

Queensland



**CORRECTIVE SERVICES
(ADMINISTRATION)
AMENDMENT BILL 1994**

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**CORRECTIVE SERVICES
(ADMINISTRATION) AMENDMENT
BILL 1994**

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1994

A BILL

FOR

An Act to amend the Corrective Services (Administration) Act 1988

*Corrective Services (Administration)
Amendment*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause1. This Act may be cited as the *Corrective Services (Administration) Amendment Act 1994*.

4

5

Commencement

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Clause2. This Act commences on a day to be fixed by proclamation.

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**PART 2—AMENDMENT OF CORRECTIVE
SERVICES (ADMINISTRATION) ACT 1988**

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Act amended in Pt 2 and Schedule

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Clause3. This Part and the Schedule amend the *Corrective Services (Administration) Act 1988*.

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Amendment of s 9 (Constitution of Commission)

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Clause4. Section 9—

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insert—

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‘**(4)** The Commission is a unit of the public sector within the meaning of the *Public Sector Management Commission Act 1990*.’.

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Replacement of ss 10–16

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Clause5. Sections 10 to 16—

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omit, insert—

‘Commissioners

‘10.(1) The Commission consists of the following commissioners—

- (a) the chairperson;
- (b) the deputy chairperson;
- (c) 6 other commissioners.

‘(2) The commissioners are to be appointed by the Governor in Council.

‘(3) In deciding whether to appoint a person, the Governor in Council must have regard to the person’s expertise in matters relevant to, or experience relevant to, the functions of the Commission.

‘(4) The Governor in Council may appoint a person to act as a commissioner during any period, or all periods, when the commissioner is absent or cannot, for another reason, perform the duties of the office.

‘(5) On the commencement of this section, the commissioners holding office go out of office.

‘(6) The vacation of office under subsection (5) does not give rise to a right to compensation.

‘(7) Subsections (5) and (6) and this subsection expire on the day they commence.

‘Duration of appointment

‘11.(1) A commissioner is to be appointed for a term of not longer than 3 years.

‘(2) The office of a commissioner becomes vacant if the commissioner—

- (a) dies; or
- (b) resigns by signed notice given to the Minister; or
- (c) is absent from 3 consecutive meetings of the Commission without the Commission’s leave and without reasonable excuse; or

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(d) is found guilty of an indictable offence or an offence against this Act or the <i>Corrective Services Act 1988</i> ; or	1 2
(e) becomes employed by, or a contractor of, the Commission; or	3
(f) is removed from office under subsection (3).	4
‘(3) The Governor in Council may remove a commissioner from office if the commissioner—	5 6
(a) engages in misbehaviour; or	7
(b) becomes incapable of performing the duties of a commissioner because of physical or mental incapacity; or	8 9
(c) is incompetent; or	10
(d) does anything else that, in the Governor in Council’s opinion, is a reasonable and adequate justification for removal from office.	11 12
‘(4) The Governor in Council may remove all or any commissioners from office if the Commission does not comply with a direction of the Minister given under section 23.	13 14 15
 ‘Fees and allowances	 16
‘12. The commissioners are entitled to be paid by the Commission the fees and allowances decided by the Governor in Council.’.	17 18
 Omission of ss 46–50	 19
<i>Clause 6.</i> Sections 46 to 50—	20
<i>omit.</i>	21

PART 3—AMENDMENT OF PUBLIC SECTOR	22
MANAGEMENT COMMISSION ACT 1990	23

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Act amended in Pt 3

Clause7. This Part amends the *Public Sector Management Commission Act 1990*.

Amendment of s 1.3 (Interpretation)

Clause8. Section 1.3(1)—

insert—

‘ **“disciplinary law”** means—

- (a) the *Public Service Management and Employment Act 1988*; or
- (b) a disciplinary provision of an award, industrial agreement, certified agreement or enterprise flexibility agreement; or
- (c) a law prescribed by regulation;

“law” includes an unwritten law;’.

Amendment of s 5.3 (Appeals against certain administrative actions)

Clause9.(1) Section 5.3(1)(b)—

omit, insert—

‘(b) all disciplinary action taken under a disciplinary law other than dismissal;’.

(2) Section 5.3(2)(b), ‘officer of the public service aggrieved’—

omit, insert—

‘eligible public sector employee dissatisfied’.

(3) Section 5.3—

insert—

‘**(4A)** If an eligible public sector employee is not an officer of the public service, this section applies with all necessary changes and any changes prescribed by regulation.’.

(4) Section 5.3(5), definition **“eligible public sector employee”**—

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omit, insert—

‘**“eligible public sector employee”** means—

- (a) in subsection (2)(b)—an officer of the public service or a person prescribed by regulation;
- (b) otherwise—a public sector employee (other than a temporary employee) who holds a position for which selection must be made under a prescribed standard;’.

Amendment of s 5.9 (Jurisdiction of Industrial Commission)

Clause 10.(1) Section 5.9(4)(a)—

omit, insert—

- ‘(a) an application for reinstatement by a person who has been dismissed under a disciplinary law;’.

(2) Section 5.9(5)—

omit, insert—

‘**(5)** In addition to the powers conferred on it by the *Industrial Relations Act 1990*, the Industrial Commission in exercising the jurisdiction conferred on it by subsection (4)—

- (a) after reviewing disciplinary action taken against a person under a disciplinary law, may—
 - (i) instead of the punishment imposed by the disciplinary authority concerned, substitute any other lawful punishment the Industrial Commission considers should have been imposed; or
 - (ii) remit the matter to the disciplinary authority concerned for further consideration with the recommendations or directions it considers appropriate;
- (b) by subsection (4)(a), on ordering the reinstatement of a person dismissed, may decide the extent to which the person should lose salary for the time between dismissal and reinstatement.’.

(4) Section 5.9—

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insert—

‘(7) This section applies to a public sector employee who is not an officer of the public service with all necessary changes and any changes prescribed by regulation.’.

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SCHEDULE	1
MINOR AND CONSEQUENTIAL AMENDMENTS	2
section 3	3
1. Section 6—	4
<i>insert—</i>	5
‘ “appointed day” means 15 December 1988;’.	6
2. Section 6, definition “community corrections”, paragraph (d),	7
‘order in council’—	8
<i>omit, insert—</i>	9
‘regulation’.	10
3. Section 7—	11
<i>omit.</i>	12
4. Section 20(5)—	13
<i>omit.</i>	14
5. Section 24—	15
<i>omit, insert—</i>	16
‘Times and places of meetings	17
‘ 24.(1) Meetings of the Commission are to be held at the times and	18
places it decides.	19
‘ (2) However, the Commission must meet at least once every month.	20
‘ (3) The chairperson—	21

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SCHEDULE (continued)

(a) may at any time call a meeting of the commission; and	1
(b) must call a meeting if asked by 3 commissioners.’	2
6. Section 31—	3
<i>omit.</i>	4
7. Section 32(5) (2nd sentence)—	5
<i>omit, insert—</i>	6
‘Maximum penalty—10 penalty units.’	7
8. Section 61(3), ‘order in council’—	8
<i>omit, insert—</i>	9
‘regulation’.	10
9. Section 71, from ‘The Governor’ to ‘with respect to—’—	11
<i>omit, insert—</i>	12
‘ 71.(1) The Governor in Council may make regulations under this Act.	13
‘ (2) A regulation may make provision with respect to—’.	14
10. Section 71(d) to (f)—	15
<i>omit, insert—</i>	16
‘(d) all matters that, in the Governor in Council’s opinion, are	17
necessary or convenient to be prescribed for the proper exercise	18
and discharge by the Commission of its functions and powers.’.	19
	20