government representative or Opposition representative;
- Example—*
- A Minister or the Leader of the Opposition speaks at a conference and has an unscheduled discussion with a lobbyist who is a conference participant.
- (i) contact on non-business issues, including, for example, issues not relating to a third party client of the lobbyist or the lobbyists' sector;
  - (j) contact only for the purpose of making a statutory application.
- (3) **Contact** includes telephone contact, email contact, written mail contact and face-to-face meetings.
- (4) In this section—

***statutory application*** means an application under an Act that is considered and decided by a government representative under that Act.

*Example—*

an application for a licence, permit or other authority

#### **43 Meaning of *lobbyists register* and *lobbyists code of conduct***

- (1) The ***lobbyists register*** is the register, kept under section 49, of lobbyists registered under this Act.
- (2) The ***lobbyists code of conduct*** is the code, approved under section 68, of conduct for lobbyists in relation to lobbying activities.

#### **44 Meaning of *government representative***

Each of the following people is a ***government representative***—

- (a) the Premier or another Minister;
- (b) an Assistant Minister;
- (c) a councillor;
- (d) a public sector officer;
- (e) a ministerial staff member;
- (f) an assistant minister staff member.

#### **45 Meaning of *former senior government representative***

- (1) A person is a ***former senior government representative*** if the person—
  - (a) was 1 of the following people—
    - (i) the Premier or another Minister;
    - (ii) an Assistant Minister;
    - (iii) a councillor;

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- (iv) a public sector officer, who was a chief executive, senior executive or senior executive equivalent;
  - (v) a ministerial staff member;
  - (vi) an assistant minister staff member; and
- (b) is no longer a government representative and is not an Opposition representative.
- (2) In this section—

*senior executive equivalent* means an employee, other than a chief executive, whose remuneration is equal to or greater than the remuneration payable to a senior executive.

#### 46 Meaning of *councillor*

A *councillor* is a councillor, of a local government, including the mayor, within the meaning of the *Local Government Act 2009*.

#### 47 Meaning of *public sector officer*

A *public sector officer* is the chief executive of, or a person employed by, 1 of the following entities—

- (a) a department;
- (b) a public service office;
- (c) a registry or other administrative office of a court or tribunal;
- (d) a local government;
- (e) a corporate entity under the *Local Government Act 2009*;
- (f) the parliamentary service;
- (g) a government owned corporation;
- (h) a rail government entity under the *Transport Infrastructure Act 1994*;

[s 47A]

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- (i) an entity, prescribed by regulation, that is assisted by public funds.

#### **47A Meaning of *Opposition representative***

Each of the following people is an *Opposition representative*—

- (a) the Leader of the Opposition;
- (b) the Deputy Leader of the Opposition;
- (c) a staff member in the office of the Leader of the Opposition.

#### **47B Meaning of *former Opposition representative***

A person is a *former Opposition representative* if the person—

- (a) was 1 of the following people—
  - (i) the Leader of the Opposition;
  - (ii) the Deputy Leader of the Opposition;
  - (iii) a staff member in the office of the Leader of the Opposition; and
- (b) is no longer an Opposition representative and is not a government representative.

## **Part 2 Registration of lobbyists**

### **Division 1 Interpretation**

#### **48 Definitions for part**

In this part—

*listed person* see section 49.

*proposed listed person* see section 53.

*registrant* means an entity registered as a lobbyist in the lobbyists register.

## Division 2 Register

### 49 Register

- (1) The integrity commissioner must keep a register of registered lobbyists.
- (2) The lobbyists register must be published on the integrity commissioner's website.
- (3) The lobbyists register must contain the following particulars for each registered lobbyist—
  - (a) the lobbyist's name and business registration particulars;
  - (b) for each person (*listed person*) employed, contracted or otherwise engaged by the lobbyist to carry out a lobbying activity—
    - (i) the person's name and role; and
    - (ii) if the person is a former senior government representative or a former Opposition representative, the date the person became a former senior government representative or a former Opposition representative;
  - (c) the name of each current third party client of the lobbyist;
  - (d) the name of each third party client for which the lobbyist has carried out a lobbying activity within the 12-month period before the lobbyist most recently gave the integrity commissioner the particulars under this division or section 53;
  - (e) other particulars prescribed under a regulation.

## 50 Timely updating of particulars

- (1) If a particular provided for an application under section 53 changes, the registrant must give the integrity commissioner written notice of the change as soon as practicable and before the end of 10 business days after the registrant becomes aware of the change.
- (2) As soon as practicable after being given notice of a change, the integrity commissioner must update the lobbyists register (if appropriate).

## 51 Updating of particulars contained in application

By 31 July each year, the registrant must give the integrity commissioner—

- (a) confirmation that the particulars previously provided to the integrity commissioner in relation to the registration remain correct; and
- (b) if a statutory declaration by a person was required for the registrant's application for registration, a new statutory declaration by the person.

*Example—*

A registrant becomes registered in February 2010. By 31 July 2010 and each following year, the registrant must comply with this section.

## Division 3 Registration

### 52 Definitions for division

In this division—

*accepted representations* see section 58.

*show cause notice* see section 57.

*show cause period* see section 57.



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### 53 Application for registration

- (1) Any entity may apply for registration as a lobbyist.
- (2) An application must—
  - (a) be made to the integrity commissioner; and
  - (b) be in the approved form.
- (3) The approved form may require the disclosure of any relevant criminal history of the applicant and each person (***proposed listed person***) employed, contracted or otherwise engaged by the applicant to carry out a lobbying activity.
- (4) If the approved form requires the disclosure of a person's relevant criminal history, the *Criminal Law (Rehabilitation of Offenders) Act 1986* applies to the disclosure.
- (5) Information in the application must, if the approved form requires, be verified by a statutory declaration.
- (6) In this section—

***dishonesty offence*** means an offence involving fraud or dishonesty.

***relevant criminal history***, for a person, means—

- (a) any offence for which the person has been sentenced to a term of imprisonment of 30 months or more; or
- (b) any dishonesty offence for which the person has, as an adult, had a conviction in the previous 10 years.

### 54 Integrity commissioner's powers before deciding application

- (1) Before deciding an entity's application for registration, the integrity commissioner may, by notice given to the applicant, require the applicant to give the integrity commissioner, within a reasonable time of at least 5 business days stated in the notice, further information or a document the integrity commissioner reasonably requires to decide the application.
- (2) The integrity commissioner may require the information or document to be verified by a statutory declaration.

- (3) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement made under this section.

## **55 Grounds for refusing registration**

An entity's application for registration may be refused on any of the following grounds—

- (a) the application includes a materially false or misleading representation or declaration;
- (b) the entity or a proposed listed person has previously failed to comply with obligations under the lobbyists code of conduct or a requirement under this chapter;
- (c) another ground the integrity commissioner considers sufficient.

*Examples—*

- 1 The integrity commissioner may consider it sufficient that, in Queensland or elsewhere, the entity or a proposed listed person has acted in a way the integrity commissioner considers is inconsistent with general standards of ethical behaviour.
- 2 If the entity or a proposed listed person has been removed from a register of lobbyists of the Commonwealth or another State, the integrity commissioner may, in deciding whether there is a ground the integrity commissioner considers sufficient, have regard to the facts and circumstances which resulted in the removal.

## **56 Decision**

- (1) The integrity commissioner must consider the application as soon as practicable and decide to—
  - (a) register the applicant as a lobbyist; or
  - (b) ask the applicant to show cause why the application should not be refused.

- (2) If the integrity commissioner makes a decision mentioned in subsection (1)(a), the integrity commissioner must as soon as practicable—
  - (a) enter the lobbyist's particulars in the lobbyists register; and
  - (b) advise the lobbyist.
- (3) If the integrity commissioner makes a decision mentioned in subsection (1)(b), the integrity commissioner must as soon as practicable give the applicant a notice under section 57.

## **57 Show cause notice**

- (1) The integrity commissioner must, before refusing to register an applicant, give the applicant a notice (a *show cause notice*).
- (2) The show cause notice must—
  - (a) state the integrity commissioner proposes to refuse the registration; and
  - (b) state the ground for the proposed refusal; and
  - (c) outline the facts and circumstances forming the basis for the ground; and
  - (d) invite the applicant to show within a stated period (the *show cause period*) why the registration should not be refused.
- (3) The show cause period must be a period ending not less than 10 business days after the show cause notice is given to the applicant.

## **58 Representations about show cause notice**

- (1) The applicant may make written representations about the show cause notice to the integrity commissioner during the show cause period.

- (2) The integrity commissioner must consider all written representations (the *accepted representations*) made under subsection (1).

## 59 Registration

If, after considering the accepted representations for the show cause notice, the integrity commissioner no longer believes the ground exists to refuse the registration, the integrity commissioner must make a decision under section 56(1)(a).

## 60 Refusal to register

- (1) This section applies if, after considering the accepted representations for the show cause notice, the integrity commissioner—
- (a) still believes the ground exists to refuse the registration; and
  - (b) believes refusal of the registration is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The integrity commissioner may decide to refuse the registration.
- (4) If the integrity commissioner decides to refuse the registration, the integrity commissioner must as soon as practicable give the applicant notice of the decision.

## Division 4 Cancellation etc. of registration

### 61 Definitions for division

In this division—

*accepted representations* see section 64.

*show cause notice* see section 63.

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*show cause period* see section 63.

## 62 Grounds for cancellation etc.

- (1) A registrant's registration may be cancelled on any of the following grounds—
  - (a) the registrant was registered because of a materially false or misleading representation or declaration;
  - (b) the registrant or a listed person for the registrant has failed to comply with obligations under the lobbyists code of conduct or a requirement under this chapter;
  - (c) another ground the integrity commissioner considers sufficient.

*Examples—*

- 1 The integrity commissioner may consider it sufficient that, in Queensland or elsewhere, the registrant or a listed person has acted in a way the integrity commissioner considers is inconsistent with general standards of ethical behaviour.
  - 2 If the registrant or a listed person has been removed from a register of lobbyists of the Commonwealth or another State, the integrity commissioner may, in deciding whether there is a ground the integrity commissioner considers sufficient, have regard to the facts and circumstances which resulted in the removal.
- (2) The grounds mentioned in subsection (1) are also grounds for issuing a warning or suspending the registrant's registration under section 66A.

## 63 Show cause notice

- (1) If the integrity commissioner believes a ground mentioned in section 62(1) exists in relation to a registrant's registration, the integrity commissioner must, before taking action under section 66 or 66A, give the registrant a notice (a *show cause notice*).
- (2) The show cause notice must—

- (a) state the integrity commissioner proposes to cancel the registration; and
  - (b) state the ground for the proposed cancellation; and
  - (c) outline the facts and circumstances forming the basis for the ground; and
  - (d) state that, under section 66A, the integrity commissioner may instead of cancelling the registration issue a warning to the registrant or suspend the registration for a reasonable period if the integrity commissioner is satisfied cancellation of the registration is not warranted; and
  - (e) invite the registrant to show within a stated period (the *show cause period*)—
    - (i) why the registration should not be cancelled; or
    - (ii) why the integrity commissioner should issue a warning or suspend the registration instead of cancelling the registration.
- (3) The show cause period must be a period ending not less than 10 business days after the show cause notice is given to the registrant.

#### **64 Representations about show cause notice**

- (1) The registrant may make written representations about the show cause notice to the integrity commissioner during the show cause period.
- (2) The integrity commissioner must consider all written representations (the *accepted representations*) made under subsection (1).

#### **65 No cancellation etc.**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the integrity commissioner no longer believes a ground mentioned in section 62(1) exists in relation to the registration.

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- (2) The integrity commissioner must not take any further action about the show cause notice.
  - (3) The integrity commissioner must also as soon as practicable after coming to the belief give notice to the registrant that no further action is to be taken about the show cause notice.

## **66 Cancellation**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the integrity commissioner—
  - (a) still believes a ground mentioned in section 62(1) exists in relation to the registration; and
  - (b) believes cancellation of the registration is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The integrity commissioner may decide to cancel the registration.
- (4) In deciding whether to cancel the registration, the integrity commissioner may have regard to any warning previously issued to the registrant under section 66A.
- (5) If the integrity commissioner decides to cancel the registration—
  - (a) the decision takes effect when the registrant's particulars are removed from the lobbyists register; and
  - (b) the integrity commissioner must as soon as practicable give the registrant notice of the decision.

## **66A Alternatives to cancellation**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the integrity commissioner—
  - (a) still believes a ground mentioned in section 62(1) exists in relation to the registration; and

- (b) having regard to the seriousness of the matter constituting the ground and any warning previously issued to the registrant under this section, believes that action under subsection (2) should be taken instead of cancelling the registration.
- (2) Instead of cancelling the registrant's registration, the integrity commissioner may decide to—
  - (a) issue a warning to the registrant; or
  - (b) suspend the registrant's registration for a reasonable period.
- (3) If the integrity commissioner decides to issue a warning to the registrant, the integrity commissioner must as soon as practicable give the registrant notice of the decision.
- (4) The notice must state that, under section 66(4) and subsection (1)(b), the integrity commissioner may, in relation to a ground mentioned in section 62(1) arising after the warning is issued, have regard to the issue of the warning in deciding whether—
  - (a) the registrant's registration should be cancelled; or
  - (b) action under subsection (2) should be taken instead of cancelling the registration.
- (5) If the integrity commissioner decides to suspend the registration, the integrity commissioner must—
  - (a) give the registrant notice of the decision stating the period of the suspension; and
  - (b) ensure the registrant's particulars are removed from the lobbyists register for the period of the suspension.



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## Part 3                                      Limitations on lobbying activities

### 67            Definitions for part

In this part—

*listed person* see section 49.

*lobbyist* includes a listed person for the lobbyist.

### 68            Lobbyists code of conduct

- (1) The integrity commissioner may, after consultation with the parliamentary committee, approve a lobbyists code of conduct.
- (2) The lobbyists code of conduct must be published on the integrity commissioner's website.
- (3) The purpose of the lobbyists code of conduct is to provide standards of conduct for lobbyists designed to ensure that contact between lobbyists and government representatives, and contact between lobbyists and Opposition representatives, is carried out in accordance with public expectations of transparency and integrity.
- (4) The lobbyists code of conduct may impose obligations on lobbyists to give the integrity commissioner information about lobbying activities carried out by them.
- (5) Lobbyists must comply with the lobbyists code of conduct.

### 69            Success fee prohibited

- (1) An entity, other than a lobbyist, that has engaged a lobbyist (the *relevant lobbyist*) to undertake a lobbying activity must not give, or agree to give, to the relevant lobbyist or a related person for the relevant lobbyist a success fee in relation to the lobbying activity carried out by or for the relevant lobbyist.

Maximum penalty—200 penalty units.

- (2) A lobbyist or a related person for the lobbyist must not receive, or agree that the lobbyist or the related person receive, a success fee in relation to a lobbying activity carried out by or for the lobbyist.

Maximum penalty—200 penalty units.

- (3) On a conviction under this section for giving or receiving a success fee, the success fee is forfeited to the State.
- (4) Anything forfeited to the State by a person under subsection (3) must be returned to the person if the conviction mentioned in that subsection is quashed.
- (5) In this section—

*conviction* includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

*related person* see the *Duties Act 2001*, section 61(1).

*success fee*, in relation to a lobbying activity, means an amount of money or other reward the giving or receiving of all or part of which is contingent on the outcome of the lobbying activity or of lobbying activities including the lobbying activity.

## **70 Related lobbying by former senior government representative or former Opposition representative prohibited**

- (1) For 2 years after a person becomes a former senior government representative or former Opposition representative, the person must not carry out a related lobbying activity for a third party client.
- (2) A government representative must not knowingly permit a person who has been a former senior government representative or former Opposition representative for less than 2 years to carry out with the government representative a related lobbying activity for a third party client.
- (3) An Opposition representative must not knowingly permit a person who has been a former Opposition representative or

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former senior government representative for less than 2 years to carry out with the Opposition representative a related lobbying activity for a third party client.

(4) In this section—

*related lobbying activity*, for a person who is a former senior government representative or former Opposition representative, means a lobbying activity relating to the person's official dealings as a government representative or Opposition representative in the 2 years before becoming a former senior government representative or a former Opposition representative.

## **71 Lobbying by unregistered entity prohibited**

- (1) An entity that is not a registered lobbyist must not carry out a lobbying activity for a third party client.
- (2) A government representative or Opposition representative must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third party client with the government representative or Opposition representative.
- (3) If a government representative or Opposition representative is aware that an entity seeking to carry out a lobbying activity for a third party client with the government representative or Opposition representative is not a registered lobbyist, the responsible person for the government representative or Opposition representative must give the entity's details to the integrity commissioner as soon as practicable.
- (4) The responsible person for a government representative or Opposition representative may delegate the obligation to give details under subsection (3) to a person the responsible person considers to be an appropriate person to give the details to the integrity commissioner.

## **72 Act not to require contact or limit particular contact**

Nothing in this Act—

- (a) requires a government representative or Opposition representative to have contact with a particular lobbyist or lobbyists in general; or
- (b) limits a person's contact with a government representative or Opposition representative if the law requires a government representative or Opposition representative to take account of the views advanced by the person and the person is a lobbyist.

## Part 4                      Miscellaneous

### 72A    Disclosure of information

- (1) This section applies if a lobbyist carries out a lobbying activity with a government representative or Opposition representative.
- (2) The responsible person for the government representative or Opposition representative may give the integrity commissioner information about the lobbyist or lobbying activity if the responsible person reasonably believes the information may be relevant to the functions or powers of the integrity commissioner under this Act.
- (3) Without limiting subsection (2), the responsible person may, under subsection (2), give the integrity commissioner personal information about—
  - (a) the lobbyist; or
  - (b) a person employed, contracted or otherwise engaged by the lobbyist to carry out the lobbying activity; or
  - (c) a third party client for which the lobbyist is carrying out the lobbying activity.

*Note—*

Under the *Information Privacy Act 2009*, an agency within the meaning of that Act having control of a document containing an individual's personal information may disclose the personal information to an entity

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if the disclosure is authorised or required under a law. See the information privacy principle stated in the *Information Privacy Act 2009*, schedule 3, section 11(1)(d).

(4) The responsible person for a government representative or Opposition representative may delegate the power to give information under this section to a person the responsible person considers to be an appropriate person to give the information to the integrity commissioner.

(5) In this section—

*personal information* has the meaning given by the *Information Privacy Act 2009*, section 12.

## Chapter 5 Administrative provisions for integrity commissioner

### 73 Appointment

- (1) The integrity commissioner is to be appointed by the Governor in Council.
- (2) The integrity commissioner is to be appointed under this Act, and not under the *Public Service Act 2008*.

### 74 Procedure before appointment

- (1) A person may be appointed as integrity commissioner only if—
  - (a) the Minister has placed press advertisements nationally calling for applications from suitably qualified persons to be considered for appointment; and
  - (b) the Minister has consulted with the parliamentary committee about—
    - (i) the process of selection for appointment; and

- (ii) the appointment of the person as integrity commissioner.
- (2) A person is suitably qualified for appointment as the integrity commissioner if the person has knowledge, experience, personal qualities and standing within the community suitable to the office.
- (3) Subsection (1)(a) and (b)(i) does not apply to the reappointment of a person as integrity commissioner.

## **75 Term of appointment**

- (1) Subject to sections 78 and 82, the integrity commissioner holds office for the term, not longer than 5 years, stated in the instrument of appointment.
- (2) However, a person being reappointed as integrity commissioner can not be reappointed for a term that would result in the person holding office as integrity commissioner for more than 10 years continuously.

## **76 Remuneration and conditions**

- (1) The integrity commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The remuneration paid to the integrity commissioner must not be reduced during the commissioner's term of office without the integrity commissioner's written consent.
- (3) In relation to matters not provided for by this Act, the integrity commissioner holds office on the terms and conditions decided by the Governor in Council.

## **77 Leave of absence**

The Minister may grant leave of absence to the integrity commissioner on the terms the Minister considers appropriate.

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## 78 Resignation

- (1) The integrity commissioner may resign by signed notice given to the Minister.
- (2) As soon as practicable after the notice is given to the Minister, the Minister must—
  - (a) give the notice to the Governor for information; and
  - (b) give a copy of the notice to—
    - (i) the Speaker; and
    - (ii) the chairperson of the parliamentary committee.
- (3) Failure to comply with subsection (2) does not affect the effectiveness of the resignation.

## 79 Oath before performing duties

- (1) Before performing the duties of office, the integrity commissioner must make an oath or affirmation to the effect that he or she will faithfully and impartially perform the duties of the office.
- (2) The oath must be administered by the Speaker.

## 80 Declaration of interests

- (1) This section applies to the integrity commissioner on appointment.

*Note—*

Appointment includes reappointment. See the *Acts Interpretation Act 1954*, schedule 1, definition *appoint*.

- (2) The integrity commissioner must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—
  - (a) the interests of the integrity commissioner; and
  - (b) the interests of each person who is a related person in relation to the integrity commissioner.

*Note—*

See section 10(2) for the meaning of a reference to an interest.

- (3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the integrity commissioner were a member of the Legislative Assembly.
- (4) Subsections (5) and (6) apply if, after the giving of the statement—
  - (a) there is a change in the interests mentioned in subsection (2); and
  - (b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the integrity commissioner were a member of the Legislative Assembly.
- (5) The integrity commissioner must give the Speaker a revised statement.
- (6) The revised statement must—
  - (a) be given as soon as possible after the relevant facts about the change come to the integrity commissioner's knowledge; and
  - (b) comply with subsection (3).
- (7) The Speaker must, if asked, give a copy of the latest statement to—
  - (a) the Premier; or
  - (b) the leader of a political party represented in the Legislative Assembly; or
  - (c) the Crime and Corruption Commission; or
  - (d) a member of the parliamentary committee.
- (8) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the integrity commissioner to another member of the Legislative Assembly.



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- (9) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the integrity commissioner has not complied with the requirements of this section.

## **81 Conflicts of interest**

- (1) If the integrity commissioner has an interest that conflicts or may conflict with the discharge of the integrity commissioner's responsibilities, the integrity commissioner—
- (a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as practicable after the relevant facts come to the integrity commissioner's knowledge; and
  - (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.

*Note—*

See section 10(2) for the meaning of a reference to an interest or to a conflict of interest.

- (2) If the conflict or possible conflict between an interest of the integrity commissioner and the integrity commissioner's responsibilities is resolved, the integrity commissioner must give to the Speaker and parliamentary committee a statement advising of the action the integrity commissioner took to resolve the conflict or possible conflict.

## **82 Removal from office**

- (1) The following are grounds for removal of the integrity commissioner from office—
- (a) proved incapacity, incompetence or misconduct;
  - (b) conviction of an indictable offence.
- (2) The Governor may, on an address from the Legislative Assembly, remove the integrity commissioner from office.
- (3) The motion for the address may be moved only by the Minister.

- (4) The Minister may move the motion only if—
- (a) the Minister has given the integrity commissioner a statement setting out the reasons for the motion; and
  - (b) the statement and any written response by the integrity commissioner have been tabled in the Legislative Assembly; and
  - (c) the Minister has consulted with the parliamentary committee about the motion; and
  - (d) agreement to the motion has been obtained from—
    - (i) all members of the parliamentary committee; or
    - (ii) a majority of members of the parliamentary committee, other than a majority consisting entirely of members of the political party or parties in government in the Legislative Assembly.

### **83 Delegation of powers**

- (1) The integrity commissioner may delegate the integrity commissioner's functions under chapter 4 to an appropriately qualified public service officer.
- (2) In this section—

*appropriately qualified*, for a public service officer to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

*Example of standing for a public service officer—*

the officer's classification or level in a department or agency

*functions* includes powers.

### **84 Acting integrity commissioner**

- (1) The Governor in Council may appoint a person to act as integrity commissioner—
- (a) during a vacancy in the office; or

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- (b) during any period, or during all periods, when the integrity commissioner is absent from duty or from the State or, for another reason, can not perform the duties of the office.
- (2) To remove any doubt, it is declared that the Governor in Council may appoint a former integrity commissioner to act as integrity commissioner under subsection (1).

## **85 Annual reports of integrity commissioner**

- (1) The integrity commissioner must, as soon as practicable after the end of each financial year, give the Speaker and the parliamentary committee a written report about the performance of the commissioner's functions for the financial year.
- (2) The report must include, in relation to the financial year to which it relates—
- (a) details of compliance by statutory office holders with requirements to give the integrity commissioner statements and written advice under section 40E; and
  - (b) details of compliance by chief executives of departments with requirements to give the integrity commissioner statements and written advice under the *Public Service Act 2008*, section 101; and
  - (c) details of the other matters prescribed under a regulation.
- (3) The report must not disclose information likely to identify a specific request for the integrity commissioner's advice on an ethics or integrity issue, including information likely to identify an individual—
- (a) who requested the integrity commissioner's advice; or
  - (b) about whom the integrity commissioner's advice was requested.
- (4) However, the report may identify—

- (a) a statutory office holder who has not complied with section 40E; or
  - (b) a chief executive who has not complied with the *Public Service Act 2008*, section 101.
- (5) The Speaker must cause the report to be tabled in the Legislative Assembly on the next sitting day after it is given to the Speaker.

## Chapter 6 Strategic reviews of integrity commissioner's functions

### 86 Conduct of reviews

- (1) Strategic reviews of the integrity commissioner's functions must be conducted under this chapter.
- (2) The first review under this section must be conducted within 4 years after the commencement of this section.
- (3) Subject to subsection (2), a strategic review must be conducted at least every 5 years, counting from when the Minister makes a response to the parliamentary committee report in the Legislative Assembly for the most recent earlier strategic review, up to when the reviewer is appointed under subsection (4) to conduct the latest strategic review.
- (4) Each strategic review must be conducted by an appropriately qualified person (*reviewer*), appointed by the Governor in Council, who must give a report on the review.
- (5) The terms of reference for a strategic review are to be decided by the Governor in Council.
- (6) Before a reviewer is appointed to conduct a strategic review, the Minister must consult with the parliamentary committee and the integrity commissioner about—

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- (a) the appointment of the reviewer; and
  - (b) the terms of reference for the review.
- (7) The remuneration and other terms of appointment of the reviewer are as decided by the Governor in Council.
- (8) In this section—
- strategic review*, of the integrity commissioner's functions, includes a review of the commissioner's performance of the functions to assess whether they are being performed economically, effectively and efficiently.

## **87 Powers of strategic review**

In conducting a strategic review—

- (a) the reviewer has the powers an authorised auditor has under the *Auditor-General Act 2009* for an audit of an entity; and
- (b) that Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of the entity.

## **88 Report of strategic review**

- (1) The reviewer for a strategic review must give a copy of the proposed report on the strategic review to the Minister and the integrity commissioner.
- (2) The Minister and the integrity commissioner may, within 15 business days after receiving the proposed report, give the reviewer written comments on anything in the proposed report.
- (3) If the Minister or integrity commissioner comments under subsection (2), the reviewer must—
  - (a) if the reviewer and Minister or integrity commissioner can agree about how to dispose of a comment— incorporate into the report any agreed amendment necessary to dispose of the comment; or

- (b) if the reviewer and Minister or integrity commissioner can not agree about how to dispose of a comment—include the comment, in full, in the report.
- (4) After complying with subsections (1) and (3), the reviewer must give the report (*review report*) to the Minister and the integrity commissioner.
- (5) The review report must be substantially the same as the proposed report given under subsection (1), apart from any changes made under subsection (3).
- (6) The Minister must table the strategic review report in the Legislative Assembly within 3 sitting days after the Minister receives the report.
- (7) For the *Parliament of Queensland Act 2001*, section 92(2), the report is referred to the parliamentary committee.

## Chapter 7 Miscellaneous provisions

### 89 Functions of parliamentary committee

The parliamentary committee has the following functions under this Act—

- (a) to monitor and review the performance by the integrity commissioner of the integrity commissioner's functions under this Act;
- (b) to report to the Legislative Assembly on any matter concerning the integrity commissioner, the integrity commissioner's functions or the performance of the integrity commissioner's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- (c) to examine each annual report tabled in the Legislative Assembly under this Act and, if appropriate, to

comment on any aspect of the report and to make recommendations;

- (d) to examine each strategic review report tabled in the Legislative Assembly under this Act and, if appropriate, to comment on any aspect of the report and to make recommendations;
- (e) to report to the Legislative Assembly any changes to the functions and procedures of the integrity commissioner the committee considers desirable for the more effective operation of this Act;
- (f) the other functions conferred on the committee by this Act.

*Note—*

The parliamentary committee may also have functions under other Acts. For example, the committee may be a portfolio committee with responsibilities that include other legislation.

## **90 Approval of forms**

The integrity commissioner may approve forms for use under this Act.

## **91 Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Chapter 8 Transitional provisions**

### **Division 1 Provisions for Act No. 52 of 2009**

#### **92 Outdated references**

In an Act or document, if the context permits, a reference to the *Public Sector Ethics Act 1994* in connection with part 7 of that Act, is taken to be a reference to this Act.

#### **93 Continuation of appointment as integrity commissioner**

The person who, immediately before the commencement of this section, was the integrity commissioner under the *Public Sector Ethics Act 1994*—

- (a) continues as the integrity commissioner under this Act as if the person had been appointed under this Act; and
- (b) is taken to have satisfied the requirements under section 79 concerning the oath or affirmation; and
- (c) must comply with section 80(2) within 1 month of the commencement of this section.

#### **94 Continuation of nomination as designated person**

A nomination under the *Public Sector Ethics Act 1994*, section 27(1)(h) or (k) that is in force immediately before the commencement of this section continues as a nomination under section 12(1)(e) or (h), as appropriate, of this Act.

#### **95 Requests for advice under Public Sector Ethics Act 1994**

A request for advice under the *Public Sector Ethics Act 1994*, part 7, division 5 on which the integrity commissioner has not, immediately before the commencement of this section, given advice may be dealt with by the integrity commissioner as if the request had been made under section 15 of this Act.



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**96 Previous register of lobbyists**

- (1) A lobbyist registered in the previous register of lobbyists immediately before the commencement of this section is taken to be registered in the lobbyists register.
- (2) A person listed in the previous register of lobbyists immediately before the commencement of this section as a person or employee who carries out lobbying activities is taken to be a listed person for the lobbyist.
- (3) Particulars for a lobbyist or person listed in the previous register of lobbyists in force immediately before the commencement of this section are taken to be particulars in the lobbyists register.
- (4) In this section—

*previous register of lobbyists* means the register of lobbyists kept in accordance with the document known as the Queensland Contact with Lobbyists Code.

**97 Noncompliance with Queensland Contact with Lobbyists Code**

In sections 55 and 62, a reference to failing to comply with obligations under the lobbyists code of conduct includes a reference to failing to comply with obligations under the document known as the Queensland Contact with Lobbyists Code.

**98 References to Local Government Act 2009**

- (1) This section applies—
  - (a) for a reference in this Act to the *Local Government Act 2009* or a thing under that Act (the *local government reference*); and
  - (b) until the day the *Local Government Act 2009*, section 288 commences.

*Note—*

The *Local Government Act 2009*, section 288 repeals the *Local Government Act 1993*.

- (2) The local government reference may, if the context permits, be taken as a reference to the *Local Government Act 1993* or the thing under that Act that substantially corresponds to the reference.
- (3) To remove any doubt, it is declared that the local government reference to a corporate entity under the *Local Government Act 2009* is taken as a reference to a corporatised corporation within the meaning of the *Local Government Act 1993*, chapter 8, part 7.

## **99 References to Sustainable Planning Act 2009**

- (1) Subsection (2) applies—
  - (a) for a reference in this Act to the *Sustainable Planning Act 2009* or a thing under that Act (the **planning reference**); and
  - (b) until the day the *Sustainable Planning Act 2009*, section 764 commences.

*Note—*

The *Sustainable Planning Act 2009*, section 764 repeals the *Integrated Planning Act 1997*.

- (2) The planning reference may, if the context permits, be taken as a reference to the *Integrated Planning Act 1997* or the thing under that Act that substantially corresponds to the reference.

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## Division 2                      Provisions for Integrity Reform (Miscellaneous Amendments) Act 2010

### 100    Declarations of interests by statutory office holders

- (1) Subsection (2) applies if, immediately before the commencement—
  - (a) the integrity commissioner and the relevant Minister have a statement about the interests of a statutory office holder given to the integrity commissioner and the relevant Minister; and
  - (b) the statement would have complied with section 72C if that section had been in force before the commencement.
- (2) On the commencement, the statutory office holder is taken to have complied with section 72C.
- (3) Subsection (4) applies if, immediately before the commencement—
  - (a) a person was a statutory office holder; and
  - (b) subsection (1) does not apply to the person.
- (4) The person must comply with section 72C(2) within 1 month after the commencement.
- (5) In this section—

*commencement* means the commencement of this section.

*statutory office holder* means a statutory office holder mentioned in section 72C(1).

### 101    Declaration of interests by integrity commissioner

- (1) This section applies to the person who, immediately before the commencement of this section, was the integrity commissioner.

- (2) The person must comply with section 80(2) within 1 month after the commencement of this section.

### **Division 3                      Provision for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

#### **102      Application of s 40A to existing conflicts**

- (1) This section applies if, on the commencement, a Minister has an interest that conflicts or may conflict with the discharge of the Minister's responsibilities.
- (2) Section 40A applies in relation to the interest and the conflict.
- (3) However, the Minister does not contravene section 40A for a failure to disclose the interest or the conflict within the first month after the commencement.

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## Schedule 1      Statutory office holders for section 40E

### section 40E(1)(a)

#### *Anti-Discrimination Act 1991*

- the human rights commissioner

#### *Building and Construction Industry (Portable Long Service Leave) Act 1991*

- the general manager of the Building and Construction Industry (Portable Long Service Leave) Authority

#### *Education (Queensland College of Teachers) Act 2005*

- the director of the Office of the Queensland College of Teachers

#### *Education (Queensland Curriculum and Assessment Authority) Act 2014*

- the chief executive officer of the Queensland Curriculum and Assessment Authority

#### *Electoral Act 1992*

- the electoral commissioner

#### *Energy Ombudsman Act 2006*

- the energy ombudsman

#### *Family and Child Commission Act 2014*

- a commissioner

#### *Health Ombudsman Act 2013*

- the health ombudsman

#### *Industrial Relations Act 2016*

- the registrar

#### *Land Access Ombudsman Act 2017*

- the land access ombudsman

*Legislative Standards Act 1992*

- the parliamentary counsel

*Prostitution Act 1999*

- the executive director of the Office of the Prostitution Licensing Authority

*Public Guardian Act 2014*

- the public guardian

*Public Service Act 2008*

- the chief executive of the Public Service Commission

*Public Trustee Act 1978*

- the public trustee of Queensland

*Queensland Reconstruction Authority Act 2011*

- the chief executive officer of the Queensland Reconstruction Authority

*Water Act 2000*

- the commissioner

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## Schedule 2 Dictionary

## section 3

***accepted representations***—

- (a) for chapter 4, part 2, division 3, see section 58; or
- (b) for chapter 4, part 2, division 4, see section 64.

***approved form*** means a form approved under section 90.

***Assistant Minister*** means a member of the Legislative Assembly appointed as an Assistant Minister under the *Constitution of Queensland 2001*, section 24.

***assistant minister staff member*** means a person employed under the *Ministerial and Other Office Holder Staff Act 2010* as a staff member in the office of an Assistant Minister.

***chief executive*** means—

- (a) for a department—the chief executive in relation to the department under the *Public Service Act 2008*, section 10(1); or
- (b) for a public service office—the head of the public service office under the *Public Service Act 2008*, section 21; or
- (c) for a registry or other 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
- (d) for a local government—the local government’s chief executive officer, including the town clerk of the Brisbane City Council; or
- (e) for the parliamentary service—the clerk of the Parliament; or
- (f) for a government owned corporation—its chief executive officer; or

- (g) for another entity—the person prescribed by regulation or, if no person is prescribed, the person responsible to the Minister administering the legislation under which the entity is established for the management of the entity.

***commission of inquiry*** means a commission of inquiry under the *Commissions of Inquiry Act 1950*, and includes an inquiry under commission mentioned in section 4(2) of that Act.

***conflict of interest*** see section 10(2).

***conflict of interest issue*** see section 10(1).

***contact*** see section 42(3).

***councillor*** see section 46.

***Deputy Leader of the Opposition*** means the member of the Legislative Assembly recognised in the Legislative Assembly as the Deputy Leader of the Opposition.

***designated person*** see section 12.

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

***ethics or integrity issue*** see section 9.

***former Opposition representative*** see section 47B.

***former senior government representative*** see section 45.

***government entity*** has the meaning given by the *Public Service Act 2008*, section 24, but does not include a department or a public service office.

***government representative*** see section 44.

***information***, for chapter 3, see section 13.

***integrity commissioner*** means the Queensland Integrity Commissioner.

***interest*** see section 10(2).

***interests issues*** see section 11.



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***Leader of the Opposition*** means the member of the Legislative Assembly recognised in the Legislative Assembly as the Leader of the Opposition.

***listed person***, for chapter 4, parts 2 and 3, see section 49.

***lobbying activity*** see section 42.

***lobbyist***—

- (a) generally, see section 41; and
- (b) for chapter 4, part 3, see section 67.

***lobbyists code of conduct*** see section 43.

***lobbyists register*** see section 43.

***member to whom a relevant document relates***, for chapter 3, part 4, division 3, see section 34.

***ministerial staff member*** means a person employed under the *Ministerial and Other Office Holder Staff Act 2010* as a staff member in the office of a Minister other than an Assistant Minister.

***non-government member*** means a member of the Legislative Assembly who is not a member of a political party recognised in the Legislative Assembly as being in government.

***Opposition*** means the group of members of the Legislative Assembly recognised in the Legislative Assembly as the Opposition.

***Opposition representative*** see section 47A.

***parliamentary committee*** means—

- (a) if the Legislative Assembly resolves that a particular committee of the Assembly is to be the parliamentary committee under this Act—that committee; or
- (b) if paragraph (a) does not apply and the standing rules and orders state that the portfolio area of a portfolio committee includes the integrity commissioner—that committee; or

- (c) otherwise—the portfolio committee whose portfolio area includes the department, or the part of a department, in which this Act is administered.

**portfolio area** see the *Parliament of Queensland Act 2001*, schedule.

**portfolio committee** see the *Parliament of Queensland Act 2001*, schedule.

**proposed listed person**, for chapter 4, part 2, see section 53.

**public sector officer** see section 47.

**public service office** see the *Public Service Act 2008*, section 21.

**registrant**, for chapter 4, part 2, see section 48.

**relevant document**—

- (a) for chapter 3, part 4, division 2, see section 25; or  
(b) for chapter 3, part 4, division 3, see section 34.

**relevant Minister** see section 40D.

**remuneration** includes salary.

**responsible person**, for a government representative, means—

- (a) if the government representative is the Premier or another Minister—the Premier or other Minister; or  
(b) if the government representative is an Assistant Minister—the Assistant Minister; or  
(c) if the government representative is a councillor—the councillor; or  
(d) if the government representative is a public sector officer who is the chief executive of a public sector entity—the chief executive; or  
(e) if the government representative is a public sector officer who is an employee of a public sector entity—the chief executive of the public sector entity; or  
(f) if the government representative is a ministerial staff member—the relevant Minister; or

- (g) if the government representative is an assistant minister staff member—the relevant Assistant Minister.

**responsible person**, for an Opposition representative, means the Leader of the Opposition.

**public sector entity** means an entity mentioned in section 47(a) to (h).

**senior executive** see the *Public Service Act 2008*, schedule 4.

**senior officer** see the *Public Service Act 2008*, schedule 4.

**senior officer equivalent** means an employee, other than a chief executive, whose remuneration is equal to or greater than the remuneration payable to a senior officer.

**show cause notice**—

- (a) for chapter 4, part 2, division 3, see section 57; or
- (b) for chapter 4, part 2, division 4, see section 63.

**show cause period**—

- (a) for chapter 4, part 2, division 3, see section 57; or
- (b) for chapter 4, part 2, division 4, see section 63.

**staff member**, in the office of the Leader of the Opposition, means a person employed as a staff member in that office, under the *Ministerial and Other Office Holder Staff Act 2010*, section 7.

**standing rules and orders** see the *Parliament of Queensland Act 2001*, schedule.

**statutory office** see the *Public Service Act 2008*, schedule 4.

**third party client** see section 41(2).

**tribunal** means—

- (a) QCAT or another tribunal constituted by a person acting judicially; or
- (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

(c) a commission of inquiry.