

# Integrity Regulation 2024

Explanatory notes for SL 2024 No. 140

made under the

*Integrity Act 2009*

## General Outline

### Short title

*Integrity Regulation 2024*

### Authorising law

Sections 12(1)(g) and 91 of the *Integrity Act 2009*

### Policy objectives and the reasons for them

The purposes of the *Integrity Act 2009* and functions of the Queensland Integrity Commissioner created under that Act reflect the importance of integrity and probity in government and public administration in order to maintain community confidence in public institutions. It drives the creation of a culture and systems that encourage ethical behaviour, deter misconduct and make corruption difficult.

The Integrity Act provides a number of regulation-making powers, in addition to the general regulation-making power in section 91 of the Act, to support the effective operation of the Act and provide the necessary flexibility to provide clarity or respond quickly, to ensure the intent of the Act can be met.

The *Integrity Regulation 2011* (expiring regulation) is made under the Integrity Act and is scheduled to expire on 31 August 2024 in accordance with section 54 of the *Statutory Instruments Act 1992*.

A sunset review was undertaken to assess the effectiveness of, and ongoing need for, the expiring regulation. The sunset review drew on comprehensive legislative reviews of the Integrity Act, most notably that of Mr Kevin Yearbury in 2021 – *Strategic Review of the Integrity Commissioner’s Functions* (Yearbury review) and Professor Peter Coaldrake AO in 2022 – *Let the sunshine in: Review of culture and accountability in the Queensland public sector* (Coaldrake review). Those reviews resulted in significant policy reform via amendments to the Integrity Act – some of which are yet to come into force – via the *Integrity and Other Legislation Amendment Act 2022* and the *Integrity and Other Legislation Amendment Act 2024*.

The expiring regulation has four sections, with the first two sections being preliminary matters relating to the short title and the commencement of the expiring regulation.

Section 3 of the expiring regulation prescribes persons or a person within a class of persons to be captured as a ‘designated person’ under section 12 of the Integrity Act, to request and receive integrity and ethics advice from the Queensland Integrity Commissioner.

Section 4 of the expiring regulation prescribes additional entities that are assisted by public funds in order to identify public sector officers to whom the lobbying framework in Chapter 4 of the Integrity Act applies.

The sunset review acknowledged the scope of the expiring regulation is narrow and matters prescribed in regulation support the effective operation of the Integrity Act. The sunset review also noted that provisions in the expiring regulation have been recently reviewed or amended through implementation of the Coaldrake Report recommendations and do not need to be reviewed again. As the sunset review confirmed the effectiveness of, and ongoing need for, the expiring regulation, a new regulation is required to repeal and replace the expiring regulation.

#### Prescribing ‘designated persons’

Prior to December 2023, the number of designated persons able to access the Queensland Integrity Commissioner’s advice was estimated to capture more than 10,000 people. Amendments to the Integrity Act, which took effect on 13 December 2023, amended the definition of ‘designated person’ in section 12 of the Act to narrow its scope, while retaining an option to prescribe by regulation, a person or a person within a class of persons as a designated person (s12(1)(g)).

The above amendment resulted in the exclusion of some roles from the definition of ‘designated person’ that the Queensland Integrity Commissioner subsequently considered should continue to be captured. For some, this was a consequence of definitional changes which resulted in an excluded person’s role not being captured merely because of it being established by an Act other than the *Public Sector Act 2022*, which caused a lack of parity within organisations. In December 2023, amendments to the expiring regulation addressed this issue and prescribed additional persons or persons within a class of persons as ‘designated persons’ to request and receive integrity advice from the Queensland Integrity Commissioner.

The list of designated persons prescribed in the expiring regulation under section 12(1)(g) of the Act has been considered and confirmed by the Queensland Integrity Commissioner as being current and appropriate. It is proposed to retain these designated persons in the *Integrity Regulation 2024*.

#### Prescribing ‘public service entities’

The Integrity Act provides a framework for lobbying of government representatives and former government representatives. The meaning of ‘government representative’ is defined in the Integrity Act (s44) to include the Premier, a Minister and an Assistant Minister; a councillor; staff members of a Minister or Assistant Minister; and a ‘public sector officer’.

A ‘public sector officer’ is defined in the Integrity Act (s41) to include an officer or employee of a ‘public sector entity’ under the Public Sector Act (s8), other government and local government entities, including the parliamentary service and Government owned corporations, and an entity prescribed by regulation that is assisted by public funds.

The Public Sector Act introduced a broader definition of ‘public service entity’ in 2022, which captures Hospital and Health Services established under section 17 of the *Hospital and Health Boards Act 2011*. This has resulted in section 4 of the expiring regulation being redundant because Hospital and Health Services are now captured as public sector entities by virtue of being a public sector entity under section 8 of the Public Sector Act. Therefore, they do not need to be prescribed separately for the Integrity Act to apply to them.

As section 4 of the expiring regulation is redundant, this section will not be retained in the *Integrity Regulation 2024*.

## **Achievement of policy objectives**

The *Integrity Regulation 2024* repeals and replaces the expiring regulation.

The *Integrity Regulation 2024* continues to prescribe as ‘designated persons’, those persons currently prescribed in section 3 of the expiring Regulation, to enable them to request and receive integrity and ethics advice from the Queensland Integrity Commissioner.

Minor amendments from the expiring regulation are made to:

- remove a redundant definition of ‘senior executive equivalent’ as this term is now defined under the Integrity Act; and
- update a reference to the *Fire and Emergency Services Act 1990*, which was retitled the *Fire Services Act 1990* from 1 July 2024 as part of amendments made by the *Disaster Management and Other Legislation Amendment Act 2024*.

The redundant provision in the expiring regulation that prescribes Hospital and Health Services as public sector entities has not been retained.

## **Consistency with policy objectives of authorising law**

The *Integrity Regulation 2024* is consistent with the policy objectives of the Integrity Act.

## **Inconsistency with policy objectives of other legislation**

No inconsistencies with the policy objectives of other legislation have been identified.

## **Alternative ways of achieving policy objectives**

There are no alternative ways to achieve the policy objectives.

## **Benefits and costs of implementation**

The *Integrity Regulation 2024* designates classes of public sector and other officers who are eligible to seek integrity advice from the Queensland Integrity Commissioner. As the list of persons is consistent with the current list in the expiring regulation and is substantially less than the number of officers who could previously request advice (prior to amendments to the Integrity Act that commenced on 13 December 2023), no impact on the resources of the Queensland Integrity Commissioner or government are anticipated.

## **Consistency with fundamental legislative principles**

The *Integrity Regulation 2024* is consistent with fundamental legislative principles.

## **Consultation**

Consultation was undertaken with the Queensland Integrity Commissioner, who supports the making of the *Integrity Regulation 2024*.

The Office of Best Practice Regulation was consulted during the sunset review and preparation of an Impact Analysis Statement.

The sunset review of the expiring Regulation considered the outcomes and extensive consultation processes undertaken during the Yearbury review and the Coaldrake review, as well as the Parliamentary Committee inquiries into the Integrity and Other Legislation Amendment Bill 2022 and the Integrity and Other Legislation Amendment Bill 2023.