

21. Functions of Commissioner

- (1) The functions of the Commissioner are, having regard to the principles set out in sections 7, 8 and 9 —
 - (a) to establish public sector standards setting out minimum standards of merit, equity and probity to be complied with in the Public Sector in —
 - (i) the recruitment, selection, appointment, transfer, secondment, performance management, redeployment, discipline and termination of employment of employees; and
 - (ii) such other human resource management activities relating to employees as are prescribed,and monitor compliance with those public sector standards;
 - (b) to establish codes of ethics setting out minimum standards of conduct and integrity to be complied with by public sector bodies and employees, and monitor compliance with those codes;
 - (c) to assist public sector bodies to develop, amend or repeal codes of conduct —
 - (i) setting out minimum standards of conduct and integrity to be complied with by themselves and their employees; and
 - (ii) consistent with codes of ethics established under paragraph (b),and monitor compliance with those codes;
 - (d) to assist public sector bodies and employees to comply with public sector standards, codes of ethics and codes of conduct established or developed, as the case requires, under this subsection;
 - (e) to monitor compliance by public sector bodies and employees with the principles set out in sections 8(1)(a), (b) and (c) and 9;
 - (f) subject to regulations referred to in section 98, to establish procedures of the kind referred to in section 97(1)(a);
 - (g) to report from time to time to the Minister of the Crown responsible for a public sector body on the compliance or non-compliance by the public sector body and its employees with the principles set out in sections 8(1)(a), (b) and (c) and 9 and with public sector standards, codes of ethics and codes of conduct established or developed, as the case requires, under this subsection;
 - (h) to report from time to time to each House of Parliament on —
 - (i) the compliance or non-compliance by any particular public sector body or public sector bodies and its or their employees with the principles set out in sections 8(1)(a), (b) and (c) and 9 and with public sector standards, codes of ethics and codes of conduct established or developed, as the case requires, under this subsection; and
 - (ii) any other matter arising in connection with the functions of the Commissioner;
 - (i) to report annually to each House of Parliament on the compliance or non-compliance by public sector bodies and employees with the principles set out in sections 8(1)(a), (b) and (c) and 9 and with

public sector standards, codes of ethics and codes of conduct established or developed, as the case requires, under this subsection; and

- (j) to perform such other functions as are conferred or imposed on the Commissioner by this Act.
- (2) The Commissioner may amend or repeal any public sector standard or code of ethics.
- (3) In establishing, amending or repealing any public sector standards, the Commissioner shall take into account the impact which those public sector standards may have on the efficiency and effectiveness of the Public Sector, and shall endeavour to minimise any adverse impact.
- (4) The Commissioner shall, before establishing, amending or repealing a public sector standard or code of ethics, consult such persons as he or she considers desirable and practicable to consult.
- (5) Each public sector standard and code of ethics shall be published in the *Gazette*.
- (6) A public sector standard or code of ethics comes into operation on the day on which it is published in the *Gazette* or on such later day as is specified in the public sector standard or code of ethics.
- (7) Section 42 of the *Interpretation Act 1984* applies to and in relation to a public sector standard or code of ethics as if it were regulations within the meaning of that section.
- (8) Subsections (5) to (7) also apply to an amendment or repeal of a public sector standard or code of ethics.
- (9) Subject to subsection (10), a public sector standard or code of ethics has in relation to other Acts and subsidiary legislation made under them the force of law as if enacted as part of this Act, but may be amended or repealed by regulations made under section 108.
- (10) Nothing in subsection (9) prevents a court from inquiring into, and deciding, whether or not a public sector standard or code of ethics or any of its provisions —
 - (a) has been validly established;
 - (b) is inconsistent with a provision of this Act; or
 - (c) is unrelated to the power conferred by this Act to establish public sector standards or codes of ethics, as the case requires,as if the public sector standard or code of ethics or that provision were regulations within the meaning of the *Interpretation Act 1984*.
- (11) To the extent that —
 - (a) a public sector standard is inconsistent with a code of ethics or a code of conduct, the public sector standard prevails; or
 - (b) a code of ethics is inconsistent with a code of conduct, the code of ethics prevails.