

PART 5 - OTHER INTEGRITY OBLIGATIONS

5.1 Ministers and Assistant Ministers

5.1.1 Division 1- Oath/affirmation of office

All Members of Parliament must swear or affirm an oath of office under s.22(3) of the *Constitution of Queensland Act 2001*. The oath or affirmation is set out in schedule 1 of that Act.

Ministers and Assistant Ministers are appointed by the Governor under s.43 of the *Constitution of Queensland Act 2001*, and under s.43(5) of that Act 'must take or make the oath or affirmation of allegiance and of office in schedule 1'.

5.1.2 Conflict disclosure obligations

A Minister's conflict of interest disclosure obligations are set out in the code of conduct. These extend to an obligation to 'divest themselves of any shareholding in any company of which a conflict of interest exists or could reasonably be perceived to exist'.

5.1.3 Contact with lobbyists

Under s. 71(2) of the *Integrity Act 2009*, a Minister – including an Assistant Minister - must not knowingly meet with an entity that is not a registered lobbyist if the entity intends to carry out a lobbying activity for a third party client.

Lobbyists are required to inform the Minister of their lobbyist status when initially seeking to meet with them. If a person seeking to carry out lobbying activities is not a registered lobbyist, the Minister must decline to have further contact with them; and must give the entity's details to the integrity commissioner.

While the onus is on the lobbyist to supply the required information, it is prudent for a Minister to check that the details provided are correct by checking the register at www.integrity.qld.gov.au to confirm the person and the client in question are listed.

5.1.4 Diary publication

The Premier and Ministers publicly release information about all portfolio related meetings and activities from their diaries on the Queensland Cabinet website, as a result of a direction from the Premier.¹The diaries are published retrospectively, with the diary for one month being published at the end of the following month.

5.2 Chief Executives/Directors-General

5.2.1 Oath/affirmation of office

Chief executives are appointed by the Governor in Council under s.92 of the *Public Service Act 2008*. There is no requirement for an oath or affirmation of office.

¹ See <http://cabinet.qld.gov.au/ministers/diaries.aspx>, retrieved on 30 March 2016.

5.2.2 Conflict disclosure obligations

Whilst the code of conduct refers generally to a chief executive's conflict of interest disclosure obligations, they are set out more explicitly in s.102 of the *Public Service Act 2008*. This section requires chief executives to advise their departmental Minister about the conflict, and not to take any action about the relevant matter unless it is authorised by the Minister.²

5.2.3 Contact with lobbyists

The same rules as for Ministers apply to chief executives.

Under s. 71(2) of the *Integrity Act 2009*, a government representative must not knowingly meet with an entity that is not a registered lobbyist if the entity intends to carry out a lobbying activity for a third party client.

Lobbyists are required to inform government representatives of their lobbyist status when initially seeking to meet with them. If a person seeking to carry out lobbying activities is not a registered lobbyist, the representative must decline to have further contact with them; and must give the entity's details to the integrity commissioner.

While the onus is on the lobbyist to supply the required information, it is prudent for a government representative to check that the details provided are correct by checking the register at www.integrity.qld.gov.au to confirm the person and the client in question are listed.

5.3 Statutory office holders referred to in the *Integrity Act 2009*

Schedule 1 to the *Integrity Act 2009* currently lists the following as statutory office holders for the purposes of that Act:

- 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 commissioner for children and young people and child guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*³
- The director of the Office of the Queensland College of Teachers appointed under the *Education (Queensland College of Teachers) Act 2005*

² Section 65(4) of the *Public Service Act 2008* provides that a reference to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1, does not apply.

³ This office no longer exists, as the relevant statutory provisions in Ch. 2 of the *Commission for Children and Young People and Child Guardian Act 2000* were omitted by s.53 of the *Child Protection Reform Amendment Act 2014*. Further, the original Act is now titled the *Working with Children (Risk Management and Screening) Act 2000* - see s.51 of the *Child Protection Reform Amendment Act 2014*. It appears that the equivalent office is now the principal commissioner of the Queensland Family and Child Commission, established by s. 6 of the *Queensland Family and Child Commission 2014*. In addition, some other functions previously undertaken by the commissioner for children and young people and child guardian are now undertaken by the Public Guardian.

- The director of the Office of the Queensland Studies Authority appointed under the *Education (Queensland Studies Authority) Act 2002*⁴
- The electoral commissioner appointed under the *Electoral Act 1992*
- The energy ombudsman appointed under the *Energy Ombudsman Act 2006*⁵
- The adult guardian appointed under the *Guardianship and Administration Act 2000*⁶
- The chief executive officer of the Office of the Health Quality and Complaints Commission⁷ 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*.⁸

⁴ The *Education (Queensland Studies Authority) Act 2002* will be repealed when the *Education (Queensland Curriculum and Assessment Authority) Act 2014* commences operation. Ss. 99 and 102 of the latter Act provide as follows:

99 Director to be chief executive officer

(1) This section applies to the person who, immediately before the commencement, held the office of director of the office of the QSA.

(2) The person is taken to hold office as chief executive officer of the authority, on the same terms and conditions on which the person held office as the director immediately before the commencement.

(3) The person's existing and accruing entitlements continue as if service as the chief executive officer were service as the director.

(4) The person holds office as the chief executive officer of the authority until the Governor in Council makes an appointment under section 32.

...

102 References to QSA

In an Act or document, a reference to the QSA is taken, to the extent necessary and if the context permits, to be a reference to the authority.

⁵ This Act is now titled the *Energy and Water Ombudsman Act 2006* – see s.5 of the *Water and Other Legislation Amendment Act 2010*; and the office is now titled the Energy and Water Ombudsman – see s.3 and Schedule 1 of the *Water and Other Legislation Amendment Act 2010*.

⁶ This office no longer exists, as the relevant statutory provision in s.173 of the *Guardianship and Administration Act 2000* was omitted by s.242 of the *Public Guardian Act 2014*. References to the office of the adult guardian are now taken to be references to the public guardian appointed under the *Public Guardian Act 2014*. Section 161 of the *Public Guardian Act 2014* provides as follows:

161 References to adult guardian

In an Act or document, a reference to the adult guardian is, if the context permits, taken to be a reference to the public guardian.

⁷ The *Health Quality and Complaints Commission Act 2006* was repealed by s.321 of the *Health Ombudsman Act 2013*. Section 302 of the *Health Ombudsman Act 2013* provides as follows:

302 References to former commission, commissioner or chief executive

In an Act or document, a reference to the former commission, former commissioner or former chief executive is, if the context permits, taken to be a reference to the health

5.3.1 Oath/affirmation of office

The requirement to take an oath or affirmation is determined according to legislation applying to the office involved.

5.3.2 Conflict disclosure obligations

Conflict disclosure obligations for these statutory offices are set out in s.72D of the *Integrity Act 2009*. This section requires the statutory office holder to advise their departmental Minister about the conflict, and not to take any action about the relevant matter unless it is authorised by the Minister.⁹

5.4 Other statutory office holders

In addition to the offices listed in the *Integrity Act 2009*, some other statutory office holders have integrity obligations relevant to the work of the Integrity Commissioner.

The offices listed in Schedule 1 to the *Public Service Act 2008*, but not listed in Schedule 1 to the *Integrity Act 2009*, are as follows:

- The auditor general
- 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
- 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 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.

⁸ This office no longer exists. The *Water Act 2000* now vests responsibilities under that Act in the chief executive.

⁹ Section 10(2) of the *Integrity Act 2009* provides that a reference to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1, does not apply.

Other potentially relevant statutory offices 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*¹⁰
- 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*.

5.4.1 Oath/affirmation of office

The requirement to take an oath or affirmation is determined according to legislation applying to the office involved.

5.4.2 Conflict disclosure obligations

Where they exist, conflict disclosure obligations for these statutory offices are set out in the relevant legislation. Normally, this requires the statutory office holder to advise their departmental Minister about the conflict, and not to take any action about the relevant matter unless it is authorised by the Minister.

5.5 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.

¹⁰ 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.

5.5.1 Oath/affirmation of office

None applicable

5.5.2 Conflict disclosure obligations

The staff members' obligations in dealing with conflicts of interest are similar to those applying to a chief executive under s.102 of the *Public Service Act 2008*. The staff member must advise their Member about the conflict, and must not take any action about the relevant matter unless it is authorised by the Member.¹¹

5.5.3 Contact with lobbyists

The same rules as for Ministers and chief executives apply to Ministerial staff.

Under s. 71(2) of the *Integrity Act 2009*, a government representative must not knowingly meet with an entity that is not a registered lobbyist if the entity intends to carry out a lobbying activity for a third party client.

Lobbyists are required to inform government representatives of their lobbyist status when initially seeking to meet with them. If a person seeking to carry out lobbying activities is not a registered lobbyist, the representative must decline to have further contact with them; and must give the entity's details to the integrity commissioner.

While the onus is on the lobbyist to supply the required information, it is prudent for a government representative to check that the details provided are correct by checking the register at www.integrity.qld.gov.au to confirm the person and the client in question are listed.

5.6 Integrity Commissioner

5.6.1 Oath/affirmation of office

Oath of office under s.79 of the *Integrity Act 2009*

5.6.2 Conflict disclosure obligations

Conflict disclosure obligations are set out in s.81 of the *Integrity Act 2009*

¹¹ Section 65(4) of the *Public Service Act 2008* provides that a reference to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1, does not apply.