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Crime and Corruption
Commission

QUEENSLAND

Our reference: AD-12-0212 (TRIM 16/006011)
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22 January 2016

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Watson

RE: CRIME AND CORRUPTION AMENDMENT BILL 2015

I refer to the letter from Mr Mark Furner MP, Chair of the Legal Affairs and Community Safety Committee (the Committee), to the Crime and Corruption Commission (CCC) dated 3 December 2015 inviting a written submission on the *Crime and Corruption Amendment Bill 2015* (the Bill). The Commission¹ appreciates the opportunity to comment on the Bill.

Preliminary comments

The Commission acknowledges that the main objective of the Bill is to implement a number of government election commitments to amend the *Crime and Corruption Act 2001* (the Act) and that the government has not attempted to address other amendments previously sought by the Commission and/or recommended by the Parliamentary Crime and Corruption Committee (PCCC). The explanatory notes to the Bill state that 'these issues may be considered as part of the Parliamentary Crime and Corruption Committee's (PCCC) current review of the CCC (which is due to report by 30 June 2016)' (p. 3).

In general, and subject to our submissions below, the Commission supports the proposed amendments in the Bill. In particular, the Commission welcomes those that reinstate the CCC's previous research and corruption prevention functions, make the chief executive officer (CEO) ineligible to be appointed a Commissioner, and remove the requirement for complaints about corruption to be made by way of a statutory declaration.

This submission also contains recommendations for a number of additional amendments. Those recommendations which were made in our submission to the PCCC review are attached.

¹ Section 223 of the *Crime and Corruption Act 2001* provides that the Commission consists of a full time commissioner who is Chairman, a part time commissioner who is Deputy Chairman, a full time commissioner who is the Chief Executive Officer, and two part-time commissioners who are Ordinary Commissioners.

New powers to support corruption prevention function

Clause 6 of the Bill amends section 23 of the CC Act by reinstating the CCC's corruption prevention function (formerly called misconduct prevention). The CCC welcomes the reinstatement of this function but recommends that it be supported by express legislative powers to enable public sector agencies to release to the CCC information and intelligence, including systems data. This could be achieved in two different ways. New provisions modelled on the powers that the Auditor-General has pursuant to sections 46-48 of the *Auditor-General Act 2009* could be inserted into the CC Act or alternatively, sections 55 (Sharing of intelligence information), 73 (Power to enter) and 75 (Notice to discover information) of the CC Act could be amended to expressly state that they also apply to the performance of the CCC's corruption prevention function. This recommendation was made in the Commission's primary submission to the PCCC review (p. 69).

Appointment process & accountability measures for CEO

Prior to amendments that commenced on 1 July 2014², the Act did not create a separate CEO position. Instead, one person discharged the responsibilities of the Chairperson, CEO and full-time Commissioner. In 2013, the Parliamentary Crime and Misconduct Committee recommended that the Act be amended to provide for separate roles of Chairperson and CEO³.

The 2014 amendments gave effect to the recommendation but went further by providing that the CEO also be a full-time Commissioner (s.223(c)).

Given that the CEO is subject to the direction of, and required to report to, the Commission under section 253 of the Act, the fact that the CEO is also a member of the Commission under section 223 is problematic and not consistent with best-practice corporate governance. Consequently, the Commission supports the amendments to sections 223 and 226 which will make the CEO ineligible for appointment as a Commissioner.

However, the CCC does not support the provisions in the Bill which provide for the CEO to be appointed by Governor-in-Council (clauses 17, 20-28; particularly clause 24 which amends section 229) because they deny the Commission the usual power enjoyed by a conventional board to appoint and dismiss the CEO. In doing so, the checks on Executive power envisaged by the Act are significantly weakened.

The Commission supports the concept of a CEO who has responsibility for the administration of the CCC but the Commission recommends that the Act be amended so that the CEO is appointed by the Commission in the same way as senior officers are appointed under section 245.

This recommendation was made in the Commission's supplementary submission to the PCCC review (p. 8). If the Commission's recommendation is accepted, it will be necessary to make a number of consequential changes to the Bill (see below).

Accountability measures for Chairman

Under section 252(3) of the Act the Chairman is not subject to the direction of the Commission in contrast with the position that existed prior to the 2014 amendments⁴.

The effect is that there is no check on the unilateral exercise of power by the Chairman and the potential exists for significant operational and strategic decisions to be taken without an appropriate

² *Crime and Misconduct and Other Legislation Amendment Act 2014*.

³ Report No 90, *Inquiry into the CMC's release and destruction of Fitzgerald Inquiry documents*, April 2013, recommendation 19.

⁴ Section 251(2) *Crime and Misconduct Act 2001*.

level of independent scrutiny by the Commissioners, which collectively operate like a board of directors.

For reasons of governance best practice and accountability, the CCC recommends that the CC Act be amended to reinstate the requirement that the position of Chairman be subject to the Commission. This recommendation was made in the Commission's supplementary submission to the PCCC review (p. 8).

Appointment process for Commissioners

Prior consultation with Chairman

To enable the Commission to discharge its statutory obligations, it is important that the Commission be constituted by individuals who collectively possess a balance of appropriate skills⁵. This imperative is recognised by a requirement in the Act for ordinary Commissioners to have the qualifications, experience or standing appropriate to assist the Commission to perform its functions⁶.

In order to help achieve this balance of appropriate skills the Commission recommends that section 228 of the Act be amended to require the Minister to consult with the Chairman before nominating a person for appointment as a Commissioner to identify:

- the skill sets and experience of the current Commissioners; and
- the additional skills the Commission needs to acquire in order to enable the Commission to meet its statutory obligations.

This recommendation was made in the Commission's supplementary submission to the PCCC review (p. 8).

Vetting

The CCC's *Personnel Security Policy*, which regulates pre-employment vetting procedures as well as the issue of security clearances, applies to Commissioners appointed by the Governor-in-Council under section 229 of the Act. Commissioners are required to undertake a CCC security clearance process following appointment, similar to the process all CCC appointed staff undergo prior to their employment as part of the CCC's recruitment procedure. Those security clearance checks are more rigorous than the checks undertaken for Governor-in-Council appointment.

Although unlikely, it is theoretically possible that a Commissioner, having been appointed under the Act, fails to meet the Commission's minimum vetting standards. The Commission has considered whether legislative amendment would be necessary, and has concluded that any such potential embarrassment could be prevented by a protocol with the Department of Justice and Attorney-General which requires a CCC security vetting prior to the appointment being recommended to Cabinet.

Acting Commissioners

Section 237 of the Act provides that Governor-in-Council may appoint a person to act as a Commissioner. For ease of drafting, the Bill replaces section 237 entirely; however, the proposed amendment is effectively the same as the current provision save for a new section 237(2) which provides:

- (2) A person may not be appointed to act in the office for —
 - (a) a continuous period of more than 3 months; or

⁵Department of the Premier and Cabinet, *Welcome Aboard A guide for members of Government Boards, committees and statutory authorities*, 4th Edition, July 2010, last updated 27 August 2014, pp. 6-7.

⁶Section 225(2) CC Act.

(b) a period that, with the periods of other appointments of the person to act in the office, form a continuous period of more than 3 months.

The Commission supports this limitation but suggests that the meaning of subsection (2)(b) would be clearer if the words 'for a continuous period' were replaced with the words 'for an aggregate period'.

The CEO should not have any operational functions

Section 253(1) of the Act provides that the CEO is responsible to the Commission for the administration of the Commission. Unfortunately, the role of the CEO as administrative head of the CCC has been confused by the inclusion of provisions in the Act which give that position an operational function – see for example eg ss.35A and 40.

The Commission recommends that amendments be made to the Act so that there is greater clarity in relation to the division of functions and responsibilities between the Chairman (operational functions) and the CEO (administrative functions); and to ensure the CEO role better aligns with conventional notions of corporate governance. The requisite amendments have been identified with precision and can be provided to the Committee separately if this submission is accepted.

This recommendation was made in the Commission's supplementary submission to the PCCC review (p. 8).

The Commission considers that it is highly desirable that all of these governance issues are addressed contemporaneously and as a matter of priority because they go to the foundation of the ability of the CCC to operate efficiently and transparently in accordance with expected standards of good governance and accountability.

The exercise of Commission powers

Prior to the 2014 amendments, the Commission had the power to delegate, by resolution, its powers under the CC Act or any other Act to an appropriately qualified Commission officer (s. 269(1)). The 2014 amendments removed the Commission's express discretion to delegate its powers and replaced it with a prescriptive statutory delegation of powers to the CEO and Chairman.

This step has created some uncertainty about whether:

1. the 'Commission's functions and powers' under the CC Act which are statutorily delegated to the Chairman and CEO under s. 269 can also be exercised by the Commission itself; and
2. the Commission has any ability to delegate its functions and powers to Commission officers generally.

There is a general rule – which has been statutorily recognised in section 27A(10) *Acts Interpretation Act 1954* (AIA) – that, in the absence of a contrary intention in an Act, the delegator may perform or exercise the delegated power or function. Unfortunately, it is not clear whether the fact that nearly all of the Commission's functions have been delegated to either the Chairman or CEO, leaving the Commission's role reduced to the strategic role defined in section 251, amounts to a contrary intention.

To ensure there is no uncertainty about the interpretation of section 269 and for reasons of good governance and accountability, the CCC believes that section 269 should be amended so that the general principle enunciated in section 27A(10) AIA applies. The CCC recommends that section 269 of the CC Act be amended by inserting the following new subsections:

(1A) To remove any doubt, it is declared that the Commission's functions and powers that are delegated to the Chairman or CEO under subsection (1) can:

-
- (i) also be exercised by the Commission itself; and
(ii) be delegated by the Commission to another appropriately qualified Commission officer

(1B) To remove any doubt, it is declared that the Commission's functions under sections 234, 251(1) and (2) and 259 cannot be delegated.'

Miscellaneous

Given that the Bill makes the CEO ineligible to a Commissioner, the Commission recommends that references to the term 'ordinary Commissioners' be replaced with the term 'part-time Commissioners'. For example, section 223(d) could be amended to read '2 additional part-time commissioners'.

Thank you for the opportunity to comment on the Bill. Should you wish to clarify any matters please contact Mr Rob Hutchings, Director, Legal Services on 3360 6273 or email Rob.Hutchings@ccc.qld.gov.au.

Yours sincerely



A J MacSporran QC
Chairman

Encl.

New requirement of a statutory declaration – section 36

As discussed earlier, the 2014 amendments introduced a requirement for complaints to the CCC to be made by way of a statutory declaration, other than in exceptional circumstances. Across the review period, but particularly following the amendments on 1 July 2014, the CCC experienced a significant decrease in the number of complaints received. One of the factors that may have influenced this decrease is the requirement for statutory declarations to accompany complaints.

In our experience, complaints accompanied by a statutory declaration are not of any higher quality or value to the CCC. The assessment process is necessarily stalled in cases where we await receipt of the Statutory Declaration. When it is ultimately received, experience has shown it rarely adds anything further to the complaint received in the first instance, and often simply restates the complaint in a sworn format. The CCC's perception is that the complaints received have no greater probative value nor are they more reliable for the requirement.

The exceptions and exemptions to the requirement for a statutory declaration are of some assistance in managing the issues. Although the CCC is not advocating for the removal of the public interest disclosure exemption, we do note elected officials, as disclosers pursuant to the Public Interest Disclosure Act are exempt from the requirement. This result appears to be inconsistent with the intended purpose of the requiring complaints to be sworn.

The CCC has previously, and continues, to make public statements, such as the "Don't Risk Your Campaign" initiative about the public's right to expect integrity and transparency in election processes. This serves as a warning to candidates (some of whom are serving members of the legislative assembly or local government councillors) not to misuse the CCC's complaints process for political advantage. If the requirement for a statutory declaration was intended to further reinforce the CCC's warning, it is not currently achieving that outcome.

Further, although many of these complaints are about corruption, they were not "serious and/or systemic in nature" and were ultimately referred to the relevant agency to deal with or assessed as not requiring any further action by any agency.

Recommendation 12: *Remove the requirement for a statutory declaration in section 36*

That the CC Act be amended to remove the requirement in s. 36(3) that a complaint must be made by way of a statutory declaration.

Corruption prevention function

As previously discussed, under the 2014 amendments our responsibilities for the prevention of corruption in UPAs were removed, including the responsibility to raise the standards of integrity and conduct within a UPA.

The CCC is of the view that there is a continuing role for the CCC in corruption prevention within the public sector and it should be reinstated. If the prevention function is restored, the CCC considers it would benefit from additional information and intelligence gathering powers. These could be developed in alignment with a whole-of-organisation strategic direction for prevention. The Queensland Audit Office (QAO) encourages all public sector agencies to implement fraud risk assessments and routine data analytics over areas inherently susceptible to fraud.³¹ The QAO considers these to be strong techniques that complement each other as part of an effective fraud control plan. These techniques may also be applied to other at risk areas of corruption. Other Queensland and inter-state integrity agencies

31 QAO Fraud Risk Management Report to Parliament 9: 2012–13 — <https://www.qao.qld.gov.au/report-9-:2012-13> and QAO Fraud Management in Local Government Report 19:2014–15 — <https://www.qao.qld.gov.au/report-19:2014-15>

are drawing upon specific fields of academic and industry expertise to make appropriate recommendations for corruption/integrity reform. However, these recommendations rely upon reliable sources of data. The CCC does not have specific powers to compel public sector agencies to provide systems data for the purpose of making recommendations for systemic corruption prevention reforms. It is recommended that consideration be given to amending s. 55 (Sharing of Intelligence Information), s. 73 (Notice to enter and search official premises) and s. 75 (Notices to Discover Information) to expressly state they also apply to the performance of the CCC's corruption prevention function.³²

As there is a continuing role for the CCC in corruption prevention within the public sector, the CCC recommends that the corruption prevention function be reinstated.

If that function is returned, the CCC recommends that there be enhanced power for it to obtain information and intelligence from public sector agencies, including the ability to obtain reliable systems data, via an appropriate legislative amendment to existing powers.

Recommendation 13: A CCC Corruption prevention function

It is recommended the government amend s. 23 of the CC Act to introduce a corruption prevention function.

Amendment to existing search warrant and surveillance warrant powers

Police seconded to the CCC have, in the performance of corruption functions, additional powers under the PPRA that are not available to the CCC's civilian investigators performing similar roles. This has potential to undermine the efficient resourcing of CCC investigations into matters of serious corruption, particularly those involving allegations against police. In this chapter (p. 42), we have identified an urgent need for a review of CCC's investigative powers. For the corruption function, the most significant concerns relate to the need to have:

- search warrant powers in section 92 of the CC Act with powers similar to section 154 of the PPRA, enabling a magistrate or judge to order the person in possession of access information for a storage device in the person's possession, to give a CCC officer access to the device and access information necessary and to allow the CCC officer to use, examine and copy relevant information
- surveillance warrant powers for a CCC corruption investigation similar to those available for a CCC crime investigation under Chapter 13 of the PPRA
- certainty about the abrogation of the privilege against self-incrimination as it applies to section 75 Notices to Discover information, which until recently have been used as a timely, efficient and effective means of compelling witnesses to give important information relevant to corruption investigations but have been assessed as increasingly likely to become subject to legal challenge.

Clarification of the CCC's monitoring role

Historically, the CCC has adopted the practice that the monitoring role does not fall within the meaning of a corruption investigation. Accordingly, fulfilling the monitoring role involves reliance on leveraging our cooperative relationships with agencies rather than any compulsory power to require the provision of important information.

During the review period the CCC has identified a number of deficiencies in agency reviews or audits. Some of these may have been alleviated by the use of compulsory powers.

³² See section 35(1)(i) and (j)

The Commission

The composition of the Commission

The Queensland Audit Office regards corporate governance as a cornerstone of sound stewardship and effective management. By definition corporate governance is the manner in which an organisation is controlled and governed in order to achieve its strategic goals and objectives.¹

Corporate governance had its origin in the private sector, where shareholders delegate many of their responsibilities as owners to company directors, who together as a board oversee the executive management of the business on their behalf.

Statutory bodies more closely resemble the private sector in that they have management boards constituted under legislation, non-executive members on the board and usually a non-executive member as chairperson.

Government departments provide a very different model. They do not have management boards, but generally have an executive group whose function is to provide support for the accountable officer (Director-General) in stewardship of the department.

This arrangement has a number of differences from the private sector (Statutory Body, GOC) model.

- a) Accountability lies with a single person in the chief executive or Director-General who is the accountable officer as prescribed in the *Financial Accountability Act 2009*;
- b) Members of the department's management group are also executive officers whereas company boards are mostly comprised of non-executive members; and
- c) The chairman of the departmental executive group is normally the accountable officer whereas in private sector companies the role of chief executive is most often separate from that of chairman of the board.

The Commission, as currently constituted, is a hybrid of the private sector and public sector corporate governance models.

The Commission is constituted by two full-time Commissioners (the Chairman and CEO) and three part-time Ordinary Commissioners (one of whom is Deputy Chairman).

The Commission is responsible for:

- a) providing strategic leadership and direction for the performance of the Commission's functions,
- b) the exercise of the Commission's powers, by the Chairman, CEO and staff,
- c) preparation of the strategic and business plans,
- d) the establishment of internal management committees and their charters,
- e) the preparation of the internal audit charter prepared for the Financial Accountability Act 2009, and
- f) compliance with the approved budget.²

¹ Auditor-General of Queensland Report No. 7 1998-99, *Corporate Governance Beyond Compliance – A Review of Certain Government Departments*, 4 June 1999.

² See sections 251 and 259 of the CC Act.

In order to fulfil its responsibilities, the Commission considers it necessary and in accordance with best practice governance standards to have a balance of appropriate skills in the membership of the Commission.³ A skill balance is also needed to complement the skills of the Chairman so as to contribute to the effective oversight of the CCC and achievement of the CCC's strategic objectives. The requirement in the CC Act for Ordinary Commissioners to have the qualifications, experience or standing appropriate to assist the Commission to perform its functions⁴ is considered appropriate as the skill set required will vary over time.

The Commission recommends that the position of CEO no longer be a Commissioner and that instead a fourth Ordinary Commissioner (all to be renamed simply 'Commissioner') be appointed. This would assist in broadening the range of relevant expertise or viewpoints to be represented on the Commission, such as those concerning governance, research, management, civil liberties and community representation. This arrangement would enhance the Commission's ability to effectively oversee the performance of the CCC's functions.

Chairman

Under the CC Act the Chairman is not subject to the direction of the Commission⁵ which is in direct contrast to the position that applied under the CM Act. This means there is no check on the unilateral exercise of those powers by the Chairman in matters not delegated to the CEO.⁶ This situation has the potential to result in arbitrary operational and strategic decisions being taken without the appropriate level of independent scrutiny by the Commissioners (the Board).

Governance best practice would be to restore the position of the Chairman being subject to the Commission.

The amendments made to the CC Act included changing the term Chairperson to Chairman. While section 32(B) of the *Acts Interpretation Act 1954* addresses the interpretation of non-gender neutral language, community expectations might regard the change to be ideological; the opportunity to revert to gender-neutral language should be considered.⁷

Chief Executive Officer

The Commission considers the division of responsibility between the positions of Chairman and Chief Executive Officer as unclear. It has the potential to add unnecessary complexity to an organisational environment which, as one of Queensland's key integrity agencies, should be held up as a prime example of an effective corporate governance framework.

The Chairman is responsible for the proper performance of all functions under the CC Act other than those reserved to the CEO or the Commission. Primarily the Chairman's functions are in relation to the Crime, Corruption, Intelligence, Research and Proceeds of Crime functions.

The CEO has a list of functions under the Act which appear to be focused on both corporate management as well as operational management. The CEO also has functions which intersect with functions held by the Chairman and/or the Commission. In that sense the CEO's functions are confused and add unnecessary complexity to the CCC, as illustrated below:

- The CEO is subject to the direction of and is to report to the Commission.⁸ However, because the Commission does not enjoy the usual power to hire and dismiss a CEO, the check on executive power envisaged by those sections of the CC Act is greatly weakened.

³ Department of the Premier and Cabinet, *Welcome Aboard A guide for members of Government Boards, committees and statutory authorities*, 4th Edition, July 2010, last updated 27 August 2014, pages 6-7.

⁴ Section 225(2) CC Act.

⁵ However, if asked by the Chairman, the Commission may assist the Chairman. See ss. 251(3) and 252(3) CC Act

⁶ Section 269(1) CC Act.

⁷ It is acknowledged that technically the "man" in Chairman is not gender-specific in that it is derived from the Latin *manus* meaning hand, but the community perception is that it is gendered language.

⁸ Section 253 CC Act.

- The CEO is also a Commissioner.⁹ When taken with the extensive executive authority of both the Chairman and the CEO, it is doubtful the Commission has the capacity to hold either role to account, even though everything done by the Chairman¹⁰ or the CEO¹¹ is done in the name of the Commission.
- Under s. 259(2) the CEO has responsibility for developing the budget for the Commission but the Commission is otherwise responsible for complying with the budget. To put it simply, the CEO is the senior executive through whom the Commission is acting to develop the annual budget. However under s. 269 the CEO is responsible for the commission's financial accountability functions.

Those functions, amongst other things, are to:

- achieve reasonable value for money by ensuring the operations of the statutory body are carried out efficiently, effectively and economically, and
- undertake planning and budgeting for the statutory body that is appropriate to the size of the statutory body.

Given the Commission's responsibility under s. 259 for complying with the approved budget (a reserved function of the Commission and one which is not delegated to the CEO), there is considerable overlap and consequently confusion as to whether it is the Commission or the CEO who is responsible for one of the most fundamental financial accountability functions.

- Section 35A grants the CEO the power to issue detailed directions about the performance of the organisation's Corruption function, which under s. 252(1)(b) is the responsibility of the Chairman. It is one of a number of provisions that appear to confer operational responsibilities on the CEO position (see also ss. 40 and 269).
- The Act delegates to the CEO the power to appoint to the positions of senior executive officer (Crime) and senior executive officer (Corruption).¹² This power is confusing for more than one reason. Firstly the CC Act explicitly states in s. 245(4) that senior officers, including the senior executive officers of Crime and Corruption, are subject to the direction and control of the Chairman. There is nothing in the CC Act that states that the CEO can direct and control senior officers in the exercise of the Commission's powers or functions. This would be a power one would normally expect a CEO to have; however in the CC Act this is held by the Chairman.

The CCC is not unlike other organisations that perform best when there are clear lines of authority and accountability. The Commission supports the concept of a CEO or CEO-like position which has responsibility for assisting the Chairman and the Commission in the carrying out of a number of corporate management functions including such things as the management of resources and leading performance management, risk management and ethical values and practices.

For reasons of good governance, clarity and accountability, the position should be appointed by the Commission and report directly to the Chairman, as do other senior officers under the CC Act.

Role of Deputy Chairman

The CC Act introduced the formal Deputy Chairman position. Prior to the introduction, when the Chairman was not available, Commission meetings were usually chaired by one of the legally qualified Commissioners, more as a mark of respect, as they were often retired judges. Further, because they were eligible for appointment as Chairman they were, on occasions, appointed acting Chairman when the Chairman was on leave.

This makes it important to ensure that not only should at least one of the Commissioners be eligible for appointment as Chairman, but also that they should have the capacity and availability to act in that position.

⁹ Section 223 CC Act.

¹⁰ Section 252 CC Act.

¹¹ Section 253 CC Act.

¹² Section 269 CC Act.

To avoid any uncertainty that might arise from there being no designated Deputy Chairman, it may be worthwhile having in place pre-approved acting arrangements to operate when the Chairman is absent. It is suggested that the Commission, on an annual basis, provide the Minister with a list, in order of preference, of persons available to act in the position of Chairman during the Chairman's absence.

Should the list of nominees be approved by the Minister, the first available person on the list could be invited to act in the Chairman's role whenever a vacancy arises over the following 12 months. Existing requirements for the Chairman and Commissioners to advise the Minister of their absences would remain in place.¹³

Acting Commissioners

The CC Act now permits the appointment of Acting Commissioners during a vacancy in the relevant Commissioner's office.¹⁴ Such direct executive appointments do not require bipartisan support of the PCCC and, in practice, can be for lengthy periods of up to 12 months¹⁵ before a formal appointment is required.

Acting appointments without bipartisan support can result in a perception that the acting appointments lack independence. To avoid this, it is recommended that acting appointments of Commissioners be limited to three months, which should provide sufficient time to obtain bipartisan support for an appointee.

Recommendation 1

It is recommended:

- (i) That the Chairman be subject to the direction of the Commission.
- (ii) That the Commission still comprise five people, the Chairman, deputy chairman and three Commissioners, or alternately the Chairman and four Commissioners and one or more of the four Commissioners being eligible for appointment and have the capacity and availability to act as Chairman in the Chairman's absence.
- (iii) That when appointing a Commissioner, the Minister is to consult with the Chairman to identify:
 - (a) the existing skill sets and experience required of the part time Commissioners; and
 - (b) the skills the Commission needs to meet its current and future strategic objectives.
- (iv) That the CEO and senior officers be appointed by, and answerable to, the Commission.
- (v) That the CEO not be a Commissioner and not be a statutory appointment.
- (vi) That those sections of the Act which currently confer operational responsibilities on the CEO role be repealed or amended (see ss. 35A, 40, 269).
- (vii) That the acting appointment of any person as a Commissioner for more than three months receive bipartisan approval.

¹³ Section 234 CC Act.

¹⁴ Section 237 CC Act.

¹⁵ Section 237 CC Act read in combination with s.24B(5) *Acts Interpretation Act 1954*.