

## PART 3 - STATEMENTS OF INTERESTS

### 3.1 Ministers

Under s.69B of the *Parliament of Queensland Act 2001*, all Members of Parliament must lodge a statement of interests with the Clerk within one month of taking office.

Members are required under s.69B(2) of that Act to update their statement within 1 month if relevant facts change, but there is no requirement for an annual review of the statement to be undertaken.

Chapter 40 of the Standing Rules and Orders made by the Parliament<sup>1</sup> deals with Declarations of Interest, and Chapter 41 deals with the Register of Interests.

### 3.2 Chief Executives/Directors-General

The term 'chief executive' is used by the *Public Service Act 2008* and thus as matter of law - though not common practice – replaces the more traditional term 'Director-General'.

Under s.101 of the *Public Service Act 2008*, all chief executives must lodge a declaration of interests with the departmental Minister, the commission chief executive of the Public Service Commission, and the Integrity Commissioner (the **relevant authorities**). This must occur within 1 month of their appointment, and the statement must be updated if relevant facts change.

Directive 1/2015 *Declaration of Interests – Chief Executives* issued by the Commission Chief Executive of the Public Service Commission<sup>2</sup> includes a further obligation on chief executives to review their declaration at the end of each financial year. Following the review, they are required to submit to each relevant authority either a revised declaration, or a 'no variation' statement.<sup>3</sup>

Directive 1/2015 also provides that unless required by law, or otherwise by agreement, Declaration of Interests records are only accessible by the Chief Executive, the portfolio Minister/s, the Premier, the Queensland Integrity Commissioner (including authorised officers of the Integrity Commissioner), and the Commission Chief Executive (including authorised senior officers of the Public Service Commission).<sup>4</sup>

However, it is a condition of the contracts of employment for new Directors-General that their declarations (though not those of their related persons) are published.<sup>5</sup> This policy commitment is implemented through publication on the website of the Public Service Commission.

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<sup>1</sup> Standing Rules and Orders of the Legislative Assembly, effective from 31 August 2004 (amended 16 February 2016) at <http://www.parliament.qld.gov.au/documents/assembly/procedures/StandingRules&Orders.pdf>, retrieved on 30 March 2016.

<sup>2</sup> Available at <https://www.qld.gov.au/gov/documents/directive/0115/declaration-interests-chief-executives> retrieved on 11 October 2016. This Directive replaces Directive 2/2010.

<sup>3</sup> Paragraph 8.4 of Directive 1/2015.

<sup>4</sup> Paragraph 10.3 of Directive 1/2015.

<sup>5</sup> They are available at [http://www.psc.qld.gov.au/declarations\\_of\\_interest/index.aspx](http://www.psc.qld.gov.au/declarations_of_interest/index.aspx).

There are currently 20 chief executives who are required to submit declarations of interest to the relevant authorities.

Under s.85(2)(b) of the *Integrity Act 2009* the Integrity Commissioner has an obligation to report annually on details of compliance by chief executives of departments with the requirements of s.101 of the *Public Service Act 2008*.

### **3.3 Holders of Public Service Offices**

Generally, these office holders are not appointed under the *Public Service Act 2008* and thus it might be thought that that Act does not apply to their employment. However, s.21 of that Act provides that the offices listed in Schedule 1 of the Act are public service offices, and the head of each office is specified in the Schedule.

S. 22(2) goes on to provide that the *Public Service Act 2008* and other Acts apply to a public service office mentioned in s.21(1)(a) and its public service employees as if—

(a) the office were a department; and

(b) the head of the office were the department's chief executive.

It follows that the requirements in s. 101 of the Public Service Act and the Public Service Commission chief executive's Directive 2/2010 Declaration of Interest – Chief Executives apply to these offices.

It also follows that the Integrity Commissioner's obligation under s.85(2)(b) of the *Integrity Act 2009* to report annually on details of compliance with the requirements under s. 101 of the *Public Service Act 2008* applies to these offices.

There are 27 public service offices, the holders of which are required to submit declarations of interest to the relevant authorities. They are:

#### *A. Offices which are also listed in Schedule 1 to the Integrity Act 2009:*

- The anti-discrimination commissioner appointed under the *Anti-Discrimination Act 1991*
- The general manager of the Building and Construction Industry (Portable Long Service Leave) Authority appointed under the *Building and Construction Industry (Portable Long Service Leave) Act 1991*
- The (no longer existing) commissioner for children and young people and child guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*
- The director of the Office of the Queensland College of Teachers appointed under the *Education (Queensland College of Teachers) Act 2005*
- The (soon to be replaced) director of the Office of the Queensland Studies Authority appointed under the *Education (Queensland Studies Authority) Act 2002*
- The electoral commissioner appointed under section 20 of the the *Electoral Act 1992*
- The energy and water ombudsman appointed under the *Energy and Water Ombudsman Act 2006*
- The (now replaced) adult guardian appointed under the *Guardianship and Administration Act 2000*

- The (now replaced) chief executive officer of the Office of the Health Quality and Complaints Commission appointed under the *Health Quality and Complaints Commission Act 2006*
- The industrial registrar appointed under the *Industrial Relations Act 1999*
- The parliamentary counsel appointed under the *Legislative Standards Act 1992*
- The executive director of the Office of the Prostitution Licensing Authority appointed under the *Prostitution Act 1999*
- The chief executive of the Public Service Commission appointed under the *Public Service Act 2008*
- The public trustee of Queensland appointed under the *Public Trustee Act 1978*
- The chief executive officer of the Queensland Reconstruction Authority appointed under the *Queensland Reconstruction Authority Act 2011*
- The commissioner appointed under the *Water Act 2000*.<sup>6</sup>

B. *Other offices listed in Schedule 1 to the Public Service Act 2008, but not listed in Schedule 1 to the Integrity Act 2009:*

- The auditor general appointed under s.6 of the *Auditor General Act 2009*. S.12 of that Act requires the Auditor-General to lodge a statement of interests with the Speaker within 1 month of taking up appointment. It must have the same content as for Members of Parliament. Presumably this specific obligation overrides the general obligation imposed by Directive 2/2010
- The family responsibilities commissioner appointed under s.8 of the *Family Responsibilities Commission Act 2008*
- The chief executive officer of the Gold Coast Waterways Authority, appointed under s.60 of the *Gold Coast Waterways Authority Act 2012*
- The information commissioner appointed under s.123 of the *Right to Information Act 2009*. S.140A of that Act requires the information commissioner to lodge a statement of interests with the Speaker within 1 month of taking up appointment. It must have the same content as for Members of Parliament. Presumably this specific obligation overrides the general obligation imposed by Directive 2/2010
- The chairperson of the Land Tribunal appointed under the *Aboriginal Land Act 1991*
- The chairperson of the Land Tribunal appointed under the *Torres Strait Islander Land Act 1991*
- The chairperson of the Mental Health Review Tribunal appointed under the *Mental Health Act 2000*
- The Inspector General of Emergency Management appointed under the *Disaster Management Act 2003*
- The chief executive officer of the Public Safety Business Agency appointed under the *Public Safety Business Agency Act 2014*
- The commissioner appointed under the *Queensland Mental Health Commission Act 2013*.

In addition, the chairperson of the Queensland GasFields Commission appointed under the *Gasfields Commission Act 2013* has an obligation under s.18(2) of that Act to give a statement of their

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<sup>6</sup> It appears that this office no longer exists. The *Water Act 2000* now vests responsibilities under that Act in the chief executive.

pecuniary interests to the relevant Minister and the Integrity Commissioner as soon as practicable after their appointment, and to update the statement within 30 days of any substantial change in those interests.

### **3.4 Statutory office holders referred to in the *Integrity Act 2009***

As noted above, some public service offices are listed in Schedule 1 to the *Integrity Act 2009*, and there is thus a duplicatory obligation in s. 72C of the *Integrity Act 2009* which applies to them.

Under that provision, each statutory office holder listed in Schedule 1 to the Act must lodge a statement of interests with the Integrity Commissioner and the relevant Minister. The content required is the same as that which a chief executive officer is required to report under s.101(3) of the *Public Service Act 2008*. This must occur within 1 month of their appointment, and the statement must be updated if relevant facts change.

Unlike under Directive 1/2015, there is no requirement for an annual statement to be submitted.

Under s.85(2)(a) of the *Integrity Act 2009* the Integrity Commissioner has an obligation to report annually on details of compliance by statutory office holders with the declaration of interest requirements under s.72C of the *Integrity Act 2009*.

### **3.5 Other statutory office holders**

Under s.40(2) of the *Cross-River Rail Delivery Authority Act 2016*, the appointed members of the board of the Authority ‘must, as soon as practicable after the member’s appointment to the board, give the Minister and to the integrity commissioner a written summary of the member’s pecuniary interests at the time of the member’s appointment’. Under s.40(3) of the Act, a similar obligation applies to permanent board members (i.e. the chief executives of four departments).

The Integrity Commissioner has also received statements from a number of other offices. It appears that these have been submitted in compliance with a policy approved by the Premier, which is expressed to apply to Senior Executive Service and Equivalent Employees including Statutory Office Holders.<sup>7</sup> Statutory office holders are defined in the policy as being employed under any Act in a government entity, as defined in s. 24 of the *Public Service Act 2008*.

The policy is not a legally binding document. However, it provides that statutory heads of government entities are to provide declarations of interests to the appropriate Minister and/or Parliamentary Committee and the Integrity Commissioner that contain the information required under the directive issued by the Chief Executive of the PSC (whether or not that directive would otherwise apply).

The definition of government entity in section 24 is expressed in the following broad terms:

An entity is a **government entity** if it is—

- (a) a department or part of a department; or
- (b) a public service office or part of a public service office; or

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<sup>7</sup> – Declaration of Interests – Senior Executive Service and Equivalent Employees including Statutory Office Holders, available at <https://www.qld.gov.au/gov/documents/policy/declaration-interests-senior-executives-and-equivalent-employees>, retrieved on 11 October 2016.

- (c) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act or under State authorisation for a public or State purpose; or
- (d) a part of an entity mentioned in paragraph (c); or
- (e) another entity, or part of another entity, declared under a regulation to be a government entity; or
- (f) a registry or other administrative office of a court of the State of any jurisdiction.

S. 24(1)(b) provides that a number of entities are not government entities, for example the Parliamentary service, executive council and state courts.

Nonetheless, the policy commitment applies to a considerable number of entities. The Integrity Commissioner's annual reporting obligation under s.85(2) of the *Integrity Act 2009* does not apply in respect of declarations of interest made by these office-holders.

Some of the existing offices which have submitted a statement in accordance with this policy are:

- The Coordinator-General appointed under s.4 of the *State Development and Public Works Organisation Act 1971*
- The director of the Queensland Museum, appointed under s.35 of the *Queensland Museum Act 1970*<sup>8</sup>
- The chief executive officer of Workcover Queensland appointed under s.442 of the *Workers Compensation and Rehabilitation Act 2003*
- The chief executive officer of the Queensland Rural Adjustment Authority appointed under s.28 of the *Rural and Regional Adjustment Act 1994*
- The director of the Queensland Performing Arts Trust, appointed under s.32 of the *Queensland Performing Arts Trust Act 1977*
- The chief executive officer of Legal Aid Queensland, appointed under s.64 of the *Legal Aid Queensland Act 1997*
- The director of the Queensland Art Gallery Board of Trustees, appointed under s.12 of the *Queensland Art Gallery Act 1987*
- The workers' compensation regulator, appointed under s.326 of the *Workers Compensation and Rehabilitation Act 2003*. The Regulator is appointed under the *Public Service Act 2008* and may hold that appointment in conjunction with his or her other public service office
- The state librarian appointed under s.13 of the *Libraries Act 1988*.
- The chief executive officer of Screen Queensland Pty Ltd ABN 20 056 169 316 established under the *Corporations Act 2001*
- The artistic director of the Queensland Theatre Company Pty Ltd ABN: 27 822 967 021 established under the *Corporations Act 2001*.

In addition, the holders of some offices which now no longer exist have submitted a statement of interests to the Integrity Commissioner. These offices were:

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<sup>8</sup> The holder of this office also holds the office of chief executive officer of the Queensland Museums Network. The Queensland Museum is a member of the network, but the latter office does not appear to be a statutory one.

- The chief executive officer of Skills Queensland. This organisation was dissolved, and all functions, including industry engagement and apprenticeship and traineeship regulation, have been transferred to the Department of Education, Training and Employment
- The executive officer of the Office of the Health Practitioner Registration Boards. This office no longer exists since the establishment of the national Australian Health Practitioner Regulation Agency
- The chief executive officer of the Urban Land Development Authority. On 1 February 2013, this organisation was dissolved, and all functions transferred to Economic Development Queensland, which is a commercialised business unit of the Department of State Development, Infrastructure and Planning.

### **3.6 Ministerial and other office holder staff**

The *Ministerial and Other Office Holder Staff Act 2010* governs the employment of staff employed in Ministerial offices, the office of the Leader of the Opposition, and the offices of other political office-holders. Part 3 of the Act deals with work performance and conduct, and Division 4 specifies the obligations of the relevant staff in relation to declarations and conflicts of interest.

Under s.24 of the Act, the staff members must declare their interests to the Member for whom they work within 1 month of commencing employment; when their interests change; and during June each year.

### **3.7 Integrity Commissioner**

S.80(2) of the *Integrity Act 2009* requires the integrity commissioner to lodge a statement of interests with the Speaker within 1 month of taking up appointment. It must have the same content as for Members of Parliament, and there is a similar obligation to update the statement if facts change.