

Queensland

Healthy Futures Commission Queensland Bill 2017

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Contents

		Page
Part 1	**Preliminary**	
1	Short title	6
2	Commencement	6
3	Purpose	6
4	Act binds all persons	6
5	Definitions	6
Part 2	**Healthy Futures Commission Queensland**	
Division 1	**Establishment**	
6	Establishment	7
7	Legal status	7
8	Commission represents the State	7
Division 2	**Functions**	
9	Functions of commission	7
10	Ministerial direction generally	9
11	Ministerial direction—special report	9
Division 3	**Powers**	
12	Powers of commission	10
Part 3	**Board**	
Division 1	**Establishment, functions and powers**	
13	Establishment of board	10
14	Functions of board	10
15	Powers of board	11
Division 2	**Membership**	
16	Membership of board	11
17	Chairperson and deputy chairperson	12
18	Disqualification from becoming board member	12

Contents

19	Term of appointment	13
20	Conditions of appointment	13
21	Removal from office	13
22	Vacancy in office	14
Division 3	**Board meetings**	
23	Conduct of business	14
24	Board meetings	14
25	Presiding at board meetings	15
26	Quorum at board meetings	15
27	Voting at board meetings	15
28	Minutes	15
Division 4	**Board committees**	
29	Establishment and function of committees	16
Division 5	**Disclosure of interests**	
30	Disclosure of interests at board or committee meeting	16
Part 4	**Staff of the commission**	
Division 1	**Chief executive officer**	
31	Appointment	18
32	Chief executive officer's responsibilities	18
33	Disqualification as chief executive officer	18
34	Term of appointment	19
35	Conditions of appointment	19
36	Vacancy in office	19
37	Conflicts of interest	20
Division 2	**Other staff**	
38	Commission staff	20
Division 3	**Preservation of rights**	
39	Preservation of rights of public or health service employee appointed as commission employee	20
40	Preservation of rights of commission employee appointed as health service employee	21
Part 5	**Financial provisions**	
41	Healthy Futures Queensland Fund	21
42	Annual project funding plan	22
Part 6	**Administration**	
Division 1	**Criminal history information**	

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43	Criminal history report	23
44	Changes in criminal history must be disclosed	23
45	Confidentiality of criminal history information	24
Division 2	**Other information requirements**	
46	Provision of information by public sector unit to commission	25
47	Use of confidential information	25
Division 3	**Evidentiary provisions**	
48	Offences against this Act	26
49	Appointments and authority	26
50	Signatures	27
51	Other evidentiary aids	27
Part 7	**Other matters**	
52	Application of other Acts to commission	27
53	Protecting prescribed persons from liability	28
54	Annual report	28
55	Delegations	29
56	Review of commission	30
57	Regulation-making power	30
Part 8	**Amendment of Acts**	
Division 1	**Amendment of this Act**	
58	Act amended	30
59	Amendment of long title	30
Division 2	**Amendment of Public Service Act 2008**	
60	Act amended	30
61	Amendment of sch 1 (Public service offices and their heads)	30
Schedule 1	**Dictionary**	32

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2017

A Bill

for

An Act to establish the Healthy Futures Commission Queensland and to amend this Act and the *Public Service Act 2008* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Healthy Futures Commission Queensland Act 2017*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purpose

The purpose of this Act is to establish the Healthy Futures Commission Queensland to—

(a) support the capacity of children and families to adopt a healthy lifestyle; and

(b) contribute to reducing health inequity for children and families.

4 Act binds all persons

(1) This Act binds all persons, including the State.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

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Part 2 Healthy Futures Commission Queensland

Division 1 Establishment

6 Establishment

The Healthy Futures Commission Queensland (the ***commission***) is established.

7 Legal status

The commission—

(a) is a body corporate; and

(b) may sue and be sued in its corporate name.

8 Commission represents the State

(1) The commission represents the State.

(2) Without limiting subsection (1), the commission has the status, privileges and immunities of the State.

Division 2 Functions

9 Functions of commission

(1) The main functions of the commission are as follows—

(a) to support the capacity of children and families to adopt a healthy lifestyle, including by promoting healthy eating and regular physical activity;

(b) to contribute to reducing health inequity for children and families;

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(c) to advocate for the necessary social conditions and environments for matters mentioned in paragraph (a) or (b);

(d) to develop partnerships or other arrangements with entities the commission considers appropriate for performing a function mentioned in paragraphs (a) to (c);

(e) to give entities the commission considers appropriate grants relating to a matter mentioned in paragraphs (a) to (d);

Examples for paragraphs (d) and (e) of entities the commission may consider appropriate—

- an industry or community organisation
- a university or other educational or research institution
- an entity carrying on a business
- a local government
- an instrumentality or agency of the Commonwealth, the State, another State or a local government

(f) to consult with entities the commission considers appropriate about a matter mentioned in paragraphs (a) to (d).

(2) The commission's functions also include any other function given to it under this Act or another Act.

(3) In performing its functions under this Act, the commission must take into account—

(a) the social determinants of health and the effects of the determinants on health inequity; and

(b) the views, needs and vulnerabilities of groups of persons experiencing health inequity, including—

(i) Aboriginal and Torres Strait Islander communities; and

(ii) culturally and linguistically diverse communities; and

(iii) regional and remote communities; and

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(iv) other communities affected by socioeconomic disadvantage.

(4) In this section—

social determinants of health means the societal conditions in which people are born, grow, live, work and age, as mentioned in the Rio Political Declaration on Social Determinants of Health.

Note—

The Rio Political Declaration on Social Determinants of Health was adopted by the World Health Assembly at the World Conference on Social Determinants of Health at Rio de Janeiro, Brazil on 21 October 2011.

10 Ministerial direction generally

(1) The Minister may give a written direction (a ***Ministerial direction***) to the commission about the commission's functions.

(2) However, the Minister may not give a Ministerial direction about the employment of a particular person.

(3) The commission must comply with a Ministerial direction.

11 Ministerial direction—special report

(1) The Minister may give the commission a Ministerial direction to—

(a) prepare a report (a ***special report***) on a matter the Minister considers relevant to the commission's functions; and

(b) give the special report to the Minister.

(2) However, the Minister may not give a Ministerial direction about the content of a special report.

(3) A special report may contain recommendations about the matter the subject of the report.

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(4) The Minister may publish a special report in a way the Minister considers appropriate.

Division 3 Powers

12 Powers of commission

(1) The commission has all the powers of an individual and may, for example—

(a) enter into contracts; and

(b) acquire, hold, deal with and dispose of property; and

(c) employ staff; and

(d) appoint agents and attorneys; and

(e) engage contractors; and

(f) do anything else necessary or convenient to be done in performing its functions.

(2) The commission also has the other powers given to it under this Act or another Act.

Part 3 Board

Division 1 Establishment, functions and powers

13 Establishment of board

A board is established as the governing body of the commission.

14 Functions of board

The board has the following functions—

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(a) to ensure the proper, efficient and effective performance of the commission's functions;

(b) to decide the objectives, strategies and policies to be followed by the commission;

(c) to ensure the commission complies with its strategic plan, and operational plan, under the *Financial Accountability Act 2009* for a financial year;

(d) to report to the Minister about the performance of the commission's functions;

(e) any other function given to the board under this Act or another Act.

15 Powers of board

(1) The board has the power to do anything necessary or convenient to be done in performing its functions.

(2) Without limiting subsection (1), the board may give a written direction to the chief executive officer about the performance of the officer's responsibilities.

(3) Anything done in the name of, or for, the commission by the board, or with the authority of the board, is taken to have been done by the commission.

Division 2 Membership

16 Membership of board

(1) The board consists of 6 members appointed by the Governor in Council.

(2) The Minister may recommend a person for appointment as a member of the board only if the Minister is satisfied—

(a) the person has qualifications or experience in 1 of the following—

(i) business or financial management;

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(ii) law;

(iii) leading and influencing partnerships to bring about change;

(iv) assessing the impact of social conditions and environments on health equity, including for sections of the community experiencing health inequity; or

(b) the person is otherwise appropriately qualified to perform the functions of a board member.

17 Chairperson and deputy chairperson

(1) The Governor in Council may appoint—

(a) a member of the board to be the chairperson of the board; and

(b) another member of the board to be the deputy chairperson of the board.

(2) A member of the board may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member of the board.

(3) A person holds office as chairperson or deputy chairperson for the term, ending not later than the person's term of appointment as a member of the board, stated in the person's appointment as chairperson or deputy chairperson.

18 Disqualification from becoming board member

A person is disqualified from becoming a member of the board if the person—

(a) has a conviction, other than a spent conviction, for an indictable offence; or

(b) does not consent to the chief executive requesting a report about the person's criminal history under section 43; or

(c) is an insolvent under administration; or

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(d) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or

(e) is the chief executive officer or another member of the commission's staff; or

(f) is a contractor of the commission.

19 Term of appointment

(1) A member of the board holds office for the term, not longer than 4 years, stated in the member's instrument of appointment.

(2) Subsection (1) does not prevent a member of the board being reappointed.

20 Conditions of appointment

(1) A member of the board is to be paid the remuneration and allowances decided by the Governor in Council.

(2) A member of the board holds office on the terms and conditions, not provided for by this Act, decided by the Governor in Council.

21 Removal from office

The Governor in Council may, at any time, remove a member of the board from office if—

(a) the member would be disqualified from becoming a member under section 18; or

(b) the Minister recommends the removal because the Minister is satisfied the member—

(i) is incapable of performing the member's functions; or

(ii) has neglected the member's functions or performed the functions incompetently; or

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(iii) has displayed inappropriate or improper conduct in a private capacity that reflects adversely on the board or commission; or

(iv) has been absent from 3 consecutive meetings of the board without the board's permission and without reasonable excuse.

22 Vacancy in office

The office of a member of the board becomes vacant if the member—

(a) completes a term of office and is not reappointed; or

(b) resigns office by signed notice given to the Minister; or

(c) is removed from office under section 21.

Division 3 Board meetings

23 Conduct of business

Subject to this division, the board may conduct its business, including its board meetings, in the way it considers appropriate.

24 Board meetings

(1) The chairperson of the board may convene a meeting of the members of the board (a ***board meeting***).

(2) The chairperson must convene a board meeting—

(a) at least 6 times each year; and

(b) if asked, in writing, by—

(i) 3 or more other members of the board; or

(ii) the Minister.

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25 Presiding at board meetings

(1) The chairperson is to preside at all board meetings at which the chairperson is present.

(2) If the chairperson is absent from a board meeting, the deputy chairperson is to preside.

(3) If neither the chairperson nor deputy chairperson is present at a board meeting, the member chosen by the members of the board present is to preside.

26 Quorum at board meetings

(1) A quorum for a board meeting is a majority of the members of the board for the time being.

(2) However, if at a board meeting a member present at the meeting is required under section 30 not to be present during deliberations, or not to take part in any decision, of the board for a particular matter, the remaining members present at the meeting constitute a quorum for the meeting.

27 Voting at board meetings

(1) A question at a board meeting is decided by a majority of the votes of the members present at the meeting and able to vote on the question.

(2) If the votes are equal, the member presiding at the board meeting also has a casting vote.

28 Minutes

The board must keep minutes of its board meetings.

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Division 4 Board committees

29 Establishment and function of committees

(1) The board may establish 1 or more committees to help the board effectively and efficiently perform its functions by advising on matters referred by the board.

(2) A committee must consist of—

(a) 1 member of the board, who is to be the chairperson of the committee; and

(b) at least 2 appropriately qualified persons decided by the board, other than—

(i) a member of the board; or

(ii) the chief executive officer or another member of the commission's staff; or

(iii) a contractor of the commission.

(3) The board must decide—

(a) the term of a committee; and

(b) the terms of reference for a committee.

(4) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way the committee must conduct meetings.

Division 5 Disclosure of interests

30 Disclosure of interests at board or committee meeting

(1) This section applies to a member of the board or a member of a committee if—

(a) a matter is being considered, or is about to be considered, at a meeting of the board or committee; and

(b) the member has a material personal interest in the matter; and

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(c) the material personal interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter.

(2) A member of the board or committee has a ***material personal interest*** in the matter if any of the following entities stands to gain a benefit or suffer a loss (either directly or indirectly) because of the outcome of the consideration of the matter—

(a) the member;

(b) the member's spouse;

(c) a parent, child or sibling of the member;

(d) an employer, other than a government agency, of the member;

(e) an entity, other than a government agency, of which the member is an office holder.

(3) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the material personal interest to the other members of the board or committee at the meeting.

(4) The member may further participate in the meeting only if a majority of the other members of the board or committee at the meeting vote in favour of the member's further participation.

(5) However, the member can not participate in any vote on the matter at the meeting.

(6) A disclosure under subsection (3) must be recorded in the minutes of the meeting.

(7) A failure to make a disclosure under subsection (3) does not, of itself, invalidate a decision of the board or committee.

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Part 4 Staff of the commission

Division 1 Chief executive officer

31 Appointment

(1) The board must, in consultation with the Minister, appoint a chief executive officer of the commission.

(2) The chief executive officer—

(a) is an employee of the commission; and

(b) is appointed under this Act and not the *Public Service Act 2008*.

32 Chief executive officer's responsibilities

(1) The chief executive officer is responsible for the day-to-day administration of the commission, including—

(a) employing the commission's staff; and

(b) engaging contractors of the commission.

(2) In carrying out the chief executive officer's responsibilities, the chief executive officer must comply with the written policies and directions of the board.

(3) The chief executive officer is accountable to the board.

33 Disqualification as chief executive officer

A person is disqualified from becoming, or continuing as, the chief executive officer if the person—

(a) has a conviction, other than a spent conviction, for an indictable offence; or

(b) does not consent to the chief executive requesting a report about the person's criminal history under section 43; or

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(c) is an insolvent under administration; or

(d) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or

(e) is a member of the board or a committee; or

(f) is a contractor of the commission; or

(g) contravenes section 37.

34 Term of appointment

(1) The chief executive officer is appointed for the term, not longer than 4 years, stated in the officer's instrument of appointment.

(2) Subsection (1) does not prevent a person from being reappointed as chief executive officer.

35 Conditions of appointment

(1) The chief executive officer is to be paid the remuneration and allowances decided by the board.

(2) For matters not provided for under this Act or stated in the chief executive officer's instrument of appointment, the chief executive officer holds office on the terms and conditions decided by the board.

36 Vacancy in office

The office of the chief executive officer becomes vacant if the chief executive officer—

(a) completes a term of office and is not reappointed; or

(b) resigns office by signed notice given to the board; or

(c) becomes disqualified under section 33 from continuing as chief executive officer.

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37 Conflicts of interest

If the chief executive officer has an interest that conflicts, or may conflict, with the discharge of the officer's responsibilities, the officer—

(a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the officer's knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the board.

Division 2 Other staff

38 Commission staff

(1) The commission may employ other staff it considers appropriate to perform its functions.

(2) The other staff are to be employed under the *Public Service Act 2008*.

Division 3 Preservation of rights

39 Preservation of rights of public or health service employee appointed as commission employee

(1) This section applies to—

(a) a person appointed as the chief executive officer of the commission who was, immediately before taking up the appointment, a public service employee or health service employee; or

(b) a person appointed as another employee of the commission who was, immediately before taking up the appointment, a health service employee.

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(2) The person is entitled to retain all existing and accruing rights as if service as an employee of the commission were a continuation of the person's service as a public service employee or health service employee.

(3) If the person was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*, the person keeps all the person's existing and accrued rights relating to superannuation.

40 Preservation of rights of commission employee appointed as health service employee

(1) This section applies to a person appointed as a health service employee who was, immediately before taking up the appointment, an employee of the commission.

(2) The person's service as an employee of the commission must be regarded as service as a health service employee.

Part 5 Financial provisions

41 Healthy Futures Queensland Fund

(1) The Healthy Futures Queensland Fund (the ***fund***) is established.

(2) The following amounts are payable into the fund—

(a) an amount appropriated by Parliament for this Act;

(b) an amount paid into the fund at the direction of, or with the approval of, the Minister or the Treasurer.

(3) Amounts are payable from the fund for paying—

(a) grants mentioned in section 9(1)(e) (the ***grant amounts***); and

(b) costs and expenses incurred by the commission for performing its other functions under this Act.

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(4) The grant amounts paid in a financial year must make up at least 55% of the total amount paid into the fund in that year.

42 Annual project funding plan

(1) Before 31 March in each year, the commission must give the Minister a plan (the ***annual project funding plan***) for the next financial year that has been approved by the board.

(2) The annual project funding plan for a financial year must include—

(a) if known to the commission, details of each relevant project the commission proposes to carry out in the financial year, including the estimated costs and expenses likely to be incurred in carrying out the project; and

(b) to the extent it is reasonably practicable, details of the nature of other relevant projects the commission may carry out in the financial year.

(3) As soon as practicable after receiving an annual project funding plan, the Minister must approve, or refuse to approve, it.

(4) An annual project funding plan has no effect until it has been approved by the Minister.

(5) In this section—

relevant project means—

(a) developing a partnership or other arrangement mentioned in section 9(1)(d); or

(b) giving a grant mentioned in section 9(1)(e).

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Part 6 Administration

Division 1 Criminal history information

43 Criminal history report

(1) This section applies for deciding if a person—

(a) is disqualified from becoming a member of the board under section 18; or

(b) may be removed as a member of the board under section 21; or

(c) is disqualified from becoming or continuing as the chief executive officer under section 33.

(2) The chief executive may ask the commissioner of the police service for a written report about the criminal history of the person that includes a brief description of the circumstances of a conviction mentioned in the criminal history.

(3) However, the chief executive may make the request only if the person has given the chief executive written consent for the request.

(4) The commissioner of the police service must comply with the request.

(5) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.

44 Changes in criminal history must be disclosed

(1) This section applies if a person who is a member of the board or the chief executive officer is convicted of an indictable offence.

(2) The person must, unless the person has a reasonable excuse, immediately give notice of the conviction to the chief executive.

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Maximum penalty—100 penalty units.

(3) The notice must include the following information—

(a) the existence of the conviction;

(b) details adequate to identify the offence;

(c) when the offence was committed;

(d) the sentence imposed on the person.

45 Confidentiality of criminal history information

(1) This section applies to a person who possesses criminal history information because the person is or was an officer, employee or agent of the department or commission or a member of the board.

(2) The person must not, directly or indirectly, disclose the criminal history information to another person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

(3) The person is permitted to disclose the criminal history information to another person—

(a) to the extent necessary to perform the person's functions under this Act; or

(b) if the disclosure is authorised under an Act; or

(c) if the disclosure is otherwise required or permitted by law; or

(d) if the person to whom the information relates consents to the disclosure; or

(e) if the disclosure is in a form that does not identify the person to whom the information relates; or

(f) if the information is, or has been, lawfully accessible to the public.

(4) The chief executive must ensure a document containing criminal history information is destroyed as soon as

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practicable after it is no longer needed for the purpose for which it was given.

(5) In this section—

criminal history information means—

(a) a report given to the chief executive under section 43; or

(b) a notice given to the chief executive under section 44.

Division 2 Other information requirements

46 Provision of information by public sector unit to commission

(1) If the commission considers a public sector unit holds information the commission requires to perform its functions the commission may, by notice, ask the head (however described) of the public sector unit to give the commission the information within a stated reasonable time.

(2) The head of the public sector unit must give the information requested unless—

(a) its disclosure is prohibited under an Act; or

(b) it is impracticable to provide the information.

(3) If the head of the public sector unit decides not to provide the information, the head must advise the commission of the reasons for not providing the information.

(4) The commission may enter into arrangements with the head of a public sector unit for providing information held by the public sector unit that is required by the commission.

47 Use of confidential information

(1) This section applies to a person who—

(a) is, or has been, a member of the board or a committee, the chief executive officer, another member of the

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commission's staff or a contractor of the commission; and

(b) obtains confidential information in administering, or performing a function under, this Act.

(2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—

(a) in the performance of a function under this Act; or

(b) with the consent of the person to whom the information relates; or

(c) authorised under an Act or otherwise required or permitted by law.

Maximum penalty—100 penalty units.

Division 3 Evidentiary provisions

48 Offences against this Act

(1) A proceeding for an offence against this Act is to be heard and decided summarily.

(2) A proceeding for the offence must start within whichever is the longer of the following—

(a) 1 year after the commission of the offence;

(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

49 Appointments and authority

In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

(a) the appointment under this Act of a member of the board or the chief executive officer;

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(b) the authority of a member of the board, the chief executive officer, another member of the commission's staff, or a contractor of the commission, to do anything under this Act.

50 Signatures

A signature purporting to be the signature of a member of the board or the chief executive officer is evidence of the signature it purports to be.

51 Other evidentiary aids

(1) In a proceeding, a certificate purporting to be that of the chairperson of the board stating any of the following matters is evidence of the matter—

(a) a stated document is an appointment made under this Act;

(b) a stated document is a document made by, or given to, the commission;

(c) a stated document is a copy of a document mentioned in paragraph (a) or (b).

(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

Part 7 Other matters

52 Application of other Acts to commission

(1) The commission is—

(a) a unit of public administration under the *Crime and Corruption Act 2001*; and

(b) a statutory body under—

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(i) the *Financial Accountability Act 2009*; and

(ii) the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way that Act affects the commission's powers.

53 Protecting prescribed persons from liability

(1) A prescribed person is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to a prescribed person, the liability attaches instead to the State.

(3) This section does not apply to a prescribed person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

Note—

For protection from civil liability in relation to State employees, see the *Public Service Act 2008*, section 26C.

(4) In this section—

prescribed person means—

(a) the Minister; or

(b) a member of a committee.

54 Annual report

(1) The commission must include in its annual report prepared under the *Financial Accountability Act 2009*, section 63—

(a) details of the functions performed by the commission during the year; and

(b) information about how efficiently and effectively the commission has performed its functions; and

(c) details of—

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(i) each Ministerial direction given by the Minister during the financial year to which the report relates; and

(ii) action taken by the commission because of the Ministerial direction.

(2) The board must approve the report before it is given to the Minister.

(3) The report must not be prepared in a way that discloses confidential information.

55 Delegations

(1) The commission may delegate its functions under this Act, other than its function of deciding to give a grant mentioned in section 9(1)(e), to a member of the board or the chief executive officer.

(2) The board may delegate its functions under this Act to a member of the board or the chief executive officer.

(3) The chief executive officer may delegate any of the officer's responsibilities to an appropriately qualified member of the commission's staff.

(4) A member of the board may subdelegate a function delegated to the member under subsection (1) or (2) to the chief executive officer or an appropriately qualified member of the commission's staff.

(5) The chief executive officer may subdelegate a function delegated to the officer under subsection (1) or (2) to an appropriately qualified member of the commission's staff.

(6) In this section—

function includes power.

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56 Review of commission

The Minister must ensure an independent review of the performance by the commission of its functions is completed within 5 years after the commencement.

57 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 8 Amendment of Acts

Division 1 Amendment of this Act

58 Act amended

This division amends this Act.

59 Amendment of long title

Long title, from 'and to amend'—

omit.

Division 2 Amendment of Public Service Act 2008

60 Act amended

This division amends the *Public Service Act 2008*.

61 Amendment of sch 1 (Public service offices and their heads)

Schedule 1—

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insert—

Healthy Futures Commission Queensland under the *Healthy Futures Commission Queensland Act 2017*	chief executive officer

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Schedule 1 Dictionary

section 5

board means the board established under section 13.

board meeting see section 24(1).

chairperson, of the board, means the person appointed as chairperson under section 17(1).

chief executive officer means the person appointed as chief executive officer under section 31(1).

commission see section 6.

committee means a committee established under section 29(1).

confidential information—

(a) means any information that—

(i) could identify an individual; or

(ii) is about a person's current financial position or financial background; or

(iii) would be likely to damage the commercial activities of a person to whom the information relates; but

(b) does not include—

(i) information that is publicly available; or

(ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

contractor, of the commission, means a person, other than the chief executive officer or another member of the commission's staff, who performs services for the commission—

(a) under a contract between the person and the commission; or

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(b) under an arrangement between the commission and another person.

conviction means a finding of guilt or acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

criminal history, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

deputy chairperson means the person appointed as deputy chairperson under section 17(1).

health service employee see the *Hospital and Health Boards Act 2011*, schedule 2.

insolvent under administration see the Corporations Act, section 9.

Ministerial direction see section 10(1).

notice means written notice.

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

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