
Part 7A

Disciplinary declarations against former officers

7A.1 Power to conduct disciplinary investigation against a former officer

- (1) This section applies if—
 - (a) a ground for disciplinary action arises in relation to a police officer; and
 - (b) after the ground for disciplinary action arises the employment of the person (the *former officer*) as a police officer ends for any reason.
- (2) A ground for disciplinary action arises when the conduct constituting the ground happens.
- (3) The commissioner may continue or start an investigation to decide whether the former officer is liable to disciplinary action in relation to the former officer's conduct at any time when he or she was a police officer.

Note—

Under section 4.10 the commissioner may delegate powers under this part.

- (3A) For deciding whether to continue or start an investigation, the commissioner may consider the following matters—
 - (a) the seriousness of the ground for disciplinary action;
 - (b) how far advanced the investigation is;
 - (c) the cost of continuing the investigation;
 - (d) access to the former officer;
 - (e) the former officer's disciplinary history;
 - (f) any benefit to the service in proceeding or not proceeding with the investigation;
 - (g) whether the matter is being considered or investigated by the CCC or any other authority;

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- (h) any offence substantially related to the ground for disciplinary action;
 - (i) the likelihood of the former officer engaging in future employment for which the officer would be required to disclose the making of a disciplinary declaration;
 - (j) any other matter the commissioner considers relevant.
- (4) The investigation and disciplinary action must be taken within a period of 2 years after the end of the former officer's employment mentioned in subsection (1)(b).
- (5) However, subsection (4) does not stop disciplinary action being taken following an appeal or review.
- (6) Subsection (4) does not affect—
- (a) an investigation of a suspected criminal offence; or
 - (b) an investigation of a matter for the purpose of notifying the Crime and Corruption Commission of suspected corrupt conduct under the *Crime and Corruption Act 2001*.
- (7) In deciding whether to continue or start a disciplinary investigation the commissioner may have regard to the matters the commissioner reasonably considers to be relevant including matters prescribed under a regulation.

7A.2 Disciplinary action that may be taken against a former officer

- (1) The commissioner may make a disciplinary finding and take disciplinary action against the former officer.
- (2) In disciplining the former officer, the commissioner may make a disciplinary declaration and may not take any other disciplinary action.
- (3) The commissioner may only make a disciplinary declaration if the disciplinary action that would have been taken against the former officer if the former officer's employment had not ended would have been—
 - (a) dismissal; or

- (b) suspension from duty without pay for at least 3 months;
or
 - (c) probation; or
 - (d) demotion, whether permanently or for a stated period.
- (4) The making of a disciplinary declaration against a former officer does not affect the way in which the former officer's employment ends, or any benefits, rights or liabilities arising because the employment ends.
- (5) In this section—
- disciplinary declaration* means a declaration of—
- (a) a disciplinary finding against the former officer; and
 - (b) the disciplinary action that would have been taken against the officer under part 7 if the former officer's employment had not ended.

7A.3 Procedure

- (1) Before making a disciplinary declaration against a former officer, the commissioner must do 1 or both of the following—
 - (a) give the former officer a written notice stating the alleged ground for disciplinary action and asking the former officer to respond in writing within 28 days;
 - (b) hold a disciplinary hearing in relation to the ground for disciplinary action after giving the former officer a notice asking the former officer to attend the hearing.
- (2) A notice under subsection (1)(b) must be given at least 28 days before the hearing.
- (3) The commissioner may take disciplinary action against the former officer after complying with subsection (1) whether or not the former officer responds in writing to the commissioner's notice or attends the disciplinary hearing.

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7A.4 Commissioner to give former officer and the CCC a QCAT information notice

- (1) This section applies if the commissioner makes a disciplinary finding or a disciplinary declaration against a former officer.
- (2) Within 14 days after making the decision, the commissioner must give the former officer and the CCC a QCAT information notice for the decision.

Part 8 Resignation, retirement and change in status

8.1 Resignation

- (1) Resignation from the service of an officer who holds a position on the basis of a contract that provides for the manner of the officer's resignation must be effected in accordance with the contract.
- (2) An officer, other than one referred to in subsection (1), may resign from the service at any time in the manner prescribed by the regulations.

8.2 Retirement

An officer, other than one who holds a position on a contract basis—

- (a) may retire from employment in the service upon, or at any time after, attaining the age prescribed by the regulations in relation to officers of the class to which that officer belongs;
- (b) may retire from employment in the service when called upon under section 8.3 to retire from the service;
- (c) is to retire from employment in the service upon attaining the age of 60 years.

- (4) Also, an amount directed to be deducted from any particular periodic remuneration payment of the employee—
 - (a) must not be more than half of the amount payable to or for the employee in relation to the payment; and
 - (b) must not reduce the amount of salary payable to the employee in relation to the period to less than—
 - (i) if the employee has a dependant—the guaranteed minimum wage for each week of the period; or
 - (ii) otherwise—two-thirds of the guaranteed minimum wage for each week of the period.
- (5) In acting under subsection (1), the chief executive must comply with this Act and any relevant directive of the commission chief executive.
- (6) An order under subsection (1) is binding on anyone affected by it.

Division 2 Disciplinary action against former public service employee

188A Disciplinary action that may be taken against a former public service employee

- (1) This section applies if—
 - (a) a disciplinary ground arises in relation to a public service employee; and
 - (b) after the disciplinary ground arises the employee's employment as a public service employee ends for any reason.
- (2) However, this section does not apply in relation to a person who is a former public service employee if the person's previous chief executive is aware—
 - (a) the person is a prescribed employee; and

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- (b) the previous chief executive or the person's current chief executive has taken, is taking, or intends to take disciplinary action against the person, under a relevant disciplinary law, in relation to the disciplinary ground.
- (3) The former public service employee's previous chief executive may make a disciplinary finding or take or continue to take disciplinary action against the former public service employee in relation to the disciplinary ground.
- (4) The disciplinary finding or disciplinary action must be made or taken within a period of 2 years after the end of the employee's employment.
- (5) However, subsection (4) does not stop disciplinary action being taken following an appeal or review.
- (6) Subsection (4) does not affect—
 - (a) an investigation of a suspected criminal offence; or
 - (b) an investigation of a matter for the purpose of notifying the Crime and Corruption Commission of suspected corrupt conduct under the *Crime and Corruption Act 2001*.
- (7) In disciplining the former public service employee, the former public service employee's previous chief executive may make a disciplinary declaration and may not take any other disciplinary action.
- (8) The former public service employee's previous chief executive may only make a disciplinary declaration if the disciplinary action that would have been taken against the employee if the employee's employment had not ended would have been—
 - (a) termination of employment; or
 - (b) reduction of classification level.
- (9) The making of the disciplinary declaration does not affect the way in which the employee's employment ended, or any benefits, rights or liabilities arising because the employment ended.

(10) In this section—

disciplinary declaration means a declaration of—

- (a) the disciplinary finding against the former public service employee; and
- (b) the disciplinary action that would have been taken against the employee if the employee’s employment had not ended.

Division 3 Disciplinary action against a public service employee who was a prescribed employee

188AB Application of division

- (1) This division applies if—
 - (a) a person is a prescribed employee and a relevant disciplinary ground arises in relation to the person; and
 - (b) after the relevant disciplinary ground arises, the person stops being employed as a prescribed employee and starts employment as a public service employee.
- (2) However, this division does not apply if the person’s previous chief executive has taken, is taking, or intends to take, disciplinary action against the person, under a relevant disciplinary law, in relation to the relevant disciplinary ground.

188AC Action previous chief executive may take

- (1) The person’s previous chief executive may make a disciplinary finding about the relevant disciplinary ground for this division.
- (2) The previous chief executive may take disciplinary action about the relevant disciplinary ground as provided under section 188AD(2).

CCC EXHIBIT