

Crime and Corruption and Other Legislation Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the Crime and Corruption and Other Legislation Amendment Bill 2018.

Policy objectives and the reasons for them

The policy objectives of the Bill are to:

- give effect to the Government's election commitment to widen the definition of 'corrupt conduct'; and
- implement recommendations of the Parliamentary Crime and Corruption Committee (PCCC) Report No. 97, *Review of the Crime and Corruption Commission* (Report No. 97) and Report No. 99, *Report on a complaint by Mr Darren Hall* (Report No. 99).

Definition of 'corrupt conduct'

Under the *Crime and Corruption Act 2001* (CC Act), the Crime and Corruption Commission (the Commission) has responsibility to continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector. Corruption is defined in the CC Act to mean 'corrupt conduct' or 'police misconduct'. The definition of 'corrupt conduct' is contained in section 15 of the CC Act and the definition of 'police misconduct' is contained in schedule 2 of the CC Act. 'Police misconduct' is not 'corrupt conduct' for the purposes of the CC Act but is included within the definition of 'corruption' in the CC Act because it forms part of the Commission's corruption functions, including the Commission's responsibility to oversee how 'police misconduct' is dealt with by the Commissioner of Police.

In 2014, the *Crime and Misconduct Act 2001*, as the CC Act was then called, was substantially amended by the *Crime and Misconduct and Other Legislation Amendment Act 2014* (CMOLA Act). The CMOLA Act changed the definition of 'official misconduct' to 'corrupt conduct', as well as the elements of that definition with the intention of raising the threshold for matters captured by the definition and thereby narrowing the Commission's jurisdiction. This shift responded to the findings of the *Review of the Crime and Misconduct Act and Related Matters: Report of the Independent Advisory Panel* (2013) that the Commission's operational focus should be on investigating serious cases of corrupt conduct and that there should be a reduction in the number of trivial complaints handled by the Commission.

Prior to the 2015 election, the Government made a number of commitments related to the Commission. The Government has implemented a majority of these through the passage of the *Electoral and Other Legislation Amendment Act 2015* and *Crime and Corruption Amendment Act 2016*.

The Government also committed to widening the definition of 'corrupt conduct' in the CC Act. To this end, on 25 February 2016, the Government released an issues paper titled '*Corrupt conduct under the CC Act* (issues paper) to canvass the views of relevant stakeholders. As part of the issues paper, stakeholders were prompted to respond to a series of questions about the appropriateness of the current definition and the Commission's jurisdiction more generally in respect of corrupt conduct.

On the whole, stakeholders indicated general support for the scope of the current definition of 'corrupt conduct'. This was on the basis that public sector conduct matters that are outside of the scope of 'corrupt conduct' are dealt with appropriately by units of public administration (UPA), including through the Public Service Commission's *Conduct and Performance Excellence* (CaPE) framework.

However, on the basis of submissions from the Commission as well as government and non-government stakeholders, the Bill makes some important changes which will: (i) simplify the definition of 'corrupt conduct' to assist UPAs in their interpretation and understanding; and (ii) widen the definition to include conduct of a person that impairs or could impair public confidence in public administration, consistent with the Commission's overriding responsibility to promote public confidence in the integrity of the public sector. The amendments to widen the definition of 'corrupt conduct' are similar to recent changes in both New South Wales (NSW) and Victoria.

More broadly, the Bill also expands the Commission's investigative jurisdiction with respect to corrupt conduct. This will provide the Commission with greater scope to reduce the opportunities and incentives for corrupt conduct in the Queensland public sector and allow it to more proactively address corruption risks.

Parliamentary Crime and Corruption Committee Reports

Report No. 97 – Review of the Commission

On 30 June 2016, the PCCC tabled Report No. 97 in the Legislative Assembly. The review was undertaken pursuant to section 292(f) of the CC Act. The CC Act requires the PCCC to review the activities of the Commission and report on any action required in relation to the Act or the functions, powers and operations of the Commission. The PCCC's review involved consideration of 30 submissions; four public hearings; and a public meeting with the Commission.

The Government's final response, which was tabled in the Legislative Assembly on 16 December 2016, supported in full or in-principle all 23 recommendations that were addressed to the Government, and noted the six remaining recommendations that were addressed to either the PCCC or the Commission.

The Bill gives effect to a number of legislative amendments supported in the Government's response. Each amendment is outlined in more detail below.

Report No. 99 – Complaint by Mr Hall

On 29 November 2016, the PCCC tabled Report No. 99 in the Legislative Assembly. Report No. 99 arises from a complaint made by Mr Hall, a former Queensland Police Service (QPS) officer, relating to the Commission’s report entitled “*Dangerous Liaisons – A Report arising from a CMC investigation into allegations of police misconduct (Operation Capri)*”.

In April 2016, the PCCC referred Mr Hall’s complaint to the Parliamentary Crime and Corruption Commissioner (the Commissioner) for investigation. The Commissioner concluded that the principles of procedural fairness required that, prior to publishing adverse comments capable of identifying Mr Hall, the Commission should have provided Mr Hall with an opportunity to show why the contemplated comments should not have been made.

On 27 February 2017, the Government response to Report No. 99 was tabled in the Legislative Assembly. The response supported the intent of Recommendation 1 and undertook to progress amendments to the CC Act which would make it a legislative requirement for the Commission to provide procedural fairness to persons who may be adversely affected by a Commission report that is publicly released.

The Bill gives effect to this recommendation.

Achievement of policy objective

Definition of ‘corrupt conduct’

Firstly, the Bill simplifies the definition of ‘corrupt conduct’ by removing: (i) the requirement that conduct is engaged in for the benefit of, or detriment to, a person under section 15(1)(c) because this element has caused confusion among public sector agencies; and (ii) the list of additional matters, criminal offences or behaviours, which could be ‘corrupt conduct’ under section 15(2) because it has not aided in the interpretation of the definition.

Secondly, the Bill widens the definition of ‘corrupt conduct’ to include certain conduct that impairs or could impair public confidence in public administration, even where it does not involve a lack of propriety by a person who holds or held an appointment in a UPA. This extended definition is limited to the following types of conduct which would, if proved, be a criminal offence or a disciplinary breach providing reasonable grounds for terminating a person’s services: collusive tendering; certain frauds relating to the application for a licence, permit or other authority; dishonestly obtaining or helping someone to dishonestly obtain a benefit from the payment of application of public funds or the disposition of State assets; evading a State tax, levy or duty or otherwise causing the loss of State revenue; and fraudulently obtaining or retaining an appointment in a UPA. This amendment is modelled on the changes that were made to NSW’s *Independent Commission Against Corruption Act 1988* (ICAC Act) in 2015 to broaden the definition of ‘corrupt conduct’.

For example, under this new limb of ‘corrupt conduct’ the Commission will have the power to investigate, expose, prevent or educate about serious and systemic fraud in

the making of applications for licences, permits or clearances issued under Queensland legislation designed to: (i) protect health or safety of persons or the environment; or (ii) facilitate the management and use of valuable State-owned resources.

The Bill also provides the Commission with a broader investigative jurisdiction, by expanding its corruption functions under section 33 of the CC Act to enable the Commission to investigate or otherwise deal with conduct liable to allow, encourage or cause the occurrence of corrupt conduct; or conduct connected with corrupt conduct as well as investigate whether this type of conduct or corrupt conduct may have happened, may be happening or may happen. This broader investigatory jurisdiction is based on the powers conferred on the Independent Commission Against Corruption (ICAC) in NSW.

This jurisdiction may be enlivened through a variety of methods, including: by way of a complaint; by the Commission on its own initiative; or through a referral of a matter by the PCCC (with bi-partisan support).

In deciding what action to take when dealing with the types of matters that will fall within the new broader investigative jurisdiction, the Bill requires the Commission to have regard to the public interest principle in section 34(d) of the CC Act. Under this subsection the Commission must have primary regard to a number of public interest considerations including the nature and seriousness of the conduct particularly if there is reason to believe it may be prevalent or systemic within a UPA. If the Commission decides to investigate the matter, it will be able to utilise all of the existing coercive powers available for a 'corruption investigation' under the CC Act (including the power to hold hearings and require the production of documents).

Parliamentary Crime and Corruption Committee Reports

Report No. 97

In relation to Report No. 97, the Bill will achieve its policy objectives by:

- lengthening the timeframe for parties to seek a QCAT review of a reviewable decision;
- streamlining the process which must be undertaken when the Commission commences disciplinary proceedings against public sector employees;
- simplifying disclosure provisions so that the Commission may work cooperatively with other relevant entities;
- addressing anomalies in relation to post-separation disciplinary proceedings;
- allowing the Commission and public sector departments, as well as QPS, to share information relating to the disciplinary history of current and former Commission officers in prescribed circumstances;
- improving civil liability protections for the Commission, its officers and police service review commissioners;
- providing for the Chairperson of the Commission to be the Chair of the Crime Reference Committee and enabling the role to be delegated to the Senior Executive Officer (Crime);
- removing the power for the Commission to refer corruption investigation briefs to the Office of the Director of Public Prosecutions (ODPP) for the purposes of considering prosecution proceedings;

- providing express authorisation for the derivative use of compelled evidence obtained under the CC Act; and
- requiring UPAs to keep appropriate records in relation to any decision not to notify the Commission of an allegation of corrupt conduct.

The PCCC recommendations and related amendments are outlined in more detail below.

Lengthening the timeframes (Recommendation 19)

The Bill lengthens the timeframes for the Commission or a prescribed person to seek a QCAT review of a reviewable decision under the CC Act to 28 days. This amendment affords affected parties sufficient time to consider the original decision and the appropriateness of a review. It also brings the CC Act into line with the standard time period afforded parties to seek a review by QCAT under the *Queensland Civil and Administrative Tribunal Act 2009*. Clause 21 of the Bill implements this recommendation.

Process for commencing action (Recommendation 23)

The Bill streamlines the existing process the Commission must follow to commence disciplinary proceedings in QCAT against current or former public sector employees by removing the requirement for individual appointments to be prescribed by regulation and declaring any person who holds an appointment in a UPA to be within the jurisdiction of QCAT. The existing process is considered unnecessarily cumbersome and time-consuming. Clause 13 of the Bill implements this recommendation.

Disclosure provisions (Recommendation 21)

Following a review of the disclosure provisions as recommended by the PCCC, the Bill includes amendments which will replace the existing disclosure regime in the CC Act (section 55(2), section 60 and section 62) with a single provision based on section 16 of the ICAC Act. This new provision will provide the Commission with a broad power to disclose information to entities the Commission considers appropriate. Clauses 14-16 of the Bill implement this recommendation.

As part of the review of the disclosure provisions and at the request of the Queensland Ombudsman, consideration was also given to the disclosure regime in the *Ombudsman Act 2001*.

The Bill includes amendments to the *Ombudsman Act 2001* which will: (i) convert the existing grounds for disclosure under section 92(2)(a) and (b) into stand-alone criteria on which an officer of the ombudsman may disclose information; (ii) allow the Ombudsman to disclose information to a Commonwealth agency when the Ombudsman considers they have a proper interest for the performance of their functions; and (iii) enable the Ombudsman to liaise with the Commonwealth Ombudsman and State and Territory equivalents, when appropriate. Part 6 of the Bill gives effect to these changes.

Post-separation disciplinary proceedings (Recommendation 24)

In 2010, the *Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector) Amendment Act 2010* introduced a post-separation disciplinary regime for public service departments. Under this regime, a chief executive has the

power to delegate their authority in relation to disciplinary action, or transfer a disciplinary finding, when an employee changed employment to another department prior to disciplinary action being completed. This same model was also introduced for the Queensland Ambulance Service and Queensland Fire and Emergency Services as part of the *Integrity Reform (Miscellaneous Amendments) Act 2010*.

In 2014, the Commission was granted the power to make a post-separation disciplinary declaration against an individual whose employment as a Commission officer ends (see section 273D). However, the disciplinary regime in the CC Act does not provide for disciplinary action initiated by the Commission to be continued against officers who move to another public sector entity, or vice versa.

In order to correct this, the Bill makes a number of amendments to the CC Act, *Public Service Act 2008* (PSA), *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990* so that the Commission and relevant public sector entity may transfer a disciplinary finding or delegate the authority to make a disciplinary finding to one another when an officer changes employment. Clauses 26-31, 48-55, 64-70 and 84-91 of the Bill implement this recommendation.

Sharing of disciplinary information (Recommendation 25)

The Bill provides the Commission chief executive with the legislative power to require another public sector official, including the commissioner of police, to provide details of a former employee's disciplinary history where the former employee is seeking employment or secondment with, or is currently employed at, the Commission or the Commission chief executive is considering making a disciplinary finding or disciplinary declaration or taking disciplinary action against the person. The Bill also provides public sector officials with the power to ask the Commission chief executive for disciplinary information. Clauses 32, 56-57 and 71-72 of the Bill implement this recommendation.

Civil liability protections (Recommendation 28)

The Bill makes amendments to the CC Act and *Police Service Administration Act 1990* to align the existing civil liability protections for the Commission, its officers and police service review commissioners with those protections afforded State employees under section 26C of the PSA. Clauses 41 and 81 of the Bill implement this recommendation.

Chair of the Crime Reference Committee (Recommendation 3)

The Bill amends the CC Act to provide that the Chairperson of the Commission is the Chair of the CRC, but may delegate this role to the Senior Executive Officer (Crime). Clauses 35-38 of the Bill implement this recommendation.

Referral of briefings to ODPP (Recommendation 5)

The Bill removes the power for the Commission to refer corruption investigation briefs to the ODPP for the purposes of considering prosecution proceedings. The amendment will not affect the ability for evidence gathered by the Commission during the course of its corruption investigation to be provided to the QPS and consequentially the ODPP as a part of the usual prosecutorial process. Clauses 12 and 62 of the Bill implement this recommendation.

Derivative use (Recommendation 4)

The Bill amends section 197 of CC Act to provide express authorisation for the derivative use of compelled evidence obtained under the CC Act. This amendment is consistent with legislative reforms made in Victoria and the Commonwealth and will clarify the practices of the Commission. This amendment (clause 18) partially implements this recommendation.

Record keeping requirements for UPAs (Recommendation 12)

The Bill inserts a new provision which will require UPAs to keep accurate records of any decision by a public official not to notify the Commission of a complaint, or information or matter, which alleges corrupt conduct but does not meet the reasonable suspicion notification threshold under section 38 of the CC Act. This amendment will enhance the Commission's ability to effectively assess the appropriateness of systems and procedures adopted by UPAs when dealing with complaints about corrupt conduct. Clause 9 of the Bill implements this recommendation.

Report No. 99

In relation to Report No. 99, the Bill will achieve its policy objectives by stipulating that the Commission must not include adverse information about a person in a report which is to be tabled in the Legislative Assembly, or published to the public under the CC Act, unless, before the report is prepared, the Commission gives the person an opportunity to make submissions about the information. Clause 17 of the Bill implements this recommendation.

This procedural fairness requirement will not extend to the covert reporting of the Commission, for example, criminal intelligence reports the Commission provides to other law enforcement agencies; reports prepared by the Commission under section 49; or media statements published on the Commission's website.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

Any costs arising from these legislative amendments will be met from existing agency resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles (FLPs). Potential breaches of the FLPs are addressed below.

Clause 5 – amendment to section 15 of CC Act

The proposed amendments to the definition of 'corrupt conduct' will expand the Commission's jurisdiction by enabling it to investigate conduct of private citizens that impairs or could impair public confidence in public administration, even where the

actions of a public sector employee have not lacked propriety (noting it can already investigate the conduct of private citizens which adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of a UPA or a person holding an appointment under the current definition of ‘corrupt conduct’). This may constitute a breach of section 4(2) of the *Legislative Standards Act 1992* as it will increase the area of the Commission’s operations which in turn increases the extent to which existing powers impacting on individual rights and liberties may be exercised. The extension is justified as it responds to the increased outsourcing in the delivery of government services and the potential for private citizens participating in these service delivery arrangements to engage in corrupt conduct. The changes also align with the Commission’s over-riding responsibility to promote public confidence in the integrity of the public sector.

Clause 7 – amendment to section 33 of CC Act

The proposed amendments to the Commission’s corruption functions provide additional jurisdiction for the Commission, on its own initiative or following a PCCC referral, to investigate conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or conduct connected with corrupt conduct. This enables the Commission to exercise its coercive investigative powers in relation to a broader range of conduct than it can currently which may constitute a breach of section 4(2) of the *Legislative Standards Act 1992* in that it affects the rights and liberties of individuals. However, this is justified as it will enable the Commission to proactively address corruption risks and help better achieve the objectives of the CC Act which is to reduce the incidence of corruption in the public sector.

Clauses 15 and 77 – replacement of section 60 of CC Act and insertion of new section 91A of Ombudsman Act 2001

The Bill also confers broader discretion on both the Commission and the Ombudsman to disclose information to other entities. This may adversely affect the rights and liberties of individuals as provided for in section 4(2) of the *Legislative Standards Act 1992* by potentially allowing the sharing of personal and commercial in-confidence information. However, this risk is sufficiently mitigated as outlined below.

With regards to the Commission, the changes in the Bill are a practical solution to existing administrative and legislative complexities which inhibit the Commission from efficiently disclosing information. The new disclosure provision is not intended to compromise, or undermine, the confidentiality of any information in the Commission’s possession. Under the new section 60, information may only be disclosed to an entity the Commission considers appropriate. The further disclosure of information by an entity may also be protected by section 213 of the CC Act.

In terms of the Ombudsman, the circumstances in which disclosure is authorised is limited by the types of entities to which, and purposes for which, the information may be given. For example, section 91A does not extend to non-government entities and disclosure by an officer of the ombudsman under section 91A(1)(a) can only occur if the Ombudsman himself considers that the agency has a proper interest in the information for the performance of the agency’s functions. Also, it is expected that government agencies that obtain information under section 91A would be subject to

confidentiality and privacy requirements or risk management strategies that prevent inappropriate disclosure of information by them.

Clause 18 – amendment to section 197 of CC Act

The proposed amendment to section 197 of the CC Act makes clear that the Commission may make “derivative use” of an answer, document, thing or statement disclosed by a person during a coercive hearing to gain other evidence for use in subsequent proceedings. Currently, the Act is silent as to derivative use. The direct use immunity provided in section 197(2), which protects against the direct use of a person’s answer, document, thing or statement in a later proceeding, will remain.

The amendment to section 197 of the CC Act confirms that derivative use may be made of compulsory acquired information in line with existing practices employed by the Commission. If the Commission were unable to derive evidence from answers provided by individuals under compulsion, this would significantly undermine the effectiveness of the coercive powers under the CC Act and the Commission’s objective of combating and reducing the incidence of major crime and corruption in Queensland.

The amendment to section 197 is also generally consistent with recent reforms in Victoria and the Commonwealth in which it was made clear that the fact that material is derivative evidence does not prevent it from being admissible against the person in subsequent proceedings.

Therefore, while this amendment may be considered a breach of section 4(2) and 4(3)(f) of the *Legislative Standards Act 1992* in that it affects the rights and liberties of individuals by expressly providing that derivative use may be made of evidence that has been provided by an individual under compulsion, the amendment is consistent with the Commission’s remit under the CC Act and is merely clarifying and putting beyond doubt the existing position in the CC Act. Also, the amendment in no way affects or restricts a court’s inherent jurisdiction to supervise and control its own processes and determine the admissibility of evidence in a proceeding.

Clauses 26 - 31 - Chapter 6, Part 1, Division 9, Subdivisions 1 – 4 of CC Act

Various amendments in the Bill provide the Commission chief executive with the same powers as the chief executive of a public service department in relation to: (i) the transfer of disciplinary findings when an officer changes employment from one public sector agency to another; and (ii) the ability to delegate the authority to make disciplinary findings and accept such a delegation when an officer changes employment from one public sector agency to another. This may constitute a breach of section 4(2) of the *Legislative Standards Act 1992*, in that it affects the rights and liberties of individuals, by providing for the discipline of certain employees after their employment has ended. However, the Bill achieves an appropriate balance between the rights of the individual and the public interest.

Generally, post-separation discipline processes are already provided for under current legislation. As a temporary measure, the Commission was recently prescribed as a ‘public service office’ under the *Public Service Regulation 2008* (PS Regulation) so

that certain sections of the PSA would apply to its operations. This included sections 186A, 187A, 188 and 188AB, which deal with post-separation discipline.

In order to achieve greater consistency and transparency and further protect the integrity of the Commission and the public service generally, the Bill integrates the Commission more effectively into the post-separation discipline regime and ensures that the Commission chief executive and all relevant public sector officials are able to transfer a disciplinary finding and delegate the authority to make a disciplinary finding to one another.

Clause 32 – Insertion of Chapter 6, Part 1, Division 9, Subdivision 5 of CC Act

The use of a person’s previous public sector disciplinary information to determine their suitability for employment can be seen as adversely affecting the rights of the individual concerned and a potential breach of section 4(2) of the *Legislative Standards Act 1992* by enabling the sharing of personal information between public sector entities about employees after their employment has ended. However, it is considered essential that this information be made available to chief executives to maintain public confidence in public administration. Further, given the nature of the functions and powers conferred on the Commission and the high community expectations of persons employed at this integrity body, it is considered important that this power be available to the Commission.

Generally, the sharing of disciplinary information is already provided for under current legislation. As part of its recent prescription as a ‘public service office’ under the PS Regulation, section 188B of the PSA, which authorises the sharing of disciplinary information, was applied to the Commission. The amendments in the Bill will put Commission officers on equal footing with other State employees, who are not public servants, for example, ambulance service officers under the *Ambulance Service Act 1991*. The Bill states that the information need only be provided by a former chief executive where the information is reasonably necessary for the current chief executive to make decisions about the appointment, or continued appointment of the person or the taking of disciplinary action.

The Commission has also committed to complementing this new legislative power with administrative guidelines to ensure natural justice and consistency in decision making, similar to those in the relevant public service directive issued by the Public Service Commission (Directive 15/13).

Clause 34 – Insertion of new section 273H of CC Act

This section requires a prosecuting authority to disclose information about a person, including information about a charge that has not yet been finally dealt with, which may constitute a breach of section 4(2) of the *Legislative Standards Act 1992* in that it affects the rights and liberties of individuals. Like the provisions in the Bill which deal with post-separation discipline and the sharing of disciplinary information, this amendment achieves an appropriate balance between the rights of the individual and the public interest in upholding the integrity of the Commission.

New section 273H is modelled on section 170 of the PSA and section 5AA.10 of the *Police Service Administration Act 1990* and authorises disclosure in the same prescribed circumstances. This includes the provision of information at various stages of a prosecutorial process, including committal, *nolle prosequi*, acquittal, conviction and any appeal, if relevant. Further, disclosure of this type of information to the Commission is already provided for under the PS Regulation.

The inclusion of new section 273H provides greater clarity and certainty for the Commission and ensures the Commission has a complete disciplinary framework in the CC Act. As a result, the Commission will no longer need to be a prescribed 'public service office' under the PS Regulation.

Clauses 41 and 81 – Replacement of section 335 of CC Act and section 9.7 of *Police Service Administration Act 1990*

The changes to section 335 of CC Act and section 9.7 of *Police Service Administration Act 1990* broaden civil liability protections for the Commission, Commission officers and police service review commissioners (protected entities) to align with the protections afforded 'State employees' under section 26C of the PSA. While the amendments confer immunity from a proceeding, there is adequate justification for this immunity (section 4(3)(h) of the *Legislative Standards Act 1992*).

As a temporary measure, Commission officers and police service review commissioners were recently prescribed as 'State employees' under the PS Regulation so that the protections under the PSA apply. The amendments in the Bill correct the legislative disparity and remove any uncertainty about the protections that apply to protected entities.

The amendments are justified because the Commission and its officers perform functions that may adversely affect the rights and interests of others in the public interest. They do so without fear or favour in accordance with the Commission's obligation to act independently, impartially and fairly. Similarly, police service review commissioners perform an important function in the police discipline system by undertaking reviews in relation to decisions about allegations of breach of discipline. The State should ensure that when these protected entities are engaging in conduct in an official capacity, they are not exposed to liability and the accompanying financial risk for carrying out their duties.

The inclusion of a right of action for the State to recover a contribution from the protected entity, where the entity has engaged in conduct other than in good faith, and with gross negligence, ensures an appropriate balance is maintained and that protected entities remain accountable for their actions.

Consultation

Thirty-six submissions were received from a variety of stakeholders on the issues paper. This included 16 departmental responses; five responses from private citizens; four statutory bodies; and 11 external stakeholder organisations.

A consultation draft of the Bill was provided to key stakeholders, which include: the Commission, Queensland Ombudsman, ODPP, Queensland Law Society, Bar Association of Queensland, Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd, Queensland Police Union of Employees, Queensland Police Commissioned Officers' Union of Employees, Together Union and the Local Government Association Queensland (LGAQ). Stakeholders were invited to provide comments and feedback on the Bill.

Stakeholders reported general support for the Bill apart from matters raised below. Stakeholders' comments were considered and where appropriate, amendments were made to the Bill during the drafting process.

The LGAQ raised concerns that removing the benefit or detriment requirement from the definition of 'corrupt conduct' may result in conduct of a councillor who inadvertently fails to update their register of interest within 30 days of the change in accordance with section 171B of the *Local Government Act 2009*, being considered corrupt conduct. While this may be the case, most cases about a failure to update a register of interest are dealt with as an inadvertent oversight and are managed quickly and effectively through the processes in the *Local Government Regulation 2012* (section 296). Also, before the public official refers the matter to the Commission under section 38 of the CC Act, the public official may have regard to all the documented information available to them in deciding whether an allegation raises a reasonable suspicion of corrupt conduct.

The Bar Association of Queensland also raised a number of issues that were considered outside the Bill's scope.

Consistency with legislation of other jurisdictions

The amendments to the definition of 'corrupt conduct' are broadly consistent with changes in NSW and Victoria. The broader investigative jurisdiction is similar to that of ICAC in NSW. The remaining amendments are specific to the State of Queensland.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Crime and Corruption and Other Legislation Amendment Act 2018*.

Clause 2 states that sections 5, 6 and 44 of the Bill are to commence on a day to be fixed by proclamation. The remainder of the Bill will commence on assent.

Part 2 Amendment of Crime and Corruption Act 2001

Clause 3 states that this part amends the *Crime and Corruption Act 2001*.

Clause 4 makes consequential amendments to the notation in section 13 (Purposes of div 2) as a result of the expansion of the Commission's corruption functions under section 33. The note, as amended, will recognise the Commission's relevant corruption function for dealing with corrupt conduct now falls under section 33(1)(b).

Clause 5 amends section 15 (Meaning of corrupt conduct) to: (i) simplify the existing definition of corrupt conduct in section 15(1); and (ii) widen the definition to include a new category of 'corrupt conduct', which captures certain conduct by people outside the public sector.

Subclause (1) omits existing section 15(1)(c) which required that conduct be engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person. As a result of the omission, subclause (2) renumbers existing section 15(1)(d) as section 15(1)(c).

Subclause (3) omits existing section 15(2) which contained a list of additional matters, criminal offences or behaviours, which could be 'corrupt conduct' and inserts a new section 15(2).

New section 15(2) widens the definition of corrupt conduct to include conduct of a person, regardless of whether the person holds or held an appointment, that impairs, or could impair, public confidence in public administration. Conduct could impair public confidence in public administration even though the holder of an appointment in a UPA has not engaged in conduct which lacks propriety.

Section 15(2)(b) provides that this additional category of corrupt conduct occurs when the conduct that impairs or could impair public confidence involves, or could involve, any of the following:

- collusive tendering;
- fraud relating to an application for a licence, permit or other authority under an Act;
- dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
- evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;

- fraudulently obtaining or retaining an appointment.

Accordingly, section 15(2)(b) limits the scope and operation of section 15(2)(a). The list of conduct has been modelled on examples in section 8(2A) of the ICAC Act.

Section 15(2)(c) also requires that the conduct would, if proved, be: (i) a criminal offence; or (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. This requirement is the same as renumbered section 15(1)(c).

Clause 6 makes consequential amendments to section 16 (Conduct happening over time, or at any time, may be corrupt conduct) to ensure the new definition of 'corrupt conduct' under section 15(2) applies to conduct which occurred before the commencement of the CC Act and this amending Act. Subclause (2) inserts a new subsection (3) which provides that 'relevant commencement' for the purposes of section 16 means: (a) generally – the commencement of the CC Act; and (b) for corrupt conduct under section 15(2) – the commencement of that subsection.

Clause 7 amends section 33 (Commission's corruption functions) to provide the Commission with broader corruption functions. New section 33(2) recognises that the Commission's functions also include:

- investigating and otherwise dealing with conduct liable to allow, encourage or cause corrupt conduct; and conduct connected with corrupt conduct; and
- investigating whether corrupt conduct, conduct liable to allow, encourage or cause corrupt conduct; or conduct connected with corrupt conduct may have happened, may be happening or may happen.

Clause 8 amends section 35 (How commission performs its corruption functions) to recognise the Commission may investigate and otherwise deal with on its own initiative the matters mentioned in section 33(2). Subclause (2) makes consequential amendments to section 35(3), as a result of the expansion of the Commission's corruption functions under section 33.

Clause 9 inserts a new section 40A (Record of alleged corrupt conduct not notified) to enable the Commission to more effectively perform its monitoring role for corrupt conduct under section 48.

Subsection (1) indicates that the requirements under this section apply where a public official decides not to notify the Commission of a complaint, or information or matter about alleged corrupt conduct which does not meet the reasonable suspicion notification threshold under section 38. When such a decision is made, subsection (2) states that the public official must make a record of the decision and subsection (3) sets out what information is required to be recorded. Subsections (4) and (5) provide that the Commission has the ability to request access from a public official to a record created under section 40A and that the public official must comply with such a request.

Clause 10 amends the heading of section chapter 2, part 3, division 4 to 'Dealing with complaints and other matters.'

Clause 11 inserts section 46A (Dealing with matters mentioned in s 33(2)). This new provision sets out how the Commission is to deal with matters that fall within its broader corruption functions, as provided for under new section 33(2).

Subsection (1) makes clear that the new section 46A only applies to a matter mentioned in section 33(2). Subsection (2) outlines the various ways in which the Commission may deal with the matter. These include: assessing the matter; investigating the matter, if the Commission considers it appropriate; and taking the action the Commission considers most appropriate in the circumstances, having regard to the public interest principle in section 34(d).

Subsection (3) provides that the Commission, when dealing with a matter under new section 33(2), may require a public official to provide information about the matter and subsection (4) states that the public official must comply with such a requirement.

Clause 12 amends section 49 (Reports about complaints dealt with by the commission) to remove the power of the Commission to refer reports to the ODPP for the purposes of any prosecution proceedings.

Subclause (1) provides that the Commission may continue to report on a corruption investigation to other prosecuting authorities, for example, the QPS, for the purposes of any prosecution proceeding the authority considers warranted and subclause (2) clarifies for the purpose of this section, ‘prosecuting authority’ does not include the director of public prosecutions.

Clause 13 amends section 50 (Commission may prosecute corrupt conduct) to streamline the process which must be undertaken when the Commission commences disciplinary proceedings against public sector employees, other than a member of the police service, by removing the requirement for UPAs or appointments to be prescribed by regulation.

As a result of the omission of the definition of ‘prescribed appointment’ in section 50(4), subclause (1) omits section 50(3), which sets out what UPAs or appointments may be prescribed by regulation.

Subclause (2) omits the definition of ‘prescribed appointment’ from section 50(4).

Subclause (3) omits the definition of prescribed person, paragraph (b)(i) and (ii) and inserts a new definition which means a person, other than a judge or holder of judicial office or a member of the police service, who holds an appointment in a UPA or who held an appointment in a UPA that ended after the corrupt conduct happened, will no longer be required to hold a prescribed appointment to be subject to QCAT’s jurisdiction. Subclause (4) rennumbers section 50(4) as section 50(3).

Clause 14 replaces section 55 (Sharing of intelligence information) as part of the changes to the Commission’s disclosure regime. New section 55 (Access to intelligence information held by police service) retains the Commission’s right of access to QPS intelligence and provides that the commissioner of police must give the chairperson access to intelligence information held by the police service as required by the chairperson as soon as possible after receiving the request. The substance of existing

sections 55(2) and 55(3) is no longer necessary as the Commission will be able to give intelligence information to the entities it considers appropriate in accordance with the new single disclosure provision provided for by the Bill.

Clause 15 replaces section 60 (Commission may give evidence or information to other entities) with a new standalone disclosure provision entitled ‘Use and disclosure of information, document or thing.’

Subsection (1) provides that the Commission may use any information, document or thing in the Commission’s possession in performing the Commission’s functions.

Subsection (2) provides the Commission with a general discretion to give intelligence or other information to any entity the Commission considers appropriate and provides examples of such entities, including a UPA, a law enforcement agency, the auditor-general, an electoral commissioner, or the ombudsman. A notation is included in subsection (2) which states that section 213 of the CC Act applies in relation to making a record of, or wilfully disclosing, information given to a person by the Commission on the understanding, express or implied, that the information is confidential.

Clause 16 omits section 62 (Restriction on access) as a result of the consolidation of the Commission’s disclosure regime into one single provision.

Clause 17 inserts new section 71A (Report containing adverse comment). Subsection (1) states that the section applies if the Commission proposes to make an adverse comment about a person in a report tabled in the Legislative Assembly, or published to the public, under the Act. For example, this would include reports about corruption investigations that the Commission chooses to table in accordance with the CC Act. It does not extend to the covert reporting of the Commission, including intelligence reports provided to law enforcement agencies, section 49 reports or media statements published on the Commission’s website.

Subsection (2) provides that the Commission must not make the adverse comment unless, before the report is prepared, the Commission gives the person an opportunity to make submissions about the proposed adverse comment and subsection (3) states that if, despite the person’s submissions the Commission still proposed to make the adverse comment, the Commission must fairly state the person’s submission in the report.

Clause 18 amends section 197 (Restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion) by inserting a new subsection (7) which clarifies that derivative use may be made of information an individual provides under compulsion. Nothing prevents this derived evidence from being used against the individual in a civil, criminal or administrative proceeding. Section 197(2) will continue to operate as a use immunity by preventing the actual answer, document, thing or statement which was given or produced by the individual under compulsion being used against the individual in any civil, criminal or administrative proceeding.

Clause 19 makes a series of consequential amendments to section 219BA (Meaning of reviewable decision).

Subclause (1) updates the definition of ‘disciplinary declaration’ to include the relevant provisions of the *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990*. Subclauses (2), (3) and (4) make consequential amendments to reflect the definition of ‘prescribed person’ is now found in section 50(3) and that proceedings started under section 219G are based on review by QCAT and not appeal.

Clause 20 makes consequential amendments to section 219DA (QCAT hearing in relation to prescribed person whose employment or appointment has ended) to reflect that the definition of prescribed person is now found in section 50(3).

Clause 21 amends section 219G (Proceeding relating to reviewable decision) to lengthen the timeframe in which the Commission or a prescribed person, against whom a reviewable decision has been made, may apply to QCAT for a review of a reviewable decision from 14 days to 28 days.

Clause 22 makes consequential amendments to section 219I (Powers for corrupt conduct) to recognise that the definition of ‘prescribed person’ is now found in section 50(3).

Clause 23 amends section 219IA (QCAT powers for prescribed persons whose employment or appointment ends) to reflect that the definition of ‘prescribed person’ is now found in section 50(3).

Clause 24 amends section 219J (Additional powers for reviewable decision) to clarify that when QCAT is reviewing decisions that involve the making of, or failure to make a disciplinary declaration, the substitute decision or discipline imposed by QCAT can include a disciplinary declaration. The remaining amendments to section 219J update language to reflect that QCAT’s powers for reviewable decisions are based on review by QCAT and not on appeal.

Clause 25 makes necessary and incidental amendments to section 269 (Delegation – commission) as part of the consolidation of the Commission’s disclosure regime. The amendment removes statutory constraints on sub-delegations which currently apply to section 60 (to be replaced by clause 15) and section 62 (to be omitted by clause 16).

Clause 26 inserts a new chapter 6, part 1, division 9, subdivision 1 (Preliminary). The amendments within division 9 modernise the statutory framework for maintaining the ethical standards of Commission officers and for initiating and continuing discipline action when an employee changes public sector employer.

Clause 27 amends section 273A (Definitions for division 9) by inserting definitions for ‘prescribed employee’ and ‘relevant employee.’ Prescribed employee, for the purposes of the CC Act, means a prescribed employee under section 186A of the PSA, other than a relevant commission officer (which thereby limits its application to an ambulance service officer and a fire service officer). Relevant employee means a public service employee (as defined under section 9(1) of the PSA to include persons employed under that Act as a public service officer; or a general employee; or a temporary employee); and a prescribed employee.

Clause 28 inserts new section 273AA (References to relevant employees) and new chapter 6, part 1, division 9, subdivision 2 (Grounds and disciplinary action generally).

New section 273AA serves as a deeming provision which provides the meaning of particular terms used throughout division 9 which relate to a person who is or was a relevant employee. Subsection (2) signposts that a reference to the person's current or previous chief executive is a reference to one of the following:

- the chief executive of the department in which the person is or was employed as a public service employee; or
- for a person who is or was a prescribed employee – the person's current or previous chief executive under section 186B(2) of the PSA, which includes, for the purposes of the CC Act: the chief executive of the department in which the *Ambulance Service Act 1991* is administered (AS chief executive); or the commissioner under the *Fire and Emergency Services Act 1990* (fire commissioner).

To further aid in the interpretation of the division, subsections (3) and (4) provide for the meaning of the terms 'relevant disciplinary law' (which, for the purposes of the CC Act includes the PSA, *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990*), 'relevant disciplinary ground' and 'disciplinary finding'.

Clause 29 amends the heading of section 273C to 'Disciplinary action that may be taken against a relevant commission officer generally'.

Clause 30 inserts new chapter 6, part 1, division 9, subdivision 3 (Disciplinary action against a relevant commission officer who was a relevant employee) and subdivision 4 (Disciplinary action against a former relevant commission officer).

Subdivision 3 relates to how disciplinary action may be taken against a relevant commission officer who was a relevant employee.

New section 273CA (Application of subdivision) sets clear boundaries for the subdivision to ensure that a person will not be subject to disciplinary action in the previous entity and further disciplinary action in the Commission, in relation to the same disciplinary ground.

New section 273CB (Action previous chief executive may take) specifies the actions a previous chief executive may take in relation to a former relevant employee. Subsection (1) provides that a person's previous chief executive may make a disciplinary finding about the disciplinary ground, even though the person is no longer employed as a relevant employee. Subsection (2) recognises that the previous chief executive may take disciplinary action about the disciplinary ground if the previous chief executive and the Commission chief executive reach an agreement, as provided for under section 273CC(1).

Subsection (3) allows a previous chief executive to delegate the authority to make a disciplinary finding about the person to the Commission chief executive. Subsection (4) provides that the previous chief executive may give the Commission chief executive any information about a person or a relevant disciplinary ground relating to the person to help the Commission chief executive to perform a function under section 273CC(2) or (4).

New section 273CC (Action chief executive may take) specifies the actions a chief executive may take. Subsections (1) and (2) provide that if the previous chief executive makes a disciplinary finding that the person is liable for disciplinary action, and both the previous chief executive and the Commission chief executive agree that disciplinary action is reasonable in the circumstances, the Commission chief executive may take disciplinary action against the person under the CC Act.

Subsections (3) and (4) provide that if a delegation is made under section 273CB(1) and the Commission chief executive makes a disciplinary finding about the person, the Commission chief executive can take disciplinary action against the person under the CC Act, without the agreement of the previous chief executive.

Clause 31 amends section 273D (Disciplinary action that may be taken against a former relevant commission officer) by inserting a new subsection (1A) which provides that section 273D does not apply to a former relevant Commission officer if the Commission chief executive is aware the person is now a relevant employee; and the person's current or previous chief executive has taken, is taking, or intends to take, disciplinary action against the person. As a result of the inclusion of this new subsection, subclauses (2) and (3) make consequential re-numbering changes.

Clause 32 inserts new chapter 6, part 1, division 9, subdivision 5 (Information about disciplinary action) and chapter 6, part 1, division 9, subdivision 6 (Other provisions about disciplinary action).

New section 273DA (Information about disciplinary action to be given by chief executive officer) applies if a relevant official asks the Commission chief executive for disciplinary information about a person who is or was a relevant commission officer and the information is reasonably necessary to make a decision about an appointment, or continued appointment, of the person by the relevant official or a disciplinary finding, disciplinary action or disciplinary declaration the official is considering in relation to the person.

Subsection (2) provides that, unless the Commission chief executive is reasonably satisfied that giving the information may prejudice an investigation, the chief executive must give the requested disciplinary information to the relevant official.

For the purposes of section 273DA:

- disciplinary information includes a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action, including a disciplinary declaration; and
- relevant official includes the chief executive of a department; the chief executive of an entity whose employees are prescribed employees (which includes the AS chief executive and the fire commissioner); and the commissioner of police.

New section 273DB (Information about disciplinary action to be given to chief executive officer) applies if the Commission chief executive officer asks a relevant official for disciplinary information about a person who is or was a relevant employee and the information is reasonably necessary to make a decision about an appointment,

or continued appointment, of the person to the Commission or a disciplinary finding, disciplinary action or disciplinary declaration the chief executive is considering in relation to the person.

Subsection (2) provides that, unless the relevant official is reasonably satisfied that giving the information may prejudice an investigation, the official must give the requested disciplinary information to chief executive of the Commission.

For the purposes of section 273DB:

- disciplinary information includes a current investigation into whether the person should be disciplined, a finding that the person should be disciplined, possible disciplinary action under consideration and disciplinary action, including a disciplinary declaration;
- public sector disciplinary law means a public sector disciplinary law under the PSA (which includes the *Police Service Administration Act 1990*); and another law under which a prescribed employee may be disciplined (which includes the *Ambulance Service Act 1991* or *Fire and Emergency Services Act 1990*);
- relevant employee also includes a police officer; and
- relevant official includes the chief executive of a department; the chief executive of an entity whose employees are prescribed employees (which includes, the AS chief executive and fire commissioner); and the commissioner of police.

Clause 33 changes the chapter 6, part 1, division 10 heading to ‘Other provisions about senior officers and commission staff and agents.’

Clause 34 inserts new section 273H (Relevant prosecuting authority to notify chief executive officer of prosecution proceeding), which is modelled on section 170 of the *Public Service Act 2008*.

Section 273H applies if the commissioner of police or the DPP (a relevant prosecuting authority) become aware a relevant commission officer is charged with a relevant offence; and a relevant event happens in relation to the person. ‘Relevant event’ includes if:

- the relevant commission officer: (i) is committed by a court for trial for a relevant offence; (ii) is convicted before a court of a relevant offence; or (iii) appeals against the conviction and the appeal is finally decided or has otherwise ended; or
- the prosecution of the relevant offence ends without the relevant commission officer being convicted because: (i) a nolle prosequi is entered; (ii) the person is acquitted; or (iii) the prosecution otherwise ends.

Generally, the prosecuting authority is required to provide the Commission chief executive with certain particulars about the relevant event in a written notice, within 7 days of the event happening. However, if the relevant event is the conviction of the relevant commission officer, the prosecuting authority must provide information to the Commission chief executive within 7 days of the court imposing a sentence for the offence. This reflects that in practice there may be a time delay between conviction and sentencing. Subsection (2) sets out what information is required to be provided, including event-specific information for each ‘relevant event’.

Clause 35 amends section 278 (Membership of reference committee) to recognise that the chairperson of the Commission is the Crime Reference Committee (CRC) chairperson and the senior executive officer (crime) will now serve as a member of the CRC.

Clause 36 inserts new section 279A (Delegation of functions of committee chairperson) to provide that the chairperson of the Commission may delegate his or her functions as CRC chairperson to the senior executive officer (crime). Subsections (2) and (3) clarify that if the chairperson of the Commission delegates the functions, the senior executive officer (crime) is taken to be the CRC chairperson, even if the chairperson of the Commission has appointed a deputy under section 279(1). Subsection (4) defines the term ‘functions’ for the purposes of this section.

Clause 37 makes consequential amendments to section 285 (Time and place of meetings) to provide that the power of deciding when and where CRC meetings are to be held is at the discretion of the CRC chairperson, whoever that may be, subject to the exceptions in section 285(2).

Clause 38 replaces section 287 (Presiding at meetings) with a new provision that sets out who is to preside at CRC meetings. Subsection (1) generally provides that the CRC chairperson (whether this is the chairperson of the Commission or if a delegation is in place, the senior executive officer (crime)) is to preside at all meeting at which the CRC chairperson is present.

Subsection (2) provides that if the CRC chairperson is absent from a meeting, the following person is to preside instead:

- If the CRC chairperson is the chairperson of the Commission and the senior executive officer (crime) is present at the meeting – the senior executive officer (crime).
- If a delegation is in place under section 279A but the chairperson of the Commission is present at the meeting – the chairperson of the Commission.
- In all other situations – the CRC member chosen by the CRC members.

Clause 39 amends section 294 (Directions by parliamentary committee to undertake investigation) to empower the PCCC to be able to direct the Commission to investigate a matter falling within the Commission’s corruption functions, as defined under section 33. Through the amendments in the Bill, this now includes matters involving conduct liable to allow, encourage or cause corrupt conduct as well as conduct connected with corrupt conduct. A direction will only be effective if it is made with the bipartisan support of the PCCC.

Clause 40 makes consequential amendments to section 332 (Judicial review of commission’s activities in relation to corrupt conduct) as a result of the expansion of the Commission’s corruption functions under section 33. The amendment clarifies that a ‘commission investigation into corrupt conduct’ includes an investigation of a matter mentioned in section 33(2).

Clause 41 replaces section 335 (Protecting officials and other from liability) with new section 335 (Protection of officials and others from liability), modelled on the civil liability protections afforded to State employees under section 26C of the PSA. The

revised protections apply to protected entities, which include the Commission, commission officers; and any persons acting under the direction of a commission officer.

Subsections (2) and (3) provides that a protected entity does not incur civil liability for engaging, or for the result of engaging, in conduct in an official capacity and, instead the liability attaches to the State.

Subsection (4) enables the State to recover contributions from the protected entity if the conduct was engaged in other than in good faith and with gross negligence. Subsection (5) provides that the amount of contribution recoverable is that which is found by a court to be just and equitable in the circumstances. This means that where a protected entity fails to meet the standard of conduct expected of them, they could be financially liable, for example in relation to costs incurred in responding to a claim and/or orders made as a result of proceedings.

Like existing subsection (3) of current section 335, subsection (6) provides that in a defamation proceeding, there is a defence of absolute privilege for a publication to or by the Commission or a commission officer made for the purpose of performing the Commission's functions. Subsection (6) provides definitions for the terms 'civil liability', 'conduct' and 'engage in conduct in an official capacity'.

Clause 42 makes a consequential amendment to section 346B (Declarations etc. relating to inquiry public records) to remove reference to section 62 which is being omitted by clause 16.

Clause 43 inserts new chapter 8, part 15 (Crime and Corruption and Other Legislation Amendment Act 2018) containing new sections 441-448.

Division 1 contains the transitional arrangements which will commence on assent.

New section 441 explains the transitional arrangements for the expansion of the Commission's corruption functions under section 33. Subsection (1) recognises that the Commission may perform its new corruption functions under section 33(2) in relation to conduct that happened or is suspected to have happened before commencement. Subsection (2) notes that after the commencement of the Bill, the provisions therein apply to a corruption investigation (i) started but not finished before commencement; and (ii) started after commencement in relation to conduct that happened or is suspected to have happened before commencement.

New section 442 explains the transitional arrangements for the provision of reports to the DPP under section 49. Subsection (2) recognises that the DPP may continue to require the Commission to comply with section 49(5) in regard to any reports sent to the DPP under section 49(2)(a) prior to commencement.

New section 443 explains the transitional arrangements for the omission of 'prescribed appointment' from section 50. The Commission may apply to QCAT for orders under section 219I for corrupt conduct, even though the person was not prescribed under a regulation as in force when the conduct allegedly happened.

New section 444 explains the transitional arrangements for the time periods which apply to the Commission or prescribed person in applying to QCAT for review of a reviewable decision under section 219G. The Commission or prescribed person has 14 days to apply for a review of a reviewable decision made before commencement; however if the decision is made after commencement, the Commission or prescribed person has 28 days to apply for a review, even if the decision relates to conduct that happened before commencement.

New section 445 explains the transitional arrangements for how disciplinary action is to be taken against a person who is a relevant commission officer and was a relevant employee, which includes a public service employee, ambulance service officer and fire service officer.

Subsection (2) provides that disciplinary action against the person under the new CC Act provisions may only occur in relation to disciplinary grounds arising on or after 3 February 2017. A notation recognises that particular provisions of the PSA concerning disciplinary action (including sections 187A and 188AB) have applied to the Commission as a public service office since 3 February 2017.

Subsection (3) clarifies that if the relevant disciplinary ground arising on or after 3 February 2017 relates to conduct that is part of a course of conduct, some of which happened before 3 February 2017, the person may be disciplined under the new CC Act provision for all of the grounds. Subsection (4) provides that subsection (3) does not apply if disciplinary action about a disciplinary ground arising before 3 February 2017 has been or is being taken.

Subsection (5) provides that if, at the commencement, the chairperson is taking disciplinary action under section 187A or 188AB of the PSA in relation to a person to whom either of these sections apply, the chairperson must stop taking action under the PSA and the action may be continued under chapter 6, part 1, division 9, subdivision 3. It further deems that anything done by the chairperson under the PSA is taken to have been done by the Commission chief executive under the CC Act. Subsection (6) contains the relevant definitions for this section.

New section 446 explains the transitional arrangements for the sharing of disciplinary information under sections 273DA and 273DB. Subsection (1) recognises that the sharing of disciplinary information only applies to requests made after commencement. The table in subsection (2) deems any request under section 188B of the PSA but not complied with before commencement to be a request under section 273DA or 273DB.

New section 447 explains the transitional arrangements for the notification of prosecution proceedings by relevant prosecuting authorities to the Commission under section 273H. Subsection (1) provides that section 273H only applies in relation to a person charged with a relevant offence on or after 3 February 2017, which was the date from which section 170 of the PSA was applied to the Commission as a public service office. Subsection (2) deems any written notice given to the chairperson under section 170 of the PSA from commencement as a notice given to the Commission chief executive under section 273H.

New section 448 explains the transitional arrangements for the new civil liability protections for protected entities under section 335. The new civil liability protections only apply to conduct engaged in by a protected entity which occurs after commencement, unless it is part of a course of conduct that includes conduct before commencement.

Subsections (2) and (3) clarify that: (i) section 335, as in force before commencement, continues to apply to an act or omission of an official before commencement; and (ii) section 26C of the PSA continues to apply to conduct engaged in by a commission officer before commencement. Subsection (6) contains the relevant definitions for this section.

Clause 44 inserts new chapter 8, part 15, division 2 (Amendments commencing by proclamation), which includes new sections 449 and 450.

New section 449 explains the transitional arrangements for existing complaints about corrupt conduct. This includes complaints which have been made or referred to the Commission but not finally dealt with, before commencement as well complaints that a public official reasonably suspects involves, or may involve, corrupt conduct which are yet to be notified to the Commission, before commencement. Subsection (2) requires that these complaints are to be dealt with or notified to the Commission in accordance with the amended definition of corrupt conduct in section 15.

New section 450 explains the transitional arrangements for existing disciplinary proceedings about corrupt conduct. QCAT must hear and decide any disciplinary proceeding started, but not finished, before commencement, in accordance with the meaning of corrupt conduct before the commencement.

Clause 45 amends schedule 2 (Dictionary) by refining the existing definition of ‘prescribed person’ and inserting new definitions of ‘prescribed employee’ and ‘relevant employee.’

Part 3 Amendment of Ambulance Service Act 1991

Clause 46 states that this part amends the *Ambulance Service Act 1991*.

Clause 47 makes a minor amendment to section 2 (Definitions) to provide that the definitions are in Schedule 1 of the Act.

Clause 48 inserts new part 2, division 4, subdivision 1A (Interpretation) that includes new sections 18AA and 18AB.

New section 18AA provides definitions for division 4, which include ‘prescribed employee’ and ‘relevant employee.’ Prescribed employee, for the purposes of the *Ambulance Service Act 1991*, means a prescribed employee under section 186A of the PSA other than an ambulance service officer (thereby limiting its application to a relevant Commission officer and a fire service officer). Relevant employee means a public service employee (as defined under section 9(1) of the PSA); and a prescribed employee.

New section 18AB is a deeming provision which provides the meaning of particular terms used throughout division 4 which relate to a person who is or was a relevant employee.

Subsection (2) signposts that a reference to the person's current or previous chief executive is a reference to one of the following:

- the chief executive of the department in which the person is or was employed as a public service employee; or
- for a person who is or was a prescribed employee – the person's current or previous chief executive under section 186B(2) of the PSA (which includes, for the purposes of the *Ambulance Service Act 1991*, the fire commissioner; or Commission chief executive).

To further aid in the interpretation of the division, subsections (3) and (4) provide for the meaning of the terms 'relevant disciplinary law' (which, for the purposes of the *Ambulance Service Act 1991* includes the PSA, CC Act and *Fire and Emergency Services Act 1990*), 'relevant disciplinary ground' and 'disciplinary finding'.

Clause 49 changes the heading of part 2, division 4, subdivision 2 to 'Disciplinary action against a service officer who was a relevant employee'.

Clause 50 amends section 18C (Application of sdiv 2) to clarify the operation of subdivision 2. Subclause (1) omits subsections (1) and (2) and replaces them with a new subsection to provide that this subdivision applies if a person is a relevant employee and a disciplinary ground arises in relation to the employee and, after the disciplinary ground arises, the employee changes employment from a relevant employee to employment as an ambulance service officer under section 13.

Subclause (2) updates terminology in subsection (3) to clarify that this subdivision does not apply if the person's previous chief executive has taken, is taking, or intends to take, disciplinary action against the person under a relevant disciplinary law, in relation the relevant disciplinary ground. The notation in subsection (3) is also omitted.

Subclauses (3) and (4) update terminology in section 18(C)(4) to refer to 'relevant employee'. Subclauses (5), (6) and (7) make minor consequential and renumbering changes.

Clause 51 omits section 18D (Definitions for sdiv 2) as the definitions provided under this section are no longer relevant.

Clause 52 amends section 18E (Action previous chief executive may take) to align and standardise the post-separation discipline powers of chief executives across the CC Act, PSA, *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990*.

Subclause (1) replaces subsections (1) and (2) with new subsections which provide that:

- a person's previous chief executive may make a disciplinary finding about the disciplinary ground, even though the person is no longer employed as a relevant employee; and

- the previous chief executive may take disciplinary action about the disciplinary ground if the previous chief executive and AS chief executive reach an agreement, as provided for under section 18F(1).

Subclauses (2) and (3) update the language in section 18E(3) and (4) to refer to a person's 'current chief executive'.

Clause 53 makes consequential amendments to section 18F (Action employing chief executive may take) to update the language to refer to a person's 'current chief executive'.

Clause 54 amends section 18G (Declaration if same chief executive is the previous chief executive and employing chief executive) to update the language to refer to a person's 'current chief executive'.

Clause 55 amends section 18H (Application of sdiv 3) to clarify the operation of subdivision 3, which relates to disciplinary action against a former ambulance service officer. New section 18C(2) provides that subdivision 3 does not apply to a former ambulance service officer if the AS chief executive is aware the person is now a relevant employee; and the person's current or previous chief executive has taken, is taking, or intends to take, disciplinary action against the person.

Clause 56 makes a number of consequential amendments to section 18J (Information about disciplinary action to be given by chief executive) to reflect that information about disciplinary action is to be given by the AS chief executive to a relevant official. Relevant official is to be defined in section 18J(3) as the chief executive of a department or the chief executive of an entity whose employees are prescribed employees (which includes the Commission chief executive and fire commissioner).

Clause 57 amends section 18K (Information about disciplinary action to be given to chief executive) to reflect that information about disciplinary action is to be given to the AS chief executive by a relevant official. Relevant official is to be defined in section 18K(3) as the chief executive of a department or the chief executive of an entity whose employees are prescribed employees (which includes the Commission chief executive and fire commissioner).

Clause 58 amends section 18L (Use of particular information about disciplinary action obtained by chief executive in another capacity) to recognise that the AS chief executive no longer has incidental access to disciplinary information about a person who is or was a fire service officer. This amendment reflects the changes in structure to the Queensland Ambulance Service and Queensland Fire and Emergency Services which have occurred over recent years.

Clause 59 inserts new part 8, division 8 (Transitional provisions for the Crime and Corruption and Other Legislation Amendment Act 2018) that includes new sections 101 and 102.

New section 101 explains the transitional arrangements for the taking of disciplinary action against a person who is an ambulance service officer and was a relevant commission officer. It provides that a person may only be disciplined in relation to

disciplinary grounds arising on or after commencement, unless the conduct is part of a course of conduct, some of which happened before commencement.

New section 102 explains the transitional arrangements for the sharing of disciplinary information between the AS chief executive and the Commission chief executive. It provides that sections 18J and 18K only apply in relation to requests made after commencement.

Clause 60 amends the schedule (Dictionary) to omit unnecessary terms and include definitions for ‘disciplinary finding’, ‘disciplinary law’, ‘prescribed employee’ and ‘relevant employee’. The clause also amends the definitions of the terms ‘disciplinary declaration’ and ‘serious disciplinary action’ and numbers the dictionary as schedule 1.

Part 4 Amendment of Director of Public Prosecutions Act 1984

Clause 61 states that this part amends the *Director of Public Prosecutions Act 1984*.

Clause 62 amends section 13 (Assistance for director) which enables the director, as part of a criminal proceeding under consideration or conducted by the director, to request assistance from certain persons if a matter arises that requires further investigation. Subclause (1) amends section 13(2) to include the Commission chief executive in the list of people from whom the director may request assistance. This list currently includes the police commissioner and the chief executive of the department in which the *Animal Care and Protection Act 2001* is administered. Subclause (2) amends section 13(4) to specify that a person who receives a request for assistance from the director must, as far as possible, comply with that request.

Part 5 Amendment of Fire and Emergency Services Act 1990

Clause 63 states that this part amends the *Fire and Emergency Services Act 1990*.

Clause 64 inserts a new chapter 3, part 4, division 3, subdivision 1A (Interpretation) that includes new sections 29C and 29D.

New section 29C provides definitions for division 3, which include ‘prescribed employee’ and ‘relevant employee.’ Prescribed employee, for the purposes of the *Fire and Emergency Services Act 1990*, means a prescribed employee under section 186A of the PSA other than a fire service officer (thereby limiting its application to a relevant Commission officer and an ambulance service officer). Relevant employee means a public service employee (as defined under section 9(1) of the PSA); and a prescribed employee.

New section 29D is a deeming provision which provides the meaning of particular terms used throughout division 3 which relate to a person who is or was a relevant employee.

Subsection (2) signposts that a reference to the person’s current or previous chief executive is a reference to one of the following:

- the chief executive of the department in which the person is or was employed as a public service employee; and

- for a person who is or was a prescribed employee – the person’s current or previous chief executive under section 186B(2) of the PSA, which includes, for the purposes of the *Fire and Emergency Services Act 1991*, the AS chief executive; or the Commission chief executive.

To further aid in the interpretation of the division, subsections (3) and (4) provide for the meaning of the terms ‘relevant disciplinary law’ (which, for the purposes of the *Fire and Emergency Services Act 1990* includes the PSA, CC Act and *Ambulance Service Act 1991*), ‘relevant disciplinary ground’ and ‘disciplinary finding’.

Clause 65 changes the heading of chapter 3, part 4, division 3, subdivision 2 to ‘Disciplinary action against a fire service officer who was a relevant employee.’

Clause 66 amends section 30B (Application of sdiv 2) to clarify the operation of subdivision 2. Subclause (1) omits existing subsections (1) and (2) and replaces them with a new subsection which provides that subdivision 2 applies if a person is a relevant employee and a disciplinary ground arises in relation to the employee and, after the disciplinary ground arises, the employee changes employment from a relevant employee to employment as a fire service officer under section 25.

Subclause (2) updates terminology in subsection (3) to clarify that subdivision 2 does not apply if the person’s previous chief executive has taken, is taking, or intends to take, disciplinary action against the person under a relevant disciplinary law, in relation the relevant disciplinary ground. The notation in subsection (3) is also omitted.

Subclauses (3) and (4) update terminology in section 30B(4) to refer to ‘relevant employee’. Subclauses (5), (6) and (7) make minor consequential and renumbering changes.

Clause 67 omits section 30C (Definitions for sdiv 2) as the definitions provided under this section are no longer relevant.

Clause 68 amends section 30D (Action previous chief executive may take) to align and standardise the post-separation discipline powers of chief executives across the CC Act, PSA, *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990*.

Subclause (1) omits existing section 30D(1) and (2) and inserts new section 30D(1) and (2) to provide that:

- a person’s previous chief executive may make a disciplinary finding about the disciplinary ground, even though the person is no longer employed as a relevant employee; and
- the previous chief executive may take disciplinary action about the disciplinary ground if the previous chief executive and fire commissioner reach an agreement, as provided for under section 30E(1).

Clause 69 makes minor amendments to section 30E (Action commissioner may take) to refer to a person’s previous chief executive.

Clause 70 amends section 30G (Application of sdiv 3) to clarify the operation of subdivision 3, which relates to disciplinary action against a former fire service officer.

New section 30G(2) provides that subdivision 3 does not apply to a former fire service officer if the fire commissioner is aware the person is now a relevant employee; and the person's current or previous chief executive has taken, is taking, or intends to take, disciplinary action against the person.

Clause 71 makes a number of consequential amendments to section 30I (Information about disciplinary action to be given by commissioner) to reflect that information about disciplinary action is to be given by the fire commissioner to a relevant official. Relevant official is defined in section 30I(3) as the chief executive of a department or the chief executive of an entity whose employees are prescribed employees (which includes the Commission chief executive and AS chief executive).

Clause 72 amends section 30J (Information about disciplinary action to be given to commissioner) to reflect that information about disciplinary action is to be given to the fire commissioner by a relevant official. Relevant official is defined in section 30J(3) as the chief executive of a department or the chief executive of an entity whose employees are prescribed employees (which includes the Commission chief executive and AS chief executive).

Clause 73 amends section 30K (Use of particular information about disciplinary action obtained by commissioner in another capacity) to reflect that the fire commissioner no longer has incidental access to disciplinary information about a person who is or was an ambulance service officer. This amendment reflects the changes in structure to the Queensland Fire and Emergency Services which have occurred over recent years.

Clause 74 inserts new chapter 5, part 5, division 8 (Transitional provisions for the Crime and Corruption and Other Legislation Amendment Act 2018) which includes new sections 205 and 206.

New section 205 explains the transitional arrangements for the taking of disciplinary action against a person who is a fire service officer and was a relevant commission officer. It provides that a person may only be disciplined in relation to disciplinary grounds arising on or after commencement, unless the conduct is part of a course of conduct, some of which happened before commencement.

New section 206 explains the transitional arrangements for the sharing of disciplinary information between the fire commissioner and the Commission chief executive. It provides that sections 30I and 30J only apply in relation to requests made after commencement.

Clause 75 amends schedule 6 (Dictionary) to omit unnecessary terms and include definitions for 'disciplinary finding', 'disciplinary law', 'prescribed employee' and 'relevant employee'. The clause also amends the definitions of the terms 'disciplinary declaration' and 'serious disciplinary action'.

Part 6 Amendment of Ombudsman Act 2001

Clause 76 states that this part amends the *Ombudsman Act 2001*.

Clause 77 inserts a new section 91A (Disclosure of information). Subsection (1) provides that an officer of the ombudsman may disclose information obtained in the performance of a function of the ombudsman to an agency if: (a) the ombudsman considers the agency has a proper interest in the information for the performance of the agency's functions; or (b) the disclosure is for the purpose of protecting the health, safety or security of a person or property. These grounds for disclosure, which were previously in section 92(2), are no longer cumulative in nature.

Subsection (2) notes that the ability to disclose information under section 91A(1) does not apply to information that an officer of the ombudsman has been provided by the Commission under section 213 of the CC Act on the understanding, express or implied, that information is confidential.

Also, for the purposes of section 91A, the term 'agency' is expanded to include: an agency of the Commonwealth; the ombudsman under the *Ombudsman Act 1976* (Cwlth); and an ombudsman under the law of another State (which includes other Australian states and territories). This broader definition will enable the Ombudsman to more effectively handle complaints which have an interface with Commonwealth agencies, for example, complaints about universities or TAFE colleges.

Clause 78 amends section 92 (Secrecy) by omitting existing section 92(2), which has been extracted into new section 91A(1), and replaces it with a new subsection (2) which notes that the secrecy requirements under section 92(1) do not apply to the disclosure of information under section 91A.

Clause 79 amends schedule 3 (Dictionary). The definition of 'complaints entity' is expanded to include: (i) the ombudsman under the *Ombudsman Act 1976* (Cwlth); and (ii) an ombudsman under the law of another State (which includes other Australian states and territories).

Part 7 Amendment of Police Service Administration Act 1990

Clause 80 states that this part amends the *Police Service Administration Act 1990*.

Clause 81 omits section 9.7 (Protection from liability of commissioners for police service reviews) and replaces it with new section 9.7 (Protection of commissioners for police service reviews from liability), modelled on the civil liability protections afforded to State employees under section 26C of the PSA. The revised protections apply to a protected person, which includes a commissioner for police service reviews; and any person acting under the direction of a commissioner.

Subsections (2) and (3) provide that a protected person does not incur civil liability for engaging, or for the result of engaging, in conduct in an official capacity and, instead, it attaches to the State.

Subsection (4) enables the State to recover contributions from the protected person if the conduct was engaged in other than in good faith and with gross negligence. Subsection (5) provides that the amount of contribution recoverable is that which is found by a court to be just and equitable in the circumstances. This means that where a protected person fails to meet the standard of conduct expected of them, they could be

financially liable, for example in relation to costs incurred in responding to a claim and/or orders made as a result of proceedings.

Subsection (6) provides definitions for the terms ‘civil liability’, ‘conduct’ and ‘engage in conduct in an official capacity’.

Clause 82 explains the transitional arrangements for the new civil liability protections for protected persons. The new civil liability protections only apply to conduct engaged in by a protected person which occurs after commencement, unless it is part of a course of conduct that includes conduct before commencement.

Subsections (2) and (3) clarify that: (i) section 9.7, as in force before commencement, continues to apply to an act or omission of a protected person before commencement,; and (ii) section 26C of the PSA continues to apply to conduct engaged in by a commissioner for police service reviews before commencement.

Part 8 Amendment of Public Service Act 2008

Clause 83 states that this part amends the *Public Service Act 2008*.

Clause 84 amends section 186A (Definitions for ch 6) by inserting a series of new definitions, which include: ‘ambulance service officer’, ‘current chief executive’, ‘fire service officer’, ‘prescribed employee’ and ‘relevant commission officer’. The definition of ‘employing chief executive’ is also omitted, as this is no longer relevant.

Prescribed employee, a key term used throughout chapter 6, is defined to include an ambulance service officer, a fire service officer and a relevant commission officer.

Clause 85 inserts new section 186B (References to prescribed employees). New section 186B serves as a deeming provision which provides the meaning of particular terms used throughout chapter 6 which relate to a person who is or was a prescribed employee. Subsection (2) signposts that a reference to the person’s current or previous chief executive is a reference to one of the following: the AS chief executive, the fire commissioner or the Commission chief executive.

To further aid in the interpretation of the chapter, subsections (3) and (4) provide for the meaning of the terms ‘relevant disciplinary law’ (which, for the purposes of the PSA includes the CC Act, *Ambulance Service Act 1991* and *Fire and Emergency Services Act 1990*), ‘relevant disciplinary ground’ and ‘disciplinary finding’.

Clause 86 inserts new chapter 6, part 2, division 1 heading, ‘Grounds for discipline and discipline action generally’.

Clause 87 makes consequential amendments to section 187A (How disciplinary action may be taken against a public service employee after the employee changes employment) to update the language to refer to a person’s ‘current chief executive’.

Clause 88 makes a minor amendment to section 188 (Disciplinary action that may be taken against a public service employee) to update the language to refer to a person’s ‘current chief executive’.

Clause 89 inserts new chapter 6, part 2, division 2 heading, ‘Disciplinary action against former public service employee’.

Clause 90 amends section 188A (Disciplinary action that may be taken against a former public service employee) to clarify its operation. New section 188A(2) provides that section 188A does not apply to a former public service employee if the person’s previous chief executive is aware the person is now a prescribed employee; and the previous chief executive or the person’s current chief executive has taken, is taking, or intends to take, disciplinary action against the person. Subclause (2) makes a number of consequential amendments to provide consistency in the terminology used throughout section 188A.

Clause 91 replaces section 188AB (Disciplinary action that may be taken against a former ambulance service officer or former fire service officer) and inserts new chapter 6, part 2, division 3 (Disciplinary action against a public service employee who was a prescribed employee), that includes new sections 188AB – 188AE.

New section 188AB (Application of division) sets clear boundaries for the division to ensure that a person will not be subject to disciplinary action in the previous entity and further disciplinary action in the public service department, in relation to the same disciplinary ground.

New section 188AC (Action previous chief executive may take) provides the scope of actions that a previous chief executive may take in relation to a former prescribed employee. Subsection (1) provides that a person’s previous chief executive may make a disciplinary finding about the disciplinary ground, even though the person is no longer employed as a prescribed employee in the entity for which the chief executive is responsible. Subsection (2) recognises that the previous chief executive may take disciplinary action about the disciplinary ground if the previous chief executive and the chief executive of the department in which the person is now employed reach an agreement, as provided for under section 188AD(1).

Subsection (3) allows a previous chief executive to delegate the authority to make a disciplinary finding about the person to the current chief executive. Subsection (4) provides that the previous chief executive may give the current chief executive any information about a person or a relevant disciplinary ground relating to the person to help the current chief executive to perform a function under section 188AD (2) or (4).

New section 188AD (Action chief executive may take) specifies the actions a chief executive may take. Subsections (1) and (2) provide that if the previous chief executive makes a disciplinary finding that the person is liable for disciplinary action, and both the previous chief executive and the current chief executive agree that disciplinary action is reasonable in the circumstances, the current chief executive may take disciplinary action against the person under the PSA.

Subsections (3) and (4) provide provides that if the delegation is made under section 188AC(1) and the current chief executive makes a disciplinary finding about the person, the current chief executive can take disciplinary action against the person under section 188, without the agreement of the previous chief executive.

New section 188AE (Application of division if the current and previous chief executive are the same person) applies in situations where the current chief executive and previous chief executive is the same person. For example, the notation provides that this might occur in relation to a person who was an ambulance service officer and becomes a public service employee in the department in which the *Ambulance Service Act 1991* is administered. Subsection (2) notes that division 3 applies, with necessary changes, to allow the chief executive to take disciplinary action against the person.

Clause 91 also inserts a new chapter 6, part 2, division 4 heading, ‘Other provisions about disciplinary action’.

Clause 92 inserts new chapter 9, part 13 (Transitional provision for Crime and Corruption and Other Legislation Amendment Act 2018).

New section 291 explains the transitional arrangements for how disciplinary action is to be taken against a person who is a public service employee and was a relevant commission officer. Subsection (2) provides that disciplinary action may only occur against the person in relation to disciplinary grounds arising on or after 3 February 2017. The notation recognises that 3 February 2017 was the date from which particular provisions of the PSA about disciplinary action (including sections 187A) were applied to the Crime and Corruption Commission as a public service office.

Subsection (3) clarifies that if the relevant disciplinary ground arising on or after 3 February 2017 relates to conduct that is part of a course of conduct some of which happened before 3 February 2017, the person may be disciplined under chapter 6, part 2, division 3 for all of the grounds. Subsection (4) then goes on to provide that subsection (3) does not apply if the disciplinary action about a disciplinary ground arising before 3 February 2017 has been or is being taken.

Subsection (5) provides that if, at the commencement, the Commission chairperson is taking disciplinary action under section 187A of the PSA in relation to a person to whom this section applies, the chairperson must stop taking action under section 187A and the action may be continued under chapter 6, part 2, division 3. It further deems that anything done by the chairperson under section 187A in relation to the disciplinary action is taken to have been done by the Commission chief executive under chapter 6, part 2, division 3.

Subsection (6) notes that subsection (5) does not prevent the Commission chief executive from taking disciplinary action under section 273D of the CC Act in relation to a former relevant commission officer, instead of continuing disciplinary action under the PSA. Subsection (7) contains the relevant definitions for this section.

Clause 93 amends schedule 4 (Dictionary) by omitting redundant terms and providing definitions for: ‘ambulance service officer’, ‘current chief executive’, ‘fire service officer’, ‘prescribed employee’ and ‘relevant commission officer’. The definitions of ‘disciplinary declaration’ and ‘previous chief executive’ are also amended.

Part 9 Amendment of Public Service Regulation 2008

Clause 94 states that this part amends the *Public Service Regulation 2008*.

Clause 95 amends section 14A (Prescribed state employees) by omitting Commission officers and police service review commissioners from the list of prescribed State employees. Commission officers and police service review commissioners no longer need to be prescribed under regulation because of the amendments to section 335 of the CC Act and section 9.7 of the *Police Service Administration Act 1990* which will align the civil liability protections provided under these provisions with the protections afforded State employees under section 26C of the PSA.

As a result of the omission, subclause (2) renumbers section 14A(1)(h) to (j) as section 14A(1)(f) to (h).

Clause 96 amends schedule 1 (Public service offices, their heads and applied provisions) by omitting item 1A. The Commission no longer needs to be a prescribed public service office because of the amendments to the CC Act which provide the Commission with a complete disciplinary framework, including the provisions which deal with post-separation discipline, the sharing of disciplinary information and the notification of prosecution proceedings by a relevant prosecuting authority to the Commission.