

Crime and Corruption (Reporting) Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Crime and Corruption (Reporting) Amendment Bill 2024.

Policy objectives and the reasons for them

The objective of the Bill is to amend the *Crime and Corruption Act 2001* (CC Act) to introduce new powers for the Crime and Corruption Commission (CCC) to prepare, table, and publish reports and make public statements relating to corruption matters.

The amendments respond to the decision of the High Court in *Crime and Corruption Commission v Carne* [2023] HCA 28 (*CCC v Carne*) which found that the CCC had no power to report on a corruption investigation other than to report to a relevant entity under section 49 of the CC Act for the purpose of that entity giving consideration to prosecution or disciplinary action.

The purposes of the CC Act, as set out in section 4, are to ‘combat and reduce the incidence of major crime’ and ‘continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector’. Section 5 provides that the CC Act’s purposes are to be achieved primarily by establishing the CCC as a permanent commission, which is to have ‘investigative powers, not ordinarily available to the police service, that will enable the commission to effectively investigate major crime and criminal organisations and their participants’ and also that the CCC is to:

- investigate cases of corrupt conduct, particularly more serious cases of corrupt conduct, and
- help units of public administration (UPAs) to deal effectively and appropriately with corruption by increasing their capacity to do so.

The CCC’s corruption functions are set out under section 33 of the CC Act as:

- to raise standards of integrity and conduct in UPAs;
- to ensure a complaint about, or information or matter involving, corruption is dealt with in an appropriate way, having regard to the principles set out in section 34;
- to investigate and otherwise deal with conduct liable to allow, encourage or cause corrupt conduct and conduct connected with corrupt conduct; and

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

Section 34 sets out the principles to be applied by the CCC in performing its corruption functions, which include the ‘public interest’, whereby the CCC has an overriding responsibility to promote public confidence in the integrity of UPAs and if corruption does happen within a UPA, in the way it is dealt with.

The CCC’s prevention function, to help prevent major crime and corruption, is established under section 23 of the CC Act. Section 24 describes a non-exhaustive list of ways that the CCC performs its prevention function, which include:

- analysing the results of its investigations and the information it gathers in performing its functions;
- analysing systems used within UPAs to prevent corruption;
- providing information to, and consulting with, and making recommendations to, UPAs;
- providing information relevant to its prevention function to the general community
- generally increasing the capacity of UPAs to prevent corruption by providing advice and training to UPAs and, if asked, to other entities, and
- reporting on ways to prevent corruption.

There is a clear importance in ensuring that the CCC is able to release information to the public about corruption matters, including the outcome of corruption investigations, in the proper performance of its corruption function and its prevention function as it pertains to corruption (the ‘corruption prevention function’) under the CC Act.

Independent Review Report

The Queensland Government initiated a review of the CCC’s reporting on the performance of its corruption functions (the Review) to ensure that any legislative amendments struck a proper balance between the rights of the individual and the broader public interest. The terms of reference for the Review required a broad examination of the CCC’s ability to publicly report and make public statements in the performance of its corruption function and its corruption prevention function.

On 20 May 2024, the Honourable Catherine Holmes AC SC delivered her Report on the Review to Government (the Review Report), making a number of recommendations for legislative amendment to the CC Act to enable the CCC to publicly report and make public statements.

The Review Report considered that while the CCC should be authorised to prepare reports and make public statements in the performance of its corruption and corruption prevention functions, its discretion to do so should not be unfettered. The Review Report’s recommendations incorporate various considerations and restrictions designed to balance key competing public interest and human rights factors, underpinned by the recognition that the weight to be accorded to these matters will vary according to the circumstances in

which the powers to report or make a public statement are exercised.

Firstly, the Review Report recommends that an overarching public interest test (*recommendation 1*) should apply to discretions conferred on the CCC to prepare, table, or publish a report, or to make a public statement.

For reports on corruption investigations (*recommendations 3 – 7*), the Review Report recommends that a report should only be prepared on a completed corruption investigation and for limited purposes, including to confirm that allegations of corrupt conduct are unfounded, or where the subject of the investigation is an elected office holder and has not been found guilty of any offence, to report on the investigation as it concerns the elected office holder.

The Review Report proposes separate reporting powers for these different purposes, where each report is subject to restrictions on the identification of persons (including those who are not the subject of an investigation (*recommendation 6*)) and the inclusion of adverse comment or opinion or recommendations based on the conduct of a person, except in limited circumstances. The key exception is where a person meets a serious corrupt conduct threshold (*recommendation 5*), which includes a conviction for a corruption offence, a finding of corrupt conduct by the Queensland Civil and Administrative Tribunal (QCAT) or termination of appointment or employment as a result of a disciplinary breach.

In the exercise of the CCC's corruption prevention function, the Review Report recommends that the CCC should have the discretion to prepare reports, including reports which contain details of completed investigations (*recommendation 8*). The Review Report also recommends a separate power to prepare a report on a public hearing that is limited to a report on the evidence and submissions made at the hearing (*recommendation 2*).

The Review Report recommends a power to provide corruption and corruption prevention reports prepared under its proposed new powers directly to the Speaker for tabling (*recommendation 9*), while a report on a public hearing must continue to be provided to the Speaker as required under section 69 of the CC Act. In addition, the Review Report also recommends that the CCC be given a separate power to publish reports, other than by tabling (*recommendation 10*). In connection with these powers, the Review Report recommends prohibitions against unauthorised publication (*recommendation 11*).

The Review Report recommends an express power to make public statements in connection with corruption complaints and investigations in specific circumstances and, in some instances, only in exceptional circumstances (*recommendation 12*).

Finally, the Review Report recommends enhanced procedural fairness be afforded where a report identifies the subject of the investigation, where a report makes adverse comment about a person and where a public statement identifies a person who is the subject of the statement (*recommendation 13*).

Approach in the Bill

The Bill is designed to implement the policy underpinning the Review Report recommendations outlined above. In short, this is that while the CCC should have the power to report and make public statements, that discretion should not be 'at large'.

Rather, the new powers must be exercised in the public interest and should be constrained in particular to protect individuals affected by the exercise of that power.

The Bill adopts, as closely as possible, the considerations and limitations set out in the Review Report recommendations for reporting and making public statements. However, in the process of translating the detail of the Review Report recommendations into concrete legislative provisions, variations have been necessary. Wherever practicable, divergences have been limited to ensure the Bill reflects the broad intent of the Review Report recommendations.

The exception to this approach is the Review Report's recommendations relating to the validation of only some past reports and statements (*recommendations 13 – 16*), which are not reflected in the Bill. Instead, the Bill takes a different approach designed to bring finality and clarity to the situation with respect to pre-existing unauthorised reports and statements by extinguishing civil liability in respect of the preparation or publication of past reports or the making of public statements.

Achievement of policy objectives

To achieve its objective, the Bill makes a range of amendments to the CC Act.

Public interest test

The Bill adopts the Review Report's recommendation for a public interest test to be the premise for the exercise of the CCC's new powers to report and make public statements. The new public interest test in proposed section 63B requires that the CCC has regard to the public interest in every exercise of a discretion to prepare, table, or otherwise publish a report, or make a public statement in relation to a corruption assessment or investigation. When assessing the public interest, section 63B requires the CCC to consider specified matters but does not otherwise limit the matters which may be relevant to determining the public interest in each case.

The public interest factors mandated for consideration are the need for accountability and transparency in government and the public sector, the effect of reporting or making a public statement on the relevant human rights of any individual who is or may be identified, the need to ensure pending legal proceedings are not prejudiced, the seriousness of the corruption investigation, and whether the report or public statement relates to a matter that has been the subject of prolonged and significant public debate.

Public hearing reports

The Bill introduces a new power in proposed section 63C to authorise the CCC to prepare a report on a public hearing held in the performance of its functions, other than its crime function, consistent with the present exclusion of that function under section 63 of the CC Act. Matters arising while a hearing is closed under section 177(4) of the CC Act will not be permitted to be included. A public hearing report will otherwise be allowed to include matters such as answers given, documents produced, or submissions made at a public hearing, but will not be able to incorporate information or evidence obtained elsewhere unless it is considered in the hearing.

A public hearing report is not a report on a corruption investigation but simply a report on what transpires at the hearing. This kind of report is therefore the most limited in scope of the reporting powers provided for under the Bill.

Corruption investigation reports

The Bill introduces a new power in proposed section 63D to authorise the CCC to prepare a report on a completed corruption investigation in the performance of the CCC's corruption functions. Proposed section 63E outlines the permitted contents of a report. This kind of report provides an avenue by which the CCC may choose to provide advice and recommendations to a UPA under section 35(1)(j) of the CC Act. However, where such advice or recommendations are included, the report must include an objective summary of all matters that support, oppose, or are otherwise relevant to the advice or recommendations.

A corruption investigation report will also be permitted to include:

- comments or opinions that the CCC may have on the matters which support, oppose, or are otherwise relevant to the advice or recommendations, and
- an answer given, document or thing produced, or a submission made at a public hearing relating to a completed corruption investigation.

The content of a report prepared under the proposed power will also be subject to further, overarching restrictions, concerning the use of information which identifies an individual, or from which an individual may reasonably be identified. Proposed section 63F provides that identifying information about an investigated person will only be able to be included in a corruption investigation report where:

- the investigated person has requested that it be included
- the information has been disclosed in a hearing open to the public
- the information relates to an elected office holder
- a 'serious corrupt conduct threshold' has been met, whereby the person has been convicted of a corruption offence, a corrupt conduct finding has been made, or serious disciplinary action has been taken against the person, and the CCC is otherwise satisfied it is a case of serious corrupt conduct, or
- the CCC is satisfied it is reasonably necessary to include the information.

Including elected office holders as a special category of investigated persons who may be identified in a corruption investigation report even where they do not meet a serious corrupt conduct threshold is designed to reflect the underlying policy of the Review Report recommendations.

The Review Report (at p. 168) noted that the threshold for elected office holders to come within the definition of corrupt conduct under section 15 of the CC Act is limited to where the conduct, if proved, would amount to a criminal offence. As such, elected office holders will only meet a serious corrupt conduct threshold where they are convicted of a corruption offence. The Review Report also considered (at p. 168) that there is 'a much greater public interest in transparency as it concerns elected officials'. Having regard to these considerations, the Review Report determined (*recommendation 3*) that separate reporting of the conduct of elected office holders was warranted.

Proposed section 63G provides that, where the CCC identifies an investigated person (including an elected office holder), the report will not be permitted to include:

- a comment or opinion that the person's conduct is or may be corrupt conduct
- another comment or opinion adverse to the investigated person, or
- advice or a recommendation about the person or based on their conduct.

However, the restrictions concerning comments, opinions, advice, or recommendations will not apply where the person meets the serious corrupt conduct threshold.

The restrictions concerning comments, opinions, advice, or recommendations also do not prevent the CCC from making a statement that the CCC considers there is no evidence, or insufficient evidence, of corrupt conduct by an investigated person or that the CCC considers that a completed investigation generally reveals evidence of a case of systemic corrupt conduct (provided no comment is made about the conduct of a particular person).

Under proposed section 63H, identifying information about an individual other than an investigated person will only be permitted to be included in a report if the CCC is satisfied it is reasonably necessary to include the information. Further, a report will not be permitted to include a comment or opinion adverse to, or advice or a recommendation about, or based on the conduct of, any person identified in a report who is not an investigated person.

Amendments related to QCAT's original jurisdiction

To facilitate the effective operation of the serious corrupt conduct threshold, the Bill makes a range of amendments to QCAT's original jurisdiction in relation to corrupt conduct.

The Bill creates a clear demarcation between current or former police officers and public sector employees (who will remain subject to QCAT's existing jurisdiction and orders under sections 219I and 219IA of the CC Act) and all other holders of an appointment in a UPA.

For the latter category, the Bill provides QCAT with a new power to make an order declaring that a person's conduct is corrupt conduct following a finding that corrupt conduct is proved against the person. This approach removes any risk that QCAT may decline to exercise its jurisdiction because the current orders available under the CC Act, such as dismissal, or reduction in rank or pay, cannot apply to the person.

Finally, the Bill clarifies that elected officer holders do not fall within QCAT's jurisdiction, consistent with the higher threshold that applies to elected office holders before their conduct will be considered corrupt conduct under the CC Act.

Corruption prevention reports

The Bill introduces a new power in proposed section 63I authorising the CCC to prepare a report in the performance of its corruption prevention function. A report prepared under this power will be permitted to include the CCC's recommendations to UPAs and, where included, will be required to include an objective summary of all matters which support, oppose or are otherwise relevant to the advice or recommendations. The report will also be allowed to include comments or opinions that the CCC may have about any recommendations.

In line with the report's prevention focus, the content of a corruption prevention report is subject to greater limitations in relation to the identification of individuals and the inclusion of adverse material. Under proposed section 63J, information which identifies or from which an individual may reasonably be identified will only be permitted to be included in a corruption prevention report if:

- it has been disclosed in a hearing open to the public
- a serious corrupt conduct threshold has been met, whereby the investigated person has been convicted of a corruption offence, a corrupt conduct finding has been

made, or serious disciplinary action has been taken against the person, and the CCC is otherwise satisfied it is a case of serious corrupt conduct, or

- the CCC is satisfied it is reasonably necessary to include the information.

Further, where any person is identified in the report, the report will not be allowed to include a comment or opinion that the person's conduct is or may be corrupt conduct, a comment or opinion adverse to, or recommendations about or based on the conduct of, the person. Despite these restrictions, the report will still be able to include a recommendation in general terms that has regard to the conduct of an investigated person but is not directed to the particular person.

Public statements about corruption

The Bill introduces new powers in proposed section 68B authorising the CCC to make public statements in connection with a corruption complaint or corruption investigation in order to:

- indicate it would be inappropriate for the CCC to comment on the matter
- refuse to confirm or deny anything in relation to the matter
- inform the public, in particular circumstances, that the CCC has decided not to investigate or take action under section 49 to report on the matter
- provide a summary of certain reports that have been tabled or published, or
- provide information about a charge or disciplinary or another proceeding arising from the matter and the outcome of the proceeding.

Proposed section 68C also authorises the CCC to make public statements in connection with a corruption complaint or corruption investigation, in this case where exceptional circumstances exist, for the following purposes:

- to seek further evidence from the public in relation to the matter
- to address public misconceptions about a person or issue the CCC has particular knowledge of as a result of the corruption matter
- to prevent or minimise the risk of prejudicing the reputation of a person
- to redress prejudice caused to the reputation of a person, or
- in limited circumstances, to provide information about the action taken by the CCC in relation to the matter.

Proposed section 68D operates so that a public statement cannot include information which identifies an individual, or from which an individual may reasonably be identified, unless the CCC is satisfied that inclusion of the information is reasonably necessary.

Procedural safeguards

The Bill replaces existing procedural fairness requirements under section 71A of the CC Act with a new procedural fairness regime which will apply to certain draft reports and proposed public statements.

Proposed section 68E, concerning draft reports, will apply where the CCC prepares a draft report that will be published or tabled, and the report contains identifying information about an investigated person. Proposed section 68G will apply to a draft report to be tabled or published which contains an adverse comment about an entity. In each circumstance, the CCC will be required to afford the person or entity in question two opportunities to make submissions about the draft report. On the first occasion, the person or entity is to

be given not less than 30 days to make submissions, and on the second occasion, not less than 14 days. Any submissions made on either occasion must be fairly stated in the report. Proposed section 68F gives the CCC a discretion to afford these opportunities, subject to the same limitations, to individuals who are or may be identified in a report but are not an investigated person.

Proposed section 68H, which concerns public statements, will apply wherever the CCC proposes to make a public statement which contains information that identifies an individual, or from which an individual may be identified. Where the provision applies, the CCC will be required to give the individual to whom the identifying information relates a reasonable opportunity to make submissions about the proposed statement.

Tabling and publishing reports

The Bill will replace but retain aspects of existing process for tabling reports in Parliament and create a new power to publish certain reports in another way. Like existing section 69 of the CC Act, proposed section 69A will require the CCC to give a public hearing report, a report prepared in performance of the CCC's research functions, or another report as directed by the Parliamentary Committee, to the Speaker. Alongside this, proposed section 69B will give the CCC a discretion to give a corruption investigation report or a corruption prevention report to the Speaker.

Proposed section 69C will then require the Speaker to table a report given under either of proposed section 69A or section 69B in Parliament or, if Parliament is not sitting, require that the report be given to the clerk of the Parliament and authorised for publication. Finally, proposed section 69D will empower the CCC to separately publish a corruption investigation report, corruption prevention report, or public hearing report, or part of those reports, for example, by printing and distributing it to the public or a section of the public.

Prohibitions for unauthorised publication

The Bill amends the existing offence in section 214 of the CC Act, relating to the unauthorised publication of commission reports, so that it encompasses commission reports that must be tabled under proposed section 69A, and commission reports that may be tabled at the discretion of the CCC under proposed section 69B. The Bill also creates two new offence provisions which clarify that unauthorised publication of a draft report (new section 214A) or public statement (new section 214B) is prohibited, unless the publication is for the purpose of seeking legal advice or the person otherwise has a reasonable excuse.

Immunity for past reports and statements

The Bill extinguishes civil liability with respect to certain past corruption reports and statements made to the public. The provision is limited in various ways:

- while it protects any person (which includes the State), the immunity provided will only attach to acts of preparation or publication in respect of a corruption report, or the making of a corruption statement, where these acts occurred in purported performance of a function under the CC Act
- the relevant act must also have occurred prior to 13 September 2023, being the date of the High Court's decision in *CCC v Carne*

- the immunity provided will not apply to a proceeding started before the Bill is introduced into the Legislative Assembly, and
- the provision does not immunise persons against criminal liability or for actions done in bad faith and with gross negligence.

The extinguishment of liability for the preparation and publication of past reports does not retrospectively authorise the CCC to release a currently unpublished report that was prepared without authority under the CC Act.

Transitional provisions

The Bill inserts a number of transitional provisions, including to deal with the way in which the new reporting and public statement making powers are to apply to public hearings and certain current or completed corruption matters.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated cost for government implementation

Any financial impacts are to be met from within existing resources.

Consistency with fundamental legislative principles

Impacts upon fundamental legislative principles are addressed below.

Whether the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

The Bill makes rights and liberties dependent upon administrative power in two overarching respects. First, clause 10 of the Bill amends Chapter 2, Part 6 of the CC Act to empower the CCC to prepare, publish, and table reports concerning public hearings and completed corruption investigations. Second, clause 13 of the Bill amends Chapter 2, Part 6 of the CC Act to enable the CCC to make public statements in connection with corruption complaints or corruption investigations.

Any burden on rights or liberties imposed by these measures is justifiable on grounds that the amendments clearly delineate the scope of the proposed new powers and that the exercise of those powers will be subject to an overarching public interest test, enhanced procedural fairness and judicial review.

Clause 9 of the Bill inserts a new public interest test. The proposed public interest test ensures that the CCC may only prepare relevant reports, make public statements, or publish or table particular reports, if it is satisfied that it is in the public interest to exercise the power in question. The matters which the CCC may consider when deciding if an exercise of its power is in the public interest will not be limited. However, when making that decision, the proposed test will require that the CCC has regard to certain specified

factors, such as the need for accountability and transparency in government and the public sector, and the human rights of an individual who is, or may be, identified by the exercise of power.

The circumstances in which each of the new powers may be exercised, and the content of a report prepared or statement made under the powers will also be subject to additional qualifications. For example, a corruption investigation report will only be able to be prepared in relation to a completed corruption investigation. Limitations will also apply to the content of the report, governing the circumstances in which individuals will be able to be identified, and the nature of advice, recommendations, comments, or opinions that will be permitted for inclusion. Similarly, a public statement will only be able to be made in connection with a corruption complaint or corruption investigation for specified purposes and, in some cases, only where exceptional circumstances exist. Such statements will not be permitted to contain information which identifies an individual unless it is reasonably necessary to include that information.

Enhanced procedural fairness safeguards will also apply. The new safeguards contained in clause 13 of the Bill will extend the requirement to afford procedural fairness to an “entity” that is the subject of an adverse comment or opinion in a report. The regime will also necessitate that procedural fairness is afforded to an investigated individual who is identified or reasonably identifiable in a report and will permit fairness to be afforded to other individuals who are identified or identifiable in a report. In each case, the entity or individual will be given two opportunities to respond. In the first instance, in not less than 30 days, and in the second, in not less than 14 days. Submissions made on either occasion will be required to be fairly stated in the report. The regime will also ensure persons identified or reasonably identifiable in a proposed public statement will be given a reasonable opportunity to respond where appropriate.

In addition to the proposed public interest test, qualifications, limitations, and enhanced procedural fairness measures outlined above, the exercise of the proposed new powers will be subject to review, as applicable, under the *Judicial Review Act 1991*.

In light of the above, the imposition on rights and liberties or obligations is justified.

Whether the legislation confers immunity from proceeding or prosecution without adequate justification

Clause 26 of the Bill inserts proposed section 337A into Chapter 7 of the CC Act. Proposed section 337A provides immunity from proceeding by extinguishing civil liability for certain acts done before 13 September 2023. The provision of immunity is adequately justified on grounds that it serves the legitimate purposes of establishing legal certainty and protecting the State’s financial and is narrowly tailored to meet those ends.

In *CCC v Carne*, the High Court held that section 49 of the CC Act is the sole source of power for the CCC to report on an investigation of a particular complaint of corrupt conduct. A corollary of this decision is that the preparation and publication of numerous reports by the CCC, purportedly undertaken in performance of its corruption function, or its prevention function as it concerns corruption, occurred without authorisation. Proposed section 337A will establish legal certainty regarding the extent of residual liability arising from those acts and otherwise protect the State’s financial interests by providing a limited immunity.

Proposed section 337A(1) will operate so that a person is not civilly liable for an act done in purported performance of a function under the CC Act to prepare or publish a corruption report, or make a corruption statement, to the public. The proposed section will be limited in four critical respects. First, it will only extend to civil liability. Second, it will only immunise acts done in good faith and without gross negligence before *CCC v Carne* was handed down on 13 September 2023. Third, the immunity will only be directed to specified acts, and so will not protect against liability for acts other than those which *CCC v Carne* revealed were unauthorised. Fourth, and finally, the immunity will not apply to a proceeding started before the Bill is introduced or affect rights or liabilities between parties to a proceeding heard and decided on or before commencement.

The proposed conferral of immunity is justified on those bases.

Whether:

- ***the legislation reverses the onus of proof in criminal proceedings without adequate justification***
- ***the consequences imposed by the legislation are proportionate and relevant to the actions to which the consequences are applied by the legislation***

Clause 18 of the Bill inserts proposed section 214A and section 214B into Chapter 5 of the CC Act. Proposed sections 214A and 214B will introduce offences concerning the copying, publishing, or giving of a draft report or information about a proposed public statement. The proposed offences will allow a draft report or certain information to be copied, published, or given for the purpose of seeking legal advice or commencing a legal proceeding against the CCC in relation to the report or a proposed public statement. The offences will also provide that a person will not commit an offence where they have a reasonable excuse.

To the extent that section 76 of the *Justices Act 1886* operates to place the onus on the defendant to prove the existence of any exemption, proviso or condition, the offence provisions may reverse the onus of proof. However, it is appropriate to require the person claiming the existence of an excuse to establish the claim, as matters giving rise to the claim are likely to be peculiarly within the person's knowledge. For example, the person will be best placed to give evidence about extraneous circumstances which demonstrate that a draft report or information was copied, published, or given for the purpose of seeking legal advice. A reversal may be justified where the relevant fact must be something inherently impractical to test by alternative evidential means and the defendant would be particularly well positioned to disprove guilt.

Each proposed offence will carry a maximum penalty of 85 penalty units or 1 year's imprisonment. These amounts are consistent with current comparable offence provisions under the CC Act. The proposed penalties are justified because they are proportionate to the harm which may arise from the copying, publishing, or giving of a draft report or information, for example to persons yet to be afforded procedural fairness in respect of the contents of the draft report or information or through the undermining of the CCC's performance of its functions.

Consultation

The Review undertook targeted consultation with a range of relevant stakeholders and invited written submissions on its terms of reference. The CCC was consulted as part of the Review and their feedback was sought on a draft of this Bill.

Consistency with legislation of other jurisdictions

All other Australian anti-corruption bodies have legislation allowing for some kind of public reporting on corruption investigations. Only some jurisdictions have express powers to make public statements. While the amendments in the Bill draw upon some of the approaches found in other jurisdictions, no particular jurisdiction's legislation is directly comparable to the amendments in the Bill.

Notes on provisions

Clause 1 states that the Bill, if passed, may be cited as the *Crime and Corruption (Reporting) Amendment Act 2024* (CCRA Act).

Clause 2 provides for the Bill to commence on a day to be fixed by proclamation.

Clause 3 provides that this Act amends the CC Act.

Clause 4 amends section 35 (How commission performs its corruption functions) to insert new sections 35(1)(k) and (l) to add additional ways in which the commission may carry out its corruption functions. These are by reporting on completed corruption investigations in certain circumstances and by making public statements about corruption in the public interest under Part 6.

Clause 5 amends section 50 (Commission may apply to QCAT about corrupt conduct) to provide a revised definition of ‘prescribed person’ for the section. Existing paragraph (a) of the definition, which captures current and former members of the police service, is retained. The amendments to the definition create two other categories of prescribed persons:

- a person who holds an appointment as a public sector employee in a UPA and a person who held an appointment as a public sector employee in a UPA that ended after the corrupt conduct happened, regardless of whether the appointment ended before or after the start of a disciplinary proceeding for the conduct; and a person (other than an elected office holder, a judge, magistrate or other holder of judicial office, a member of the police service, or a public sector employee):
 - (i) who holds an appointment in a UPA, or
 - (ii) who held an appointment in a UPA that ended after the corrupt conduct happened, regardless of whether the appointment ended before or after the start of a disciplinary proceeding for the conduct.

A public sector employee is defined by reference to section 12 of the *Public Sector Act 2022*.

Clause 6 amends chapter 2, part 6, heading (Reporting) to replace the heading with ‘Commission reports and public statements’ to reflect the new content of the part as a consequence of the amendments made by clauses 7 to 16 of the Bill.

Clause 7 amends chapter 2, part 6, division 1 heading (Application) to replace the heading with ‘Preliminary’.

Clause 8 amends section 63, heading (Application of pt 6) to replace ‘pt’ with ‘part’.

Clause 9 inserts new sections 63A and 63B. New section 63A (Definitions for part) provides definitions for part 6 for the following terms, ‘corrupt conduct finding’, ‘corruption complaint’, ‘corruption investigation report’, ‘corruption prevention report’, ‘disciplinary proceeding’, ‘draft report’, ‘identifying information’,

‘investigated person, for a corruption investigation’, ‘public hearing report’ and ‘serious disciplinary action’.

New section 63B (Public interest test) introduces a public interest test in the performance of the commission’s new powers under the Part.

The commission may only exercise certain powers under the part if it is satisfied that it is in the public interest. The powers are to prepare a public hearing report, corruption investigation report or corruption prevention report, to make a public statement, to give a corruption investigation report or corruption prevention report to a person under section 69B(2), or publish a public hearing report, corruption investigation report or corruption prevention report or part of such a report.

Although the matters to which the commission may have regard are not limited, in making a decision about the public interest, the commission must have regard to the following:

- the need for accountability and transparency in government and the public sector
- in relation to an individual who is, or may be, identified by the exercise of the power—
 - (i) the individual’s human rights stated in the *Human Rights Act 2019*, sections 25 (privacy and reputation), 31(fair hearing) and 32(1) (a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law), and
 - (ii) any other relevant human rights
- the need to ensure a proceeding in or before a court, tribunal, warden, coroner, magistrate, justice or other person is not, or would not be, prejudiced by the exercise of the power
- the seriousness of the matter to which the exercise of the power relates, and
- whether the exercise of the power relates to a matter that has been the subject of prolonged and significant public debate.

New section 63B(3) contains definitions for the section including ‘human rights’ and ‘relevant commission report’. The term ‘human rights’ is defined by reference to the *Human Rights Act 2019*, section 7. A ‘relevant report’ for the section means a corruption investigation report, a corruption prevention report, or a public hearing report.

Clause 10 inserts new chapter 2, part 6, division 2, subdivisions 1 to 3 and new chapter 2, part 6, division 2, subdivision 4 heading before section 64.

New subdivision 1 is headed ‘Public hearing reports’ and contains new section 63C.

New section 63C (Commission reports—public hearings) applies when the commission holds a public hearing in the performance of its functions other than the crime function. Section 63C(2) authorises the commission to prepare a report on the public hearing (a ‘public hearing report’). However, under section 63C(3) there is an exception for any part of the hearing that the presiding officer has decided to close for a particular purpose under section 177(4) so that this part of the hearing may not be reported on. Section 63C(4) and (5) make clear that the public hearing report may contain a statement about

an answer given, or information about a document or thing produced, or a submission made by a person at the public hearing but must not include any evidence or information obtained by the commission outside the public hearing or anything about the evidence or information, unless the public hearing has considered that evidence or information.

New subdivision 2 is headed ‘Corruption investigation reports’ and contains new sections 63D to 63H.

New section 63D (Commission reports—corruption investigations) authorises the commission to prepare a report on a completed corruption investigation (a ‘corruption investigation report’) in performing its corruption functions. The new section provides the commission with a clear single power to prepare a report after a corruption investigation is complete.

New section 63E (Contents of report—general) provides for the general types of matters that may be included in a corruption investigation report, some of which are subject to limitations and safeguards. The commission may include in the report the advice and recommendations otherwise provided to a UPA under section 35(1)(j) in relation to a completed corruption investigation, but if it does so, it must also include an objective summary of all matters of which it is aware that support, oppose or are otherwise relevant to the advice or recommendation. Other matters which may be included are the commission’s comments or opinions on the objective summary relating to the advice or recommendations included in the report, an answer given, or information about a document or thing produced, at a public hearing relating to a completed corruption investigation; and a submission made by a person at a public hearing relating to a completed corruption investigation. New section 63E(4) makes clear that the section applies subject to the safeguards provided in new sections 63F to 63H.

New section 63F (Contents of report—identifying information about investigated person) provides a limitation on the inclusion of identifying information about an investigated person in a corruption investigation report unless the investigated person falls into certain specific categories. These are where an investigated person:

- has asked to be identified
- has already been publicly identified in a public hearing;
- is an elected office holder, or
- meets a serious corrupt conduct threshold where both of the following must be established in relation to the investigated person:
 - they are convicted of a corruption offence, the Queensland Civil and Administrative Tribunal (QCAT) has made a finding that the person has engaged in corrupt conduct; or the person’s employment or appointment in a UPA is terminated or a disciplinary declaration is made against the person, including under section 95 of the *Public Sector Act 2022* or section 7A.2(2) of the *Police Service Administration Act 1990*; based on the conduct investigated, and
 - the commission is satisfied the investigated person’s conduct is serious corrupt conduct

In addition, the commission may identify an investigated person if it is satisfied it is reasonably necessary to do so.

The limitations on the inclusion of identifying information provided by the clause recognise the damage that may occur, for example to a person's privacy and reputation, where their identity is unnecessarily disclosed in a corruption investigation report.

New section 63G (Contents of report—recommendations etc. about investigated person) provides certain protections that apply where an investigated person is identified in a corruption investigation report, unless the investigated person is an 'excluded investigated person'. The section defines an excluded investigated person as a person against whom either a corrupt conduct finding has been made arising from the investigation, or serious disciplinary action has been taken based on conduct investigated in a completed corruption investigation and whose conduct the commission is satisfied is a case of serious corrupt conduct.

The report is prohibited from including a comment or opinion that the investigated person's conduct is or may be corrupt conduct; another comment or opinion adverse to the investigated person; or any advice or recommendation about the investigated person or based on their conduct. An example has been included in the section to provide guidance in relation to a recommendation. However, new section 63G(2) also provides that the report may include statements that there is no or insufficient evidence of corrupt conduct by an investigated person or that the commission considers a completed corruption investigation generally reveals evidence of a case of systemic corrupt conduct, provided no comment is also made on the conduct of any particular person.

New section 63H (Contents of report—other persons) provides a limitation on the inclusion of identifying information in a report about an individual who is not an investigated person for a completed corruption investigation to ensure that an individual who is not the subject of the investigation is only to be identified where the CCC is satisfied it is reasonably necessary to do so. Section 63H(3) also provides that a corruption investigation report must not, in relation to a person identified in a report who is not an investigated person for the investigation, include any comment or opinion that is adverse to the person or any advice or recommendation about the person or based on their conduct.

New Subdivision 3 is headed 'Corruption prevention reports' and contains new sections 63I to 63J.

New section 63I (Commission reports—corruption prevention) authorises the commission, when it is reporting on ways to prevent corruption under section 24(i) of the CC Act, to prepare a 'corruption prevention report' that includes details of a completed corruption investigation. The new section provides for the general types of matters that may be included in a corruption prevention report, some of which are subject to limitations and safeguards.

The commission may include in the report the recommendations provided to a UPA under section 24(e) of the CC Act in relation to a completed corruption investigation, but if it does so it must also include an objective summary of all matters of which it is aware that support, oppose or are otherwise relevant to the recommendation. This does

not limit the ways in which the commission might otherwise choose to provide recommendations to a UPA in relation to a completed corruption investigation.

Other matters which may be included in a corruption prevention report are the commission's comments or opinions on the objective summary relating to the recommendations included in the report. New section 63I(6) makes clear that the section applies subject to the safeguards provided in new section 63J.

New section 63J (Contents of report) provides a limitation on the inclusion of identifying information in a corruption prevention report unless certain specific conditions apply. These limitations on identification are as follows:

- the identifying information has already been disclosed in a public hearing
- the identifying information relates to an investigated person for a completed corruption investigation who meets a serious corrupt conduct threshold (as described for new section 63F above), or
- the commission is satisfied inclusion of the identifying information is reasonably necessary.

The limitations on the inclusion of identifying information provided by the provision recognise the damage that may occur, for example to a person's privacy and reputation, where their identity is unnecessarily disclosed in a corruption prevention report.

New section 63J(2) provides certain protections that will apply where a person is identified in a report including that the report is prohibited from including a comment or opinion that the person's conduct is or may be corrupt conduct; any comment or opinion that is adverse to the person; or any recommendations about the person or based on their conduct.

New section 63J(3) makes clear that the commission in a corruption prevention report is still able to make recommendations in general terms that have regard to the conduct of an investigated person for a completed corruption investigation provided the recommendation is not directed to the particular person.

New Subdivision 4 is headed 'Other reports' and includes existing sections 64 and 65 of the CC Act.

Clause 11 amends section 64, heading (Commission's reports—general) to replace 'Commission's' with 'Commission' in the section heading. The clause also inserts before section 64(1) new section 64(1AA) to provide that section 64 does not apply to reports prepared by the commission under subdivisions 1 to 3 and renumbers sections 64(1AA) to (5) as sections 64(1) to (6).

Clause 12 amends section 68 (Giving of reasons) to omit section 68(b) and insert new section 68(b) to provide that the information or reasons referred to in sections 66(2), 66(4) or 67(1) (which relate to confidential information) are not a commission report, or part of a commission report, for division 4 (Tabling and publishing commission reports).

Clause 13 inserts new chapter 2, part 6, divisions 3A (Public statements about corruption) and 3B (Procedural Requirements).

Clause 13 relates to provisions in the Bill which introduce the discretion for the commission to make a public statement in connection with the performance of its corruption functions. Clause 13 also establishes the procedural requirements that apply where the commission prepares a draft report or proposes to make a public statement.

New division 3A is headed ‘Public statements about corruption’.

New section 68A (Application of division) provides that division 3A applies in relation to the performance of the commission’s corruption functions.

New section 68B (Public statement—general) outlines five purposes for which a public statement may be made by the commission in connection with a corruption complaint or corruption investigation (each a ‘corruption matter’). The purposes for which a public statement may be made are—

- to indicate it would be inappropriate for the commission to comment on the corruption matter
- to refuse to confirm or deny anything in relation to the corruption matter
- if information about the corruption matter is in the public domain and the commission has the approval of the person to whom the matter relates—to inform the public, based on the available evidence and information, that the commission has decided either—
 - (i) if the corruption matter is a corruption complaint—not to investigate the matter, or
 - (ii) if the corruption matter is a corruption investigation—not to take action under section 49 to report on the matter.
- to provide a factual and objective summary of—
 - (i) a commission report tabled under division 4, or
 - (ii) a commission report, or part of a commission report, published under division 4.
- to provide information about—
 - (i) a charge of a corruption offence arising from the corruption matter, or
 - (ii) a disciplinary proceeding under section 219F of the CC Act another proceeding, (the example given for another proceeding is a disciplinary action taken under the *Public Sector Act 2022*), arising from the corruption matter, and the outcome of the proceeding.

New section 68C (Public statement—exceptional circumstances) outlines five additional purposes for which a public statement may be made by the commission in connection with a corruption complaint or corruption investigation where the commission considers exceptional circumstances exist. The five purposes are—

- to seek further evidence from the public in relation to the corruption matter
- to address public misconceptions about a person or an issue the commission has particular knowledge of as a result of the corruption matter
- to prevent or minimise the risk of prejudicing the reputation of a person involved in the corruption matter
- to redress any prejudice caused to the reputation of a person as a result of the corruption matter being made public, or

- if a person has not been charged with an offence arising from the corruption matter, or a disciplinary proceeding or another proceeding has not been started in relation to the corruption matter—to provide information about the action the commission has taken in relation to the corruption matter, including action taken by the commission under section 49 to report on the matter.

Where the public statement is made for the purposes of preventing or minimising the risk of prejudicing the reputation of a person, or redressing any prejudice caused to the reputation of a person, the commission must seek and have regard to the views of the person whose reputation is, or may be, affected.

New section 68D (Identifying information in public statements) makes clear that a public statement made under sections 68B and 68C must not contain identifying information unless the commission considers it is reasonably necessary and, in these circumstances, the commission must first comply with the procedural requirements set out under section 68H.

New division 3B is headed ‘Procedural requirements’.

New section 68E (Draft report containing identifying information about investigated person) applies where, in relation to a corruption investigation, the commission prepares a draft report containing identifying information about an investigated person. The section requires the commission to provide the investigated person with a copy of the report for their consideration and to give them a notice inviting them to make a submission about the draft report and outlining the stated period for a response which is to be no less than 30 days (the ‘submission period’).

New section 68E(3), without limiting what may be included in a submission, outlines certain matters upon which a submission may be made, namely whether the draft report should have been prepared by the commission, whether the draft report should be tabled or published by the commission once finalised, and the contents of the draft report, including whether the identifying information should be removed.

Under section 68E(4), if a submission is received from the person within the submission period, the commission must amend the report to ensure the person’s submission is fairly stated in the report. A copy of the amended report or relevant part must be given back to the person to consider, together with a notice that a further submission about the amended report may be made within 14 days of the date of the notice (the ‘further period’).

Under section 68E(5), if a further submission is received the commission must amend the draft report to ensure that submission is also fairly stated in the report.

New section 68E(6) makes clear that the section does not authorise the amendment of a draft report to include information that could not otherwise be included in the report under division 2. This ensures that material which is otherwise precluded cannot be included in a report, for example, an adverse comment about an investigated person, by making a submission or amending a report to reflect a submission under this section.

New section 68F (Draft report containing identifying information about other individuals) applies where, in relation to a completed corruption investigation, the commission prepares a draft report containing identifying information about an individual who is not an investigated person for the completed corruption investigation.

The section provides that the commission may provide the individual with a copy of the report for their consideration and give them a notice inviting them to make a submission about the draft report and outlining the stated period for a response which is to be no less than 30 days (the ‘submission period’).

If a submission is received from the individual within the submission period, the commission must amend the report to fairly state the individual’s submission. A copy of the amended report or relevant part must be given back to the individual to consider, together with a notice that a further submission about the amended report may be made within 14 days of the date of the notice (the ‘further period’). If a further submission is received the commission must amend the draft report to fairly state that submission. New section 68F(6) makes clear that the section does not authorise the amendment of a draft report to include information that could not otherwise be included in the report under division 2.

New section 68G (Draft report containing adverse comment) applies where a report is prepared by the commission and the report contains adverse comment or opinions about an entity (an ‘adverse comment’). This section applies more broadly, in that it is directed to an entity, as opposed to an individual. Where the commission makes adverse comment or opinion about an entity, including a UPA, corporation, or individual, then it also appropriate that procedural fairness be afforded to that entity.

The section requires the commission to provide the entity with a copy of the draft report together with, if not contained in the draft report, a copy of the evidence, or a written summary of the substance or significant part of the evidence, on which the adverse comment is based and a notice inviting the entity to make a submission about the draft report and outlining the stated period for a response which is to be no less than 30 days (the ‘submission period’).

New section 68G(3), without limiting what may be included in a submission, outlines certain matters upon which a submission may be made, namely: whether the draft report should have been prepared by the commission, whether the draft report should be tabled or published by the commission once finalised, the contents of the draft report including the adverse comment and the evidence on which the adverse comment is based.

Under section 68G(4), if a submission is received from the entity within the submission period, the commission must amend the report to fairly state the entity’s submission. A copy of the amended report or relevant part must be given back to the entity to consider, together with a notice that a further submission about the amended report may be made within 14 days of the date of the notice (the ‘further period’). If a further submission is received the commission must amend the draft report to fairly state that submission.

New section 68G(6) makes clear that the section does not authorise the amendment of a draft report to include information that could not otherwise be included in the report under division 2.

New section 68H (Proposed public statement) applies where the commission intends to make a public statement under section 68B or 68C (a ‘proposed public statement’), and the statement contains identifying information. The individual to whom the identifying information relates must be afforded a reasonable opportunity by the commission to make submissions on the proposed public statement. This requirement does not apply where the statement is made, under section 68B(d), in order to provide a factual and objective summary of a commission report that is tabled or published under division 4, or part of a commission report published under division 4, provided that the commission has already complied with any applicable procedural requirements in new sections 68E, 68F and 68G in relation to that report.

Clause 14 amends chapter 2, part 6, division 4 (Tabling requirements) by replacing the division with new division 4 (Tabling and publishing commission reports).

New division 4 is headed ‘Tabling and publishing commission reports’.

New section 69 (Application of division) provides that division 4 does not apply to the commission reports mentioned in sections 49 (Reports about complaints dealt with by the commission), 49B(2)(a) (Commencing prosecution) 49C(2)(a) (Commencing prosecution in exceptional circumstances) or 65 (Commission reports – court procedures). Further, new section 69 provides that division 4 only applies to a commission report to the extent that it does not disclose or refer to confidential information mentioned in section 66; and provided the commission has complied with the relevant procedural requirements set out in division 3B in relation to the report.

New section 69A (Commission reports that must be tabled) provides that the section applies to a public hearing report; a report prepared in performance of the commission’s research functions; or another report that the parliamentary committee directs be given to the Speaker. The section requires the chairperson of the commission to sign the report and for it then to be given to the chairperson of the parliamentary committee, the Minister and the Speaker.

New section 69B (Commission reports that may be tabled) provides that the section applies to a corruption investigation report and a corruption prevention report. The section requires the chairperson of the commission to sign the report and provides that it may then be given to the chairperson of the parliamentary committee, the Minister, and the Speaker.

New section 69C (Tabling procedures) provides that the section applies to a commission report that is given to the Speaker under sections 69A(2)(c) or 69B(2)(c). Similar to the existing provisions in section 69 which are replaced by the new provisions, where a report is given to the Speaker, the report must be tabled in the Legislative Assembly by the Speaker on the next sitting day after the Speaker receives the report. Section 69C(3) also provides a mechanism to enable reports of the commission to be tabled when the Legislative Assembly is “not sitting”. The section provides that the Speaker shall deliver such a report and any accompanying document to the clerk of the Parliament who must authorise for it to be published. The report is deemed to have been tabled in and printed by order of the Legislative Assembly and

such a report is granted all the immunities and privileges of a report so tabled and printed (including parliamentary privilege).

New section 69D (Publishing certain commission reports) applies to a corruption investigation report, a corruption prevention report and a public hearing report and authorises the commission to publish the report or part of the report. In the section ‘publish’ is defined to include: print; cause to be printed; distribute, deliver or send, electronically or otherwise; cause to be distributed, delivered or sent, electronically or otherwise; and publish to a section of the public. New section 69D may apply regardless of whether a report is also given to the Speaker under sections 69A and 69B, and allows the commission to publish a report other than by giving it to the Speaker for tabling.

Clause 15 amends section 71 (Giving other information to parliamentary committee) to omit the words ‘report under section 69’ and insert instead the words ‘commission report given to the chairperson of the parliamentary committee under section 69A(2)(a) or 69B(2)(a)’ as a consequence of the amendment made by clause 14.

Clause 16 omits section 71A (Report containing adverse comment) as a consequence of the amendment made by clause 13, which reproduces with enhancements the current procedural fairness requirements contained in section 71A.

Clause 17 amends section 214 (Unauthorised publication of commission reports) as a consequence of the amendment made by clause 14 to ensure that the new public hearing, corruption investigation and corruption prevention reports are covered by the offence provision.

Clause 18 inserts new sections 214A and 214B after section 214.

New section 214A (Draft reports to remain confidential) makes it an offence for a person who has been given a draft report under sections 68E to 68G to copy, publish or give the draft report to anyone else unless the person has either given it to the other person for the purpose of seeking legal advice or commencing a legal proceeding against the commission in relation to the draft report or the person has a reasonable excuse. An example has been included in the section to provide guidance in relation to a reasonable excuse. The offence is punishable by 85 penalty units or one year’s imprisonment.

Section 214A(2) clarifies that ‘draft report’ includes part of a draft report, a copy of a draft report and information contained in a draft report.

New section 214B (Proposed public statements to remain confidential) makes it an offence for a person who has been given information about a proposed public statement under section 68H to publish or give the information to anyone else unless either the person has given it to the other person for the purpose of seeking legal advice or commencing a legal proceeding against the commission in relation to the proposed public statement or the person has a reasonable excuse. Examples have been included in the section to provide guidance in relation to a reasonable excuse. The offence is punishable by 85 penalty units or one year’s imprisonment.

Clause 19 inserts new section 219CA after section 219C.

New section 219CA (Constitution of QCAT when exercising original jurisdiction) will ensure that QCAT's jurisdiction to hear and decide an allegation of corrupt conduct against a prescribed person under section 219F is exercised only by a judicial member of QCAT who is a current Supreme Court judge or former Supreme Court judge who is nominated by the president of QCAT.

Clause 20 amends section 219I, heading (Powers for corrupt conduct) by omitting the heading and replacing it with new heading '219I Disciplinary orders—member of police service or public sector employee'.

Clause 21 amends section 219IA, heading (QCAT powers for prescribed persons whose employment or appointment ends) by omitting the heading and replacing it with new heading '219IA Disciplinary declarations—member of police service or public sector employee whose employment or appointment ends'. The clause also amends the reference to 'section 219I(4)' in section 219IA(3) to refer to 'section 219I(3) or (4)', and amends section 219IA(5), definition *disciplinary declaration*, paragraph (b) by omitting the reference to section 219I(1) and inserting instead 'section 219I(3) or (4)', to clarify that QCAT's powers to make a disciplinary declaration under section 219IA also apply to former members of the police service whose employment as members of the police service has ended after the corrupt conduct happens.

Clause 22 inserts new section 219IB after section 219IA.

New section 219IB (Corrupt conduct declarations—holder or former holder of particular appointment) applies to a prescribed person mentioned in section 50(3), definition 'prescribed person', paragraph (c) and grants QCAT the jurisdiction to find corrupt conduct is proved against the prescribed person and make an order declaring that the person's conduct is corrupt conduct. New section 219IB(3) makes clear that the section applies despite any other law relating to the terms and conditions upon which the prescribed person holds, or ceased to hold, an appointment in a UPA including a law providing for removal of the person from their appointment. New section 219IB(4) makes clear that, for a person whose appointment has ended, an order made under the section does not affect the way the person's appointment ended or the benefits, rights and liabilities arising from the appointment ending.

Clause 23 amends section 219M (Appeal from QCAT exercising original jurisdiction) consequent to the amendment made by clause 22 to ensure that there may be an appeal from QCAT's decision under new section 219IB. The amendments provide that in these cases the Court of Appeal may also make a corrupt conduct declaration if there was a failure by QCAT to make a corrupt conduct declaration or set aside the corrupt conduct declaration and make another corrupt conduct declaration. Consequent to the amendment in clause 19, the reference to 'the appeal tribunal or' under section 219M(6) is deleted.

New section 219M(8) makes clear that a corrupt conduct declaration made under the section applies despite any other law relating to the terms and conditions upon which the prescribed person holds, or ceased to hold, an appointment in a UPA including a law providing for removal of the person from their appointment.

New section 219M(9) contains definitions for the section including ‘corrupt conduct declaration’ and ‘disciplinary declaration’. A ‘corrupt conduct declaration’ means a corrupt conduct declaration made under section 219IB. A ‘disciplinary declaration’ means a disciplinary declaration made under section 219IA.

Clause 24 amends section 293 (Powers) to replace the word ‘finalised’ in the definition of ‘non-operational record or thing’ in section 293(4) with the word ‘completed’ to align the definition with the terminology used elsewhere in the CC Act.

Clause 25 amends section 337, heading (Protection from liability) by inserting ‘of monitor’ after ‘Protection’ to describe the nature of the protection provided by this section.

Clause 26 inserts new section 337A (Protection from civil liability for unauthorised corruption reports and public statements) after section 337.

New section 337A extinguishes civil liability arising from an act done by a person prior to 13 September 2023 (being the date of the High Court’s decision in *CCC v Carne*), in good faith and without gross negligence, in purported performance of a function of the commission under the CC Act relating to the preparation of a corruption report, the publication of a corruption report, or the making of a corruption statement to the public. However, the protection provided by the section does not apply to a proceeding which has been commenced before the introduction of the Bill into the Legislative Assembly and nor does it affect the rights or liabilities arising between parties to a proceeding which has been heard and decided on or before the day the *Crime and Corruption (Reporting) Amendment Act 2024* commences.

New section 337A(4) contains definitions for the section including ‘corruption report’, ‘corruption statement’, ‘function’ and ‘introduction day’. A ‘corruption report’ is defined to mean a report in relation to a complaint about, or information or matter involving, corruption or a corruption investigation and a ‘corruption statement’ is defined to mean a statement in relation to a complaint about, or information or matter involving, corruption or a corruption investigation.

Clause 27 inserts new chapter 8, part 21 (Crime and Corruption (Reporting) Amendment Act 2024) into the Act relating to the commencement of the CCRA Act.

New section 470 (Definitions for part) provides definitions for part 21, namely: ‘amendment Act’, ‘amended chapter 2, part 6’, ‘corruption complaint’ and ‘former’.

New section 471 (Existing corruption complaints and investigations) provides that amended chapter 2, part 6 applies to an existing corruption complaint and an existing corruption investigation. New section 471(2) defines ‘existing corruption complaint’ and ‘existing corruption investigation’ for the section.

New section 472 (Existing public hearings) provides for the transitional arrangements for the application of amended chapter 2, part 6 to certain existing public hearings. Amended chapter 2, part 6 will apply if before the commencement the commission had authorised a hearing under section 176(1) in the performance of its functions, other than its crime functions, and immediately before the commencement the public hearing had

started, but not finished; or the public hearing had finished but a report on the hearing had not been prepared; or the public hearing was finished, but a report on the hearing had not been tabled under former section 69.

New section 473 (Completed corruption investigations) provides for the transitional arrangements for the application of amended chapter 2, part 6 to a completed corruption investigation in certain circumstances. Amended chapter 2, part 6 will apply if the commission had completed a corruption investigation in the performance of its corruption functions and, immediately before commencement, the commission had: not made a public statement about the investigation; or not started preparation of a report in relation to the investigation; or given a person an opportunity under former section 71A to make submissions about an adverse comment the commission proposed to make about the person in a report in relation to the investigation; or the commission had started, but not finished, the preparation of a report in relation to the investigation; or had finished preparing a report in relation to the investigation but had not published the report to the public or given the report to the chairperson of the parliamentary committee, the Speaker and the Minister under former section 69; or the commission had finished preparing a report in relation to the investigation and had given the report to the chairperson of the parliamentary committee, the Speaker and the Minister under former section 69 but the report had not been tabled or published.

New section 474 (Statements about certain corruption complaints) provides that amended Chapter 2, part 6, will apply in circumstances where immediately before the commencement the commission had finally assessed a corruption complaint but had decided not to investigate the complaint and had not made a statement to the public about the complaint.

New section 475 (Existing disciplinary proceedings) provides a transitional provision to clarify that the amendments made by the Bill are not intended to affect applications made immediately prior to commencement, to QCAT to hear and decide an allegation of corrupt conduct against a prescribed person under section 219F, which have not been decided at the time of commencement. Former chapter 5, part 2 as in force immediately before the commencement continues to apply to the matter and QCAT may continue to hear and decide the application as if the CCRA Act had not commenced.

New section 476 (Existing appeal rights) provides a transitional provision that applies where, upon commencement of the CCRA Act, a person has a right to appeal a decision of QCAT exercising its original jurisdiction under former chapter 5, part 2 but has yet to exercise that right and the appeal period has not expired. The provision provides for the appeal to be heard and decided under former section 219M, as if the CCRA Act had not commenced.

Clause 28 amends schedule 2 (Dictionary) to omit definitions of ‘commission report’ and ‘disciplinary proceeding’ and replace these with revised definitions. Clause 28 also provides new definitions for ‘corrupt conduct finding’, ‘corruption complaint’, ‘corruption investigation report’, ‘corruption prevention report’, ‘draft report’, ‘elected office holder’, ‘identifying information’, ‘investigated person’, ‘public hearing report’ and ‘serious disciplinary action’.