Western Australia

Parliamentary Commissioner Act 1971

Compare between:

[01 Jul 2025, 10-k0-00] and [12 Dec 2025, 10-l0-00]

Western Australia

Parliamentary Commissioner Act 1971

An Act to provide for the appointment of a Parliamentary Commissioner for Administrative Investigations with functions relating to the investigation of administrative action taken by or on behalf of certain departments and authorities, to the deaths of certain children and to the reportable conduct scheme and for incidental purposes.

[Long title amended: No. 78 of 1996 s. 4; No. 78 of 2003 s. 72(1); No. 10 of 2009 s. 4; No. 25 of 2022 s. 4.]

Part I — Preliminary

1. Short title

This Act may be cited as the *Parliamentary Commissioner Act 1971*.

2. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

*[**3.** Deleted: No. 10 of 1998 s. 76.]*

4. Terms used

In this Act, unless the contrary intention appears —

Acting Commissioner means the Acting Parliamentary Commissioner for Administrative Investigations appointed under this Act;

appropriate authority, in relation to an investigation under this Act, means the department or authority by which or on behalf of which the action that is the subject of such investigation was taken;

authority has the meaning given by section 4A;

CCS Act means the *Children and Community Services Act 2004*;

Commissioner means the Parliamentary Commissioner for Administrative Investigations appointed under this Act;

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

contractor means a contractor as defined in the *Court Security and Custodial Services Act 1999*, the *Declared Places (Mental Impairment) Act 2015* or the *Prisons Act 1981*, as is relevant to the case;

Corruption and Crime Commission has the meaning given to ***Commission*** under the *Corruption, Crime and Misconduct Act 2003*;

department means a department of the Public Service;

Deputy Commissioner means the Deputy Parliamentary Commissioner for Administrative Investigations appointed under this Act;

Director of Public Prosecutions means the Director within the meaning of the *Director of Public Prosecutions Act 1991*;

head, of a relevant entity, has the meaning given in section 19E;

Inspector of Custodial Services means the Inspector of Custodial Services under the *Inspector of Custodial Services Act 2003*;

investigator, conducting an investigation under Part III Division 3B, means a person or body conducting the investigation under that Division on behalf of the head of a relevant entity for the purposes of the reportable conduct scheme;

officer of the Commissioner means an officer appointed under section 9(1);

officer of the Corruption and Crime Commission has the meaning given to ***officer of the Commission*** under the *Corruption, Crime and Misconduct Act 2003*;

officer of the Parliamentary Inspector of the Corruption and Crime Commission has the meaning given to ***officer of the Parliamentary Inspector*** under the *Corruption, Crime and Misconduct Act 2003*;

Parliamentary Inspector of the Corruption and Crime Commission has the meaning given to ***Parliamentary Inspector*** under the *Corruption, Crime and Misconduct Act 2003*;

person aggrieved, in relation to a complaint under this Act, means the person who appears from the complaint to be the

person personally affected by the action to which the complaint relates;

principal officer means —

(a) in relation to a department or an organisation within the meaning of the *Public Sector Management Act 1994*, the chief executive officer or chief employee of the department or organisation; and

(aa) in relation to a contractor and to any subcontractor under the relevant contract, the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act; and

(b) in relation to any other authority, the president, chairman, or other principal or presiding member of the authority or, if the authority is constituted by a single person, that person;

public service officer has the meaning that it has in the *Public Sector Management Act 1994*;

relevant entity means an entity to which the reportable conduct scheme applies under section 19I;

religious body means a body established or operated for a religious purpose that operates under the auspices of 1 or more religious denominations or faiths;

reportable allegation has the meaning given in section 19F;

reportable conduct has the meaning given in section 19G;

reportable conduct scheme means the scheme established under Part III Division 3B;

reportable conviction has the meaning given in section 19H;

responsible Minister means —

(a) in relation to action taken by any department or authority, the Minister charged with the administration of that department or the enactment in relation to the functions conferred by, or arising under, which the action was taken; and

(b) in relation to action taken by a contractor or subcontractor, the Minister to whom the administration of the *Court Security and Custodial Services Act 1999*, the *Declared Places (Mental Impairment) Act 2015* or the *Prisons Act 1981* is committed, as is relevant to the case;

staff, in relation to the Commissioner, means officers of the Commissioner and persons whose services are used under section 9(2a) and persons engaged under section 9(2B);

subcontractor means a subcontractor as defined in the *Court Security and Custodial Services Act 1999*, the *Declared Places (Mental Impairment) Act 2015* or the *Prisons Act 1981*, as is relevant to the case;

tribunal includes the person constituting a tribunal consisting of one person.

[Section 4 amended: No. 13 of 1982 s. 2; No. 73 of 1994 s. 4; No. 78 of 1996 s. 5 and 21; No. 43 of 1999 s. 20; No. 47 of 1999 s. 23; No. 74 of 2003 s. 91(2); No. 75 of 2003 s. 56(1); No. 78 of 2003 s. 72; No. 10 of 2009 s. 5; No. 35 of 2014 s. 36(2); No. 4 of 2015 s. 87(2); No. 25 of 2022 s. 5; No. 10 of 2023 s. 410.]

4A. Term used: authority

(1) Each of the following is an authority for the purposes of this Act —

(a) a local government, regional local government or regional subsidiary;

(b) the Police Force of Western Australia;

(c) a body, or the holder of an office, post or position —

(i) established for a public purpose under a written law; or

(ii) established by the Governor or a Minister;

(d) a corporation or association over which control can be exercised by the State, by a Minister, by a department to which this Act applies or by an authority referred to in paragraph (a) or (c) and to which this Act applies;

(e) an individual who, or body which, has been delegated the exercise of any power or the performance of any function of —

(i) a department to which this Act applies; or

(ii) an authority referred to in paragraph (a) or (c) and to which this Act applies,

but only to the extent of the exercise of the power or the performance of the function;

(f) a contractor or subcontractor.

(2) In subsection (1)(c) and (e) —

body includes —

(a) agency, authority, board, college, commission, commissioner, committee, council, directorate, foundation, institute, instrumentality, office, panel, state trading concern, trustee and university, whether or not incorporated; and

(b) association, company and corporation.

(3) In subsection (1)(c) —

established includes created, appointed, constituted and continued.

[Section 4A inserted: No. 78 of 1996 s. 6; amended: No. 47 of 1999 s. 24; No. 26 of 2016 s. 78.]

Part II — The Parliamentary Commissioner for Administrative Investigations

5. Commissioner and Deputy Commissioner, appointment of etc.

(1) For the purpose of conducting investigations in accordance with this Act there shall be appointed a Commissioner, to be known as the Parliamentary Commissioner for Administrative Investigations.

(1a) The Commissioner shall be assisted by a Deputy Commissioner, to be known as the Deputy Parliamentary Commissioner for Administrative Investigations.

(2) The Commissioner and Deputy Commissioner shall be appointed by the Governor, and shall hold office in accordance with the provisions of this Act.

(3) The Commissioner and Deputy Commissioner shall be appointed to hold office for a term of 5 years, but either the Commissioner or the Deputy Commissioner may, at any time, by writing under his hand, addressed to the Governor, resign his office, and on receipt of his resignation by the Governor, he shall vacate office as Commissioner or Deputy Commissioner, as the case requires.

[(4) deleted]

(5) The Commissioner and Deputy Commissioner shall be paid a salary at such rate as the Governor may determine; and the rate of that salary shall not, without the consent of the Commissioner or the Deputy Commissioner, as the case requires, be reduced during the term of office of the Commissioner or the Deputy Commissioner, as the case requires.

(6) The salary payable to the holder of the office of Commissioner or Deputy Commissioner under this section shall be charged to

the Consolidated Account which, to the necessary extent, is hereby appropriated accordingly.

(7) The Commissioner and Deputy Commissioner are entitled to such leave of absence and such travelling and other allowances as the Governor determines.

(8) No person who is or has been within the preceding 3 years a member of the Parliament of the Commonwealth or any State shall be appointed as Commissioner or Deputy Commissioner, and if the Commissioner or Deputy Commissioner is nominated for election for any of such Houses of Parliament he shall vacate office as Commissioner or Deputy Commissioner, as the case requires.

(9) The Commissioner or Deputy Commissioner shall not, except in so far as he is authorised so to do by resolutions of both Houses of Parliament, hold any office of profit or trust (other than his office as Commissioner or Deputy Commissioner, as the case requires) or engage in any occupation for reward outside the duties of his office, and if the Commissioner or Deputy Commissioner contravenes this subsection he shall be regarded, for the purposes of section 6, as being guilty of misconduct.

(10) Section 52 of the *Interpretation Act 1984* does not apply to the office of Commissioner or Deputy Commissioner.

[Section 5 amended: No. 13 of 1982 s. 3; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 78 of 1996 s. 7; No. 10 of 1998 s. 57(1); No. 77 of 2006 s. 4.]

6. Removal or suspension of Commissioner or Deputy Commissioner

(1) The Commissioner or Deputy Commissioner may, at any time, be suspended or removed from his office by the Governor on addresses from both Houses of Parliament.

(2) Where the Governor is satisfied that the Commissioner or Deputy Commissioner —

(a) is incapable of properly performing the duties of his office; or

(b) has shown himself incompetent properly to perform, or has neglected, those duties; or

(c) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

(d) has been guilty of misconduct,

he may suspend the Commissioner or Deputy Commissioner, as the case requires, from his office.

(3) When the Commissioner or Deputy Commissioner has been suspended from his office under subsection (2) he shall be restored to office unless —

(a) a statement of the grounds of his suspension is laid before each House of Parliament during the first 7 sitting days of that House following the suspension; and

(b) each House of Parliament, during the session in which the statement is so laid, and within 30 sitting days of that statement being so laid, passes an address praying for his removal from his office.

[Section 6 amended: No. 13 of 1982 s. 4; No. 18 of 2009 s. 62.]

6A. Deputy Parliamentary Commissioner, functions of

(1) The Deputy Commissioner shall perform such duties as the Commissioner directs.

(2) Subject to section 7, when —

(a) the Commissioner is absent from duty for any reason or is absent from the State; or

(b) the Commissioner has been suspended; or

(c) the office of Commissioner is vacant,

the Deputy Commissioner shall act in the office of the Commissioner during the absence, suspension or vacancy and he may, while so acting, exercise all the powers and functions, and shall perform all the duties, of the Commissioner.

[Section 6A inserted: No. 13 of 1982 s. 5.]

7. Acting Parliamentary Commissioner, appointment of etc.

(1) The Governor may appoint a person to act in the office of the Commissioner in such cases or in such circumstances as may be provided for under this section, and the person so appointed shall be known as the Acting Parliamentary Commissioner for Administrative Investigations.

(2) An Acting Commissioner may be appointed —

(a) when the Commissioner is absent from duty for any reason or is absent from the State; or

(b) when the Commissioner has been suspended; or

(c) when the office of Commissioner is vacant; or

(d) in such other case or circumstances as may be specified in Rules of Parliament.

(2a) The Acting Commissioner, while so acting, may exercise the functions of the Commissioner, and anything done by the Acting Commissioner in so exercising those functions has the like effect as if it were done by the Commissioner.

(3) The Acting Commissioner is entitled to such remuneration, leave of absence and such travelling and such other allowances as the Governor may determine.

[Section 7 amended: No. 13 of 1982 s. 6.]

8. Oath or affirmation of Commissioner, Deputy Commissioner and Acting Commissioner

(1) Before entering upon the exercise of the duties of their respective offices the Commissioner, the Deputy Commissioner and the Acting Commissioner shall each take an oath or affirmation that he will faithfully and impartially perform the duties of his office, and that he will not, except in accordance with this Act, divulge any information received by him under this Act.

(2) The oath or affirmation shall be administered by the Speaker of the Legislative Assembly or, if the office of Speaker is then vacant or the Speaker is by reason of absence or incapacity unable to administer the oath or affirmation, by the President of the Legislative Council but, if the office of President is vacant or the President is by reason of absence or incapacity unable to administer the oath or affirmation, the oath or affirmation shall be administered by such person as is appointed by the Governor for the purpose.

[Section 8 amended: No. 68 of 1976 s. 2; No. 13 of 1982 s. 7.]

9. Staff of Commissioner

(1) The Commissioner may appoint such officers as he considers necessary for the purpose of enabling the functions of the Commissioner properly to be carried out.

(2) Subject to this Act, the terms and conditions of service of officers of the Commissioner shall be such as the Commissioner determines.

(2a) The Commissioner may by arrangement with the employing authority of the officer or employee, make use, either full-time or part-time, of the services of any officer or employee employed in the Public Service or in a State instrumentality or otherwise in the service of the Crown in right of the State.

(2B) The Commissioner may engage persons under contracts for services to provide professional, technical or other assistance for the purpose of enabling the functions of the Commissioner properly to be carried out.

(3) A member of the Commissioner's staff shall, before he commences his duties as such, take an oath or affirmation, to be administered by the Commissioner, that, except in accordance with this Act, he will not divulge any information received by him under this Act.

(4) The Commissioner may by arrangement with an employing authority, State instrumentality or other statutory office holder, agree to that authority, instrumentality or office holder making use, either full-time or part-time, of the services of any officer of the Commissioner.

(5) In this section —

employing authority means an employing authority within the meaning of the *Public Sector Management Act 1994*.

[Section 9 amended: No. 74 of 2003 s. 91(3), (4), (6), (8) and (9); No. 10 of 2009 s. 6.]

10. Other provisions as to Commissioner and other officers

(1) Part 3 of the *Public Sector Management Act 1994* does not apply to the Commissioner, the Deputy Commissioner, the Acting Commissioner, or the officers of the Commissioner.

(2) The Commissioner, the Deputy Commissioner and each officer of the Commissioner shall, for the purposes of the *Superannuation and Family Benefits Act 1938* [1], be deemed to be an employee within the meaning of that Act.

(3) When a public service officer is appointed to the office of Commissioner, Deputy Commissioner or Acting Commissioner or becomes an officer of the Commissioner he is entitled to retain all his existing and accruing rights as if his service in that

office or as such an officer, as the case may be, were a continuation of his service as a public service officer.

(4) When a person ceases to hold the office of Commissioner, Deputy Commissioner or Acting Commissioner or to be an officer of the Commissioner and becomes a public service officer his service in that office or as an officer of the Commissioner shall be regarded as service in the Public Service for the purposes of determining his rights as a public service officer.

(5) Where —

(a) the Commissioner or Deputy Commissioner; or

(b) an officer of the Commissioner who is appointed for a fixed term,

immediately prior to his appointment under this Act, occupied an office under Part 3 of the *Public Sector Management Act 1994* for an indefinite period as a permanent officer, he shall, if his term of office expires by effluxion of time and he is not reappointed, be entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994*, not lower in status than the office which he occupied immediately prior to his appointment as Commissioner, Deputy Commissioner or officer of the Commissioner, as the case requires.

(6) Subsection (5) applies to an officer of the Commissioner irrespective of whether the officer was appointed before or after the day on which subsection (5)(b) commenced.

[Section 10 amended: No. 68 of 1976 s. 3; No. 13 of 1982 s. 8; No. 32 of 1994 s. 19; No. 78 of 1996 s. 8; No. 74 of 2003 s. 91(10) and (11).]

11. Delegation by Commissioner

(1) In so far as he is authorised so to do by Rules of Parliament made under this Act, or a resolution of both Houses of Parliament the Commissioner may, either generally or as

otherwise provided by the instrument of delegation, by writing signed by him delegate to the Deputy Commissioner or any member of the Commissioner's staff the performance of any of the functions of the Commissioner under this Act other than the power to delegate under this section or to make any report or recommendation under this Act.

(2) A delegation under this section may be made to a specified person or to the holder for the time being of a specified office or to the holders of specified offices.

(3) Every delegation under this section may be revoked or varied at any time by the Commissioner by instrument in writing under his hand, and no such delegation prevents the exercise of any power by the Commissioner.

(4) A delegation under this section may be made subject to conditions and restrictions, and may be made generally or in relation to any particular case or class of cases.

(5) When a Commissioner by whom a delegation is made dies, or ceases to hold, or is suspended from, office, the delegation shall be deemed to continue in force according to its tenor until it is revoked or varied under this section.

(6) The performance of a function by a delegate under this section shall be deemed to be the performance of the function by the Commissioner.

(7) A delegate shall, upon request by a person affected by the exercise of any power delegated to him, produce the instrument of delegation, or a copy of the instrument, for inspection.

[Section 11 amended: No. 124 of 1984 s. 3; No. 74 of 2003 s. 91(12).]

12. Rules of Parliament

(1) Rules of Parliament may be made for the guidance of the Commissioner in the exercise of his functions and for the other

purposes for which Rules of Parliament may be made under this Act.

(2) Subject to this Act the functions of the Commissioner shall be exercised in accordance with the Rules of Parliament made under this Act.

(3) The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in accordance with the rules and orders thereof.

(4) Rules of Parliament made under this Act shall be published in the *Government Gazette*.

(5) Section 42 of the *Interpretation Act 1984* does not apply to Rules of Parliament made under this Act.

[Section 12 amended: No. 78 of 1996 s. 9.]

Part III — Jurisdiction and functions of the Commissioner

Division 1 — Extent of jurisdiction

13. Departments and authorities subject to investigation

(1) Subject to subsection (2), this Act applies to all departments and authorities.

(2) This Act does not apply to —

(a) either House of Parliament, any committee or member of either of those Houses or a joint committee of both Houses of Parliament; or

(b) any member of a department of the staff of Parliament referred to in, or an electorate officer within the meaning of, the *Parliamentary and Electorate Staff (Employment) Act 1992*; or

(c) the Clerk or the Deputy Clerk of either House of Parliament; or

(d) the Supreme Court, a judge or any person acting in the office, or performing the functions of, a master, the Principal Registrar or a registrar of the Supreme Court; or

(e) the District Court, a District Court judge or any person acting in the office, or performing the functions of, a registrar within the meaning of the *District Court of Western Australia Act 1969*; or

(f) the Family Court, a judge or an acting judge of that Court or any person acting in the office, or performing the functions of, the Principal Registrar, a registrar or a deputy registrar of that Court; or

(g) the Magistrates Court, or a magistrate or acting magistrate appointed under the *Magistrates Court*

Act 2004, or a justice of the peace when constituting that Court; or

(ga) the Children's Court, or a judge, acting judge, magistrate or acting magistrate, appointed under the *Children's Court of Western Australia Act 1988*, or a justice of the peace when constituting that Court; or

(h) the Liquor Licensing Court [2], the judge or an acting judge of that Court or any person acting in the office, or performing the functions of, the registrar of that Court; or

(i) any other court of law; or

(j) a commissioner of any court; or

[(k) deleted]

(ka) the State Administrative Tribunal, a judicial or non-judicial member of that Tribunal or any person acting in the office, or performing the functions, of the executive officer of that Tribunal; or

(l) a coroner; or

(m) the Governor, a member of the Governor's Establishment within the meaning of the *Governor's Establishment Act 1992* or a person to whom section 6(1)(a) of that Act applies; or

(n) any department or authority specified in Schedule 1 but if the extent to which this Act does not apply in respect of a department or authority has been set out in the item in Schedule 1 relating to that department or authority then this Act does not apply to that extent.

(3) For the purposes of this Act, but subject to subsection (5) —

(a) references to a department or authority shall be construed as including references to each of the members, officers, and employees thereof; and

(b) references to an officer of an authority shall be construed —

(i) as including references to an officer appointed by, or a person employed or engaged to work in, that authority under any enactment; and

(ii) in the case of a contractor or subcontractor, as also including references to an officer of, or a person employed or engaged to work for, the contractor or subcontractor;

and

(c) references to a member of an authority shall be construed —

(i) as including references to the holder of any office created by an enactment who by virtue of his holding that office is a member of that authority; and

(ii) in the case of a contractor or subcontractor, as including references to each director of the contractor or subcontractor.

(4) For the purposes of this Act, but subject to subsection (5), the following persons shall be deemed to constitute the officers and employees of a department, namely —

(a) the chief executive officer of the department; and

(b) public service officers employed in the department; and

(c) officers appointed by the Governor under the provisions of any Act administered in that department; and

(d) officers appointed, and persons employed or engaged, by the Minister of the Crown administering the department or the chief executive officer of the department, being either —

(i) officers or persons who are so appointed, employed or engaged under any enactment; or

(ii) officers or persons whose remuneration as such is defrayed in whole or in part out of moneys provided by Parliament.

(5) A person who is a ministerial officer for the purposes of section 74(3) of the *Public Sector Management Act 1994* shall not, as such, be regarded for the purposes of this Act as a member or an officer or employee of a department or authority.

[Section 13 amended: No. 13 of 1982 s. 9; No. 14 of 1994 s. 19(1); No. 29 of 1996 s. 26; No. 78 of 1996 s. 10 and 21; No. 41 of 1997 s. 34; No. 47 of 1999 s. 25; No. 55 of 2004 s. 1325; No. 59 of 2004 s. 141.]

14. Matters subject to investigation

(1) Subject to this Act, the Commissioner shall investigate any decision or recommendation made, or any act done or omitted, that relates to a matter of administration and affects any person or body of persons in his or its personal capacity in or by any department or authority to which this Act applies in the exercise of any power or function.

(2) References in this Act to the taking of any action shall be construed as including references to —

(a) a failure or refusal to perform any act; and

(b) the formulation of any proposal or intention; and

(c) the making of any recommendation (including a recommendation to a Minister of the Crown).

(3) This section does not authorise or require the Commissioner to investigate under this Act any decision made by Cabinet or by a Minister of the Crown or question the merits of any such decision.

(4) Subject to subsection (5), the Commissioner shall not conduct an investigation under this Act in respect of any of the following matters, that is to say —

(a) any action in respect of which the person aggrieved has or had a right of appeal, reference, or review to or before a tribunal constituted under any enactment or by virtue of the Crown's prerogative; and

(b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law.

(5) Notwithstanding anything in subsection (4), the Commissioner may conduct any investigation notwithstanding that the person aggrieved has or had such a right or remedy as is referred to in that subsection if he is satisfied that, in the particular circumstances, it is not reasonable to expect him to resort, or to have resorted, to it.

(6) The Commissioner shall not conduct an investigation into any action taken by a person acting as legal adviser or as counsel.

(7) The powers of the Commissioner under this Act in relation to any action taken by a department or authority may be exercised notwithstanding that that action was taken on behalf of, or in the exercise of any functions conferred on, an authority to which this Act does not apply, but nothing in this Act authorises or requires the Commissioner to question the merits of any decision made by such an authority.

(8) The powers of the Commissioner to investigate any action may, if in all the circumstances he considers it proper so to do, be exercised in respect of action taken before the coming into operation of this Act.

[Section 14 amended: No. 68 of 1976 s. 4; No. 124 of 1984 s. 4; No. 78 of 1996 s. 21; No. 78 of 2003 s. 72(1).]

Division 2 — Initiation of investigations

15. Investigations on reference by Parliament

(1) Either House of Parliament, or any committee of either of those Houses, or a joint committee of both Houses of Parliament, may refer to the Commissioner, for investigation and report, any matter which is within his jurisdiction and which that House or committee considers should be investigated by him.

(2) On any matter being referred to him under this section the Commissioner shall, as soon as may be, carry out the investigation and submit his report thereon, in the case of a matter referred —

(a) by a joint committee of both Houses of Parliament — to the President of the Legislative Council and the Speaker of the Legislative Assembly; or

(b) by the Legislative Council, or a committee thereof — to the President of the Legislative Council; or

(c) by the Legislative Assembly, or a committee thereof — to the Speaker of the Legislative Assembly.

(3) Section 14(4) does not apply to a matter referred to the Commissioner under this section, but where, in relation to that matter any person aggrieved thereby has or had such a right or remedy as is referred to in that subsection, the Commissioner may refrain from commencing any investigation into that matter until he is satisfied that that right or remedy cannot or will not be exercised or sought or, if it has been exercised or sought, the proceedings thereon have been finally concluded or abandoned.

[Section 15 amended: No. 68 of 1976 s. 5.]

16. Initiation of investigations

(1) Without prejudice to the provisions of section 15 any investigation that the Commissioner is authorised to conduct

under this Act may be so conducted, either on his own motion or on a complaint made in accordance with section 17.

(2) An investigation may be commenced as a consequence of a complaint notwithstanding that the complaint may not on its face be against any such action as is referred to in section 14(1).

17. Complaints to Commissioner

(1) Except as otherwise provided in this section a complaint under this Act shall be made in writing by any person or by any body of persons, whether incorporated or not.

(2) When the person by whom a complaint might have been made under this Act dies or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as otherwise provided in this subsection a complaint shall not be entertained under this Act unless it is made by the person aggrieved himself.

(3) The provisions of any enactment prohibiting or restricting or authorising or requiring the imposition of prohibitions or restrictions on communication to any other person do not apply to any communication made for the purpose of making a complaint under this Act.

[(4) deleted]

(5) Except where the Commissioner, in the special circumstances of a case, otherwise determines, a complaint shall not be entertained under this Act unless it is made not later than 12 months from the day on which the person aggrieved first had notice of the matters alleged in the complaint.

[(6) Omitted under the Reprints Act 1984 s. 7(4)(e).]

[Section 17 amended: No. 124 of 1984 s. 5; No. 78 of 1996 s. 11.]

17A. Complaints by persons in custody

(1) Subject to subsection (5), a person who is detained in custody is entitled —

(a) upon making a request to the officer in whose custody he is detained or to any other officer performing duties in connection with his detention —

(i) to be provided with facilities for preparing a complaint in writing under this Act, for furnishing in writing to the Commissioner after the complaint has been made any other relevant information, and for enclosing the complaint or the other information (if any) in a sealed envelope; and

(ii) to have posted to the Commissioner, without undue delay, a sealed envelope delivered by him to any such officer and addressed to the Commissioner;

and

(b) to have delivered to him, without undue delay, any sealed envelope addressed to him and sent by the Commissioner that comes into the possession or under the control of any such officer.

(2) Subject to subsection (5), where a sealed envelope addressed to the Commissioner is delivered by a person detained in custody to an officer referred to in subsection (1) for posting to the Commissioner, or a sealed envelope addressed to a person so detained and sent by the Commissioner comes into the possession or under the control of any such officer, the officer shall not open the envelope, or inspect any document enclosed in the envelope.

(3) The Commissioner may make arrangements with the relevant authorities for the identification and delivery of sealed envelopes sent by the Commissioner to persons detained in custody.

(4) In subsection (3) the ***relevant authorities*** means the Commissioner of Police, the chief executive officer of the department principally assisting the Minister administering the *Prisons Act 1981* with the administration of that Act, the CEO as defined in the *Court Security and Custodial Services Act 1999*, the CEO as defined in the *Declared Places (Mental Impairment) Act 2015* section 3, the CEO as defined in the *Health Legislation Administration Act 1984* section 3 and the chief executive officer within the meaning of the *Young Offenders Act 1994*.

(5) Subsections (1) and (2) —

(a) do not affect the operation of sections 67 and 68 of the *Prisons Act 1981*; and

(b) subject to paragraph (a), have effect notwithstanding anything in any other Act.

(5a) A reference in subsection (1) to an officer in whose custody a person is detained includes a reference to a person authorised to exercise a power set out in Division 1, 2 or 3 of Schedule 2, or in Schedule 3, to the *Court Security and Custodial Services Act 1999* in relation to the detained person.

(6) An officer referred to in subsection (1) who wilfully contravenes or fails to comply with this section is guilty of an offence.

Penalty: $200.

[Section 17A inserted: No. 124 of 1984 s. 6; amended: No. 47 of 1987 s. 26; No. 113 of 1987 s. 31; No. 78 of 1996 s. 12; No. 47 of 1999 s. 26; No. 25 of 2014 s. 75; No. 4 of 2015 s. 87(3); No. 10 of 2023 s. 410.]

18. Refusal to investigate complaints

(1) The Commissioner may refuse to entertain a complaint, or, having commenced to investigate a matter raised in a complaint,

may refuse to continue the investigation if he is of the opinion that —

(a) the matter raised in the complaint is trivial; or

(b) the complaint is frivolous or vexatious or is not made in good faith; or

(c) the person aggrieved has not a sufficient personal interest in the matter raised in the complaint; or

(d) having regard to all the circumstances of the case, the investigation, or the continuance of the investigation of the matter raised in the complaint, is unnecessary or unjustifiable.

(2) Where, under this Act, the Commissioner is precluded from entertaining, or refuses to entertain, a complaint, or refuses to continue an investigation of any matter raised in a complaint, he shall inform the complainant of his decision and at the same time state the reasons therefor.

Division 3A — Deaths of certain children

[Heading inserted: No. 10 of 2009 s. 7.]

19A. Terms used

(1) In this Division —

investigable death has the meaning given in subsection (3).

(2) If a term is given a meaning in the CCS Act, it has the same meaning in this Division unless the contrary intention appears in this Division.

(3) An investigable death occurs if a child dies and any of the following circumstances exists —

(a) in the 2 years before the date of the child's death, the CEO had received information that raised concerns about the wellbeing of the child or a child relative of the child;

(b) in the 2 years before the date of the child's death, the CEO, under section 32(1) of the CCS Act, had determined that action should be taken to safeguard or promote the wellbeing of the child or a child relative of the child;

(c) in the 2 years before the date of the child's death, any of the actions listed in section 32(1) of the CCS Act was done in respect of the child or a child relative of the child;

(d) protection proceedings are pending in respect of the child or a child relative of the child;

(e) the child or a child relative of the child is in the CEO's care.

[Section 19A inserted: No. 10 of 2009 s. 7; amended: No. 25 of 2022 s. 6.]

19B. Functions as to investigable deaths

(1) When the advisory body called the Child Death Review Committee, taken to be established under section 27 of the CCS Act, is abolished, the Commissioner is its successor for the purposes of the *State Records Act 2000* section 8 which applies accordingly.

(2) The Commissioner, after taking account of any information and reasons given to the Commissioner under the CCS Act section 242A(3), may decide if the death of a child is or is not an investigable death.

(3) The Commissioner's functions in relation to investigable deaths are as follows —

(a) to review the circumstances in which and why the deaths occurred;

(b) to identify any patterns or trends in relation to the deaths;

(c) to make recommendations to any department or authority about ways to prevent or reduce investigable deaths.

(4) To enable the Commissioner to perform the functions in subsections (2) and (3), the Commissioner may exercise any power the Commissioner has under Division 3 in order to obtain information relevant to the death of a child.

(5) The Commissioner may perform the functions the Commissioner has under this Act to investigate a decision or recommendation made, or an act done or omitted, in or by a department or authority to which this Act applies in the exercise of any power or function if the decision, recommendation, act or omission relates to —

(a) a matter of administration; and

(b) an investigable death.

[Section 19B inserted: No. 10 of 2009 s. 7.]

Division 3B — Reportable conduct scheme

[Heading inserted: No. 25 of 2022 s. 7.]

Subdivision 1 — Preliminary

[Heading inserted: No. 25 of 2022 s. 7.]

19C. Terms used

In this Division —

child means a person who is under 18 years of age;

commencement day means the day on which the *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022* section 7 comes into operation;

employee, of a relevant entity, has the meaning given in section 19D;

investigation, of a matter, includes any preliminary or other inquiry into, or examination of, the matter;

investigation information means information —

(a) relating to a reportable allegation or a reportable conviction involving an employee of a relevant entity; or

(b) obtained as a result of an investigation into a reportable allegation or reportable conviction conducted by the Commissioner or a relevant entity; or

(c) relating to any of the following —

(i) the progress, conduct or findings of an investigation referred to in paragraph (b);

(ii) any disciplinary or other action taken or not taken in relation to an employee of a relevant entity as a result of the findings of an investigation referred to in paragraph (b);

(iii) any action taken, or proposed to be taken, by a relevant entity, as a result of the findings of an investigation referred to in paragraph (b), to improve the identification or prevention of reportable conduct, or the reporting, notification or investigation of reportable allegations and reportable convictions, involving employees of the relevant entity;

physical assault means —

(a) the intentional or reckless application of physical force without lawful justification or excuse; or

(b) any act that intentionally or recklessly causes another person to apprehend immediate and unlawful violence;

sexual misconduct —

(a) includes misconduct against, with or in the presence of, a child that is sexual in nature; but

(b) does not include a sexual offence;

sexual offence —

(a) means an offence of a sexual nature under a law of this State, another State, a Territory or the Commonwealth, committed against, with or in the presence of, a child; and

(b) includes, without limitation —

(i) an offence under *The Criminal Code* Chapter XXXI committed against, with or in the presence of, a child; and

(ii) an offence of a sexual nature under *The Criminal Code* Chapter XXV; and

(iii) an offence of a sexual nature under any other provision of *The Criminal Code* committed against, with or in the presence of, a child; and

(iv) an offence under a law of another State, a Territory or the Commonwealth the elements of which, if they had occurred in this State, would have constituted an offence of a kind referred to in subparagraph (i), (ii) or (iii); and

(v) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in subparagraphs (i) to (iv) or paragraph (a); and

(vi) an offence that, at the time it was committed (whether before, on or after commencement day), was an offence of a kind referred to in paragraph (a).

[Section 19C inserted: No. 25 of 2022 s. 7.]

19D. Employees of relevant entities

(1) An ***employee***, of a relevant entity, is an individual who has reached 18 years of age and is —

(a) an officer or employee of the relevant entity, whether or not the individual's work is in connection with any work or activities of the entity that relate to children; or

(b) engaged by the entity to provide services to children, including as a volunteer or contractor; or

(c) engaged by another person or body to provide services to children on behalf of the entity, including as a volunteer or contractor; or

(d) engaged by the entity as a carer (as defined in the CCS Act section 3), whether for payment or not; or

(e) a family day care educator or family day care educator assistant (as those terms are defined in the Education and Care Services National Law (Western Australia) section 5(1)) engaged by or registered with the entity.

(2) For the purposes of subsection (1)(a), if the relevant entity is a religious body, a reference to an officer or employee —

(a) includes a reference to a minister of religion and a religious leader of the religious body; but

(b) does not include a reference to a person only because the person participates in worship.

(3) For the purposes of subsection (1)(a), if the relevant entity is the Police Force of Western Australia, a reference to an officer or employee includes a reference to a person appointed under the *Police Act 1892* Part I as an officer or constable of the Police Force.

(4) For the purposes of subsection (1)(b) and (c), a reference to a contractor includes a reference to the following —

(a) an officer of, or a person employed or engaged to work for, a contractor;

(b) a subcontractor of a contractor;

(c) an officer of, or a person employed or engaged to work for, a subcontractor;

(d) a volunteer working for a contractor or a subcontractor.

[Section 19D inserted: No. 25 of 2022 s. 7.]

19E. Head of a relevant entity

(1) The ***head*** of a relevant entity that is a department or an organisation, as those terms are defined in the *Public Sector Management Act 1994* section 3(1), is —

(a) the chief executive officer or chief employee of the department or organisation; or

(b) the delegate of the chief executive officer or the chief employee of the department or organisation.

(2) The ***head*** of a relevant entity that is an authority, other than a department or an organisation referred to in subsection (1) is —

(a) the chief executive officer of the authority; or

(b) if there is no chief executive officer — the president, chairperson or other principal or presiding member of the authority, or if the authority is constituted by a single person, that person; or

(c) the delegate of a person referred to in paragraph (a) or (b).

(3) The ***head*** of a relevant entity that is not a department, organisation or authority referred to in subsection (1) or (2) is —

(a) the chief executive officer of the relevant entity (however described); or

(b) if there is no chief executive officer — the principal officer of the relevant entity (however described); or

(c) if there is no chief executive officer or principal officer of the relevant entity — a person, or the holder of a

position, in the relevant entity nominated by the entity and approved by the Commissioner under section 19Q; or

(d) the delegate of a person referred to in paragraph (a), (b) or (c).

(4) The regulations may prescribe a person or class of persons to be the head of a relevant entity.

(5) Regulations referred to in subsection (4) have effect despite subsections (1), (2) and (3).

[Section 19E inserted: No. 25 of 2022 s. 7.]

19F. Reportable allegation

(1) A ***reportable allegation*** is any information that leads a person to form the belief on reasonable grounds that an employee of a relevant entity has engaged in reportable conduct or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment.

(2) However, a ***reportable allegation*** does not include information relating to a reportable conviction.

[Section 19F inserted: No. 25 of 2022 s. 7.]

19G. Reportable conduct

(1) ***Reportable conduct*** is the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded and whether the conduct occurred before, on or after commencement day —

(a) a sexual offence;

(b) sexual misconduct;

(c) a physical assault committed against, with or in the presence of, a child;

(ca) significant neglect of a child;

(cb) any behaviour that causes significant emotional or psychological harm to a child;

(d) an offence prescribed by the regulations for the purposes of this paragraph.

(2) However, ***reportable conduct*** does not include conduct that is —

(a) reasonable for the discipline, management or care of a child or of another person in the presence of a child, having regard to —

(i) the characteristics of the child, including the age, health and developmental stage of the child; and

(ii) any relevant code of conduct or professional standard that at the time applied to the discipline, management or care of the child or the other person;

or

(b) trivial or negligible and that has been or will be investigated and recorded as part of another workplace procedure; or

(c) of a class or kind exempt from being reportable conduct under section 19N(1).

(3) For the purposes of this section, ***conduct*** includes an act or omission.

[Section 19G inserted: No. 25 of 2022 s. 7; amended: No. 25 of 2022 s. 26.]

19H. Reportable conviction

(1) A ***reportable conviction*** is a conviction, whether before, on or after commencement day, for an offence under a law of this State, another State, a Territory or the Commonwealth that is an offence referred to in section 19G(1)(a) or (d).

(2) For the purposes of subsection (1), a ***conviction*** for an offence committed by a person is a reference to any of the following —

(a) a court making a formal finding of guilt in relation to the offence;

(b) if there has been no formal finding of guilt before conviction — a court convicting the person of the offence;

(c) a court accepting a plea of guilty from the person in relation to the offence;

(d) a court acquitting the person following a finding under *The Criminal Code* section 27 that the person is not guilty of the offence on account of mental impairment or an acquittal following an equivalent finding under a law of another State, a Territory or the Commonwealth;

(e) a finding under the *Criminal Law (Mental Impairment) Act 2023* section 41(2)(c) or an equivalent finding under a law of another State, a Territory or the Commonwealth.

(3) For the purposes of subsection (1), a reference to a ***conviction*** includes a reference to a conviction that is a spent conviction.

(4) For the purposes of subsection (3), an offence becomes spent if, under a law of this State, another State, a Territory or the Commonwealth, the person concerned is permitted not to disclose the fact that the person was convicted or found guilty of the offence.

(5) For the purposes of subsection (1), a reference to a ***conviction*** does not include a reference to a conviction that is subsequently quashed or set aside by a court.

[Section 19H inserted: No. 25 of 2022 s. 7; amended: No. 10 of 2023 s. 392 and 412.]

19I. Entities to which reportable conduct scheme applies

The reportable conduct scheme applies to an entity set out in column 2 of Schedule 2 that —

(a) exercises care, supervision or authority over children as part of its primary functions or otherwise; and

(b) is not exempt under section 19O(1).

[Section 19I inserted: No. 25 of 2022 s. 7.]

19J. Object and principles

(1) The object of this Division is to protect children from harm by establishing and implementing a scheme for —

(a) preventing reportable conduct; and

(b) reporting, notifying and investigating reportable allegations and reportable convictions; and

(c) taking appropriate action in response to findings of reportable conduct.

(2) The reportable conduct scheme is based on the principles that —

(a) if a child is able to form views on a matter concerning a reportable allegation or reportable conviction and it is appropriate in the circumstances to consult the child —

(i) the child must be given the opportunity to express the views freely; and

(ii) the views are to be given due weight in the investigation in accordance with the developmental capacity of the child and the circumstances;

and

(b) criminal conduct or suspected criminal conduct should be reported to the police; and

(c) the Commissioner and others involved in the reportable conduct scheme should work in collaboration to ensure a fair process is used in the investigation of reportable allegations and reportable convictions; and

(d) employees who are the subject of reportable allegations are entitled to be afforded natural justice in investigations into their conduct.

[Section 19J inserted: No. 25 of 2022 s. 7.]

19K. Paramount consideration

The Commissioner and any other person performing functions under this Division must regard the best interests of children as the paramount consideration.

[Section 19K inserted: No. 25 of 2022 s. 7.]

19L. Certain provisions not applicable if entity is agent of Crown

Sections 19U(6), 19W(7), 19Z(4) and 19ZC(4) do not apply if the relevant entity is an agent of the Crown.

[Section 19L inserted: No. 25 of 2022 s. 7.]

Subdivision 2 — Role of Commissioner

[Heading inserted: No. 25 of 2022 s. 7.]

19M. Functions of Commissioner in relation to scheme

(1) The Commissioner has the following functions in relation to the reportable conduct scheme —

(a) to oversee and monitor the reportable conduct scheme;

(b) to educate and provide advice to relevant entities in order to assist them to identify and prevent reportable conduct and to notify and investigate reportable allegations and reportable convictions;

(c) to support relevant entities to make continuous improvement in the identification and prevention of

reportable conduct and the reporting, notification and investigation of reportable allegations and reportable convictions;

(d) to monitor the investigation of reportable allegations and reportable convictions by relevant entities;

(e) if the Commissioner considers it to be in the public interest to do so — to investigate reportable allegations and reportable convictions;

(f) if the Commissioner considers it to be in the public interest to do so — to investigate whether reportable allegations or reportable convictions have been appropriately handled or investigated or responded to by the head of a relevant entity;

(g) to make recommendations to relevant entities in relation to the findings of the investigations referred to in paragraph (e) or (f);

(h) to monitor the compliance of relevant entities with the reportable conduct scheme and whether appropriate and timely action is taken by a relevant entity;

(i) to monitor a relevant entity's systems for preventing, notifying and dealing with reportable conduct;

(j) to report to Parliament on the reportable conduct scheme;

(k) to perform any other function conferred on the Commissioner under this Division.

(2) Without limiting the Commissioner's investigation powers under this Act, the Commissioner may exercise any power and perform any function the Commissioner has under Divisions 3 and 4 for the purpose of performing the Commissioner's functions under this Division.

[Section 19M inserted: No. 25 of 2022 s. 7.]

19N. Commissioner may exempt conduct

(1) The Commissioner may, in accordance with the regulations, exempt a class or kind of conduct of employees of a relevant entity, or a class or kind of relevant entity, from being reportable conduct.

(2) The Commissioner must publish the details of an exempt class or kind of conduct on the Commissioner's website.

[Section 19N inserted: No. 25 of 2022 s. 7.]

19O. Commissioner may exempt entities

(1) The Commissioner may exempt an entity from the reportable conduct scheme.

(2) The Commissioner must give written notice to an entity of an exemption under subsection (1) that relates to the entity.

(3) An exemption under subsection (1) continues until the Commissioner gives the entity written notice that the exemption is revoked.

[Section 19O inserted: No. 25 of 2022 s. 7.]

19P. Commissioner may exempt investigations

(1) The Commissioner may exempt the head of a relevant entity from commencing or continuing an investigation.

(2) An exemption under subsection (1) may be for a specified period.

(3) Without limiting subsection (1), the Commissioner may exempt the head of the relevant entity if —

(a) the matter is already being dealt with or investigated by another appropriate person or body; or

(b) the Commissioner is of the opinion that the report of the matter to the relevant entity under section 19T is frivolous or vexatious or not made in good faith; or

(c) the head of the relevant entity has made a request for the exemption in a notice under section 19Y.

(4) The Commissioner must give written notice to the head of the relevant entity of an exemption under subsection (1) that relates to the entity.

(5) An exemption under subsection (1) continues until —

(a) the Commissioner gives the head of the relevant entity written notice that the exemption is revoked; or

(b) if the exemption is for a specified period — the end of the specified period.

(6) The head of the relevant entity is not required to provide a report of an investigation under section 19Z(1) if the investigation is exempt under this section.

[Section 19P inserted: No. 25 of 2022 s. 7.]

19Q. Commissioner may approve head of relevant entity in certain circumstances

(1) This section applies to a relevant entity if —

(a) the entity is not a department or an organisation, as those terms are defined in the *Public Sector Management Act 1994* section 3(1), or an authority; and

(b) there is no chief executive officer of the entity (however described) or principal officer of the entity (however described); and

(c) the regulations do not prescribe a person to be the head of the entity.

(2) The relevant entity must nominate a person or the holder of a position in the entity to be the head of the entity.

(3) The nomination must be in writing and given to the Commissioner.

(4) The Commissioner may, by written notice given to the relevant entity, approve the person or holder of the position in the entity nominated by the entity under subsection (2) to be the head of the entity.

(5) The Commissioner may, by written notice given to the entity, revoke an approval under subsection (4).

[Section 19Q inserted: No. 25 of 2022 s. 7.]

Subdivision 3 — Systems to deal with reportable conduct

[Heading inserted: No. 25 of 2022 s. 7.]

19R. Head of relevant entity must ensure systems in place

The head of a relevant entity must ensure that the relevant entity has in place —

(a) a system for preventing reportable conduct by employees of the relevant entity in the course of their employment; and

(b) a system for enabling any person, including an employee of the relevant entity, to report to the head of the relevant entity a reportable allegation or reportable conviction involving an employee of the relevant entity; and

(c) a system for enabling any person, including an employee of the relevant entity, to report to the Commissioner a reportable allegation or reportable conviction involving the head of the relevant entity; and

(d) a system for notifying the Commissioner of a report to the head of the relevant entity of a reportable allegation or reportable conviction involving an employee of the relevant entity; and

(e) a system for investigating a reportable allegation or reportable conviction relating to an employee of the

relevant entity and taking appropriate action in response to a finding of reportable conduct; and

(f) a system for the receipt, handling and disclosure of investigation information.

[Section 19R inserted: No. 25 of 2022 s. 7.]

19S. Commissioner may require information about systems

(1) The Commissioner may request the head of a relevant entity to provide to the Commissioner any information about a system referred to in section 19R.

(2) The head of a relevant entity must comply with a request under subsection (1).

(3) The Commissioner may make recommendations for action to be taken by the head of a relevant entity in relation to a system referred to in section 19R and may provide the head of the relevant entity with any necessary information relating to the recommendations.

[Section 19S inserted: No. 25 of 2022 s. 7.]

Subdivision 4 — Notice, investigation and reporting

[Heading inserted: No. 25 of 2022 s. 7.]

19T. Report of reportable allegation or reportable conviction

(1) This section applies if a person becomes aware of —

(a) information that leads the person to form the belief on reasonable grounds that an employee of a relevant entity has engaged in reportable conduct or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment; or

(b) a reportable conviction involving an employee of a relevant entity.

(2) If the person is a relevant employee of the relevant entity, the person must, as soon as practicable —

(a) report the matter to the head of the relevant entity; or

(b) if the matter relates to the head of the relevant entity — report the matter to the Commissioner.

(3) If the person is not a relevant employee of the relevant entity, the person may —

(a) report the matter to the head of the relevant entity; or

(b) if the matter relates to the head of the relevant entity — report the matter to the Commissioner.

(4) For the purposes of subsections (2) and (3), a person is a ***relevant employee*** of a relevant entity if the person is an employee of the relevant entity under section 19D(1)(a).

(5) A person who has made a report to the head of the relevant entity under this section may report the matter to the Commissioner if the person is not satisfied with the response of the head of the relevant entity to the report.

[Section 19T inserted: No. 25 of 2022 s. 7.]

19U. Head of relevant entity must notify Commissioner

(1) This section applies if the head of a relevant entity becomes aware of a reportable allegation or a reportable conviction involving a person who is an employee of the relevant entity.

(2) The head of the relevant entity must give written notice to the Commissioner of the following information within 7 working days after becoming aware of the reportable allegation or reportable conviction —

(a) details of the reportable allegation or reportable conviction;

(b) the name (including any former name or alias) of the employee;

(c) the date of birth of the employee;

(d) the identifying number of any application made by the employee for an assessment notice under the *Working with Children (Criminal Record Checking) Act 2004* or any current assessment notice issued to the employee under that Act;

(e) whether the police have been contacted about the reportable allegation or reportable conviction;

(f) the risk assessment made and the risk management action taken, or proposed to be taken, by the relevant entity;

(g) the name, address and telephone number of the relevant entity;

(h) the name of the head of the relevant entity;

(i) how the head of the relevant entity intends to proceed with the matter;

(j) any information prescribed by the regulations.

(3) The head of the relevant entity is only required to provide information under subsection (2)(a), (b), (c), (d), (e) and (j) of which the head of the relevant entity is aware.

(4) The Commissioner, at the request of the head of the relevant entity, may, in writing —

(a) extend the time for giving a notice under this section; or

(b) exempt the relevant entity from providing information that the entity would otherwise be required to provide under this section.

(5) This section does not apply in relation to conduct of employees of a relevant entity that is of a class or kind that is exempt under section 19N(1).

(6) It is an offence for the head of a relevant entity to fail, without reasonable excuse, to comply with subsection (2).

Penalty for this subsection: a fine of $5 000.

(7) It is a defence to a charge for an offence against subsection (6) for the person charged to prove that the person honestly and reasonably believed that another person had notified the Commissioner of the reportable allegation or reportable conviction in accordance with subsection (2).

[Section 19U inserted: No. 25 of 2022 s. 7.]

19V. Information may be disclosed to Commissioner or head of entity

(1) The head of a relevant entity may disclose any information to the Commissioner that the head of the relevant entity believes on reasonable grounds —

(a) reveals reportable conduct involving an employee of the relevant entity; or

(b) is otherwise relevant to a reportable allegation involving an employee of the relevant entity.

(2) A person may disclose any information to the Commissioner that the person believes on reasonable grounds —

(a) reveals reportable conduct involving the head of a relevant entity; or

(b) is otherwise relevant to a reportable allegation involving the head of a relevant entity.

(3) A person who makes a report to the head of a relevant entity under section 19T may disclose any information to the head of the relevant entity that the person believes on reasonable grounds —

(a) reveals reportable conduct involving an employee of the relevant entity; or

(b) is otherwise relevant to a reportable allegation involving an employee of the relevant entity.

(4) A person who has made a report to the head of the relevant entity under section 19T and is not satisfied with the response of the head of the relevant entity to the report may disclose any information to the Commissioner that the person believes on reasonable grounds —

(a) reveals reportable conduct involving an employee of the relevant entity; or

(b) is otherwise relevant to a reportable allegation involving an employee of the relevant entity.

[Section 19V inserted: No. 25 of 2022 s. 7.]

19W. Head of relevant entity must respond to reportable allegation or reportable conviction

(1) As soon as practicable after the head of a relevant entity becomes aware of a reportable allegation or reportable conviction involving an employee of the relevant entity, the head of the relevant entity —

(a) must —

(i) investigate the reportable allegation or reportable conviction; or

(ii) arrange for an employee of the relevant entity to investigate the reportable allegation or reportable conviction on behalf of the head of the relevant entity; or

(iii) engage a person or body as an independent investigator to investigate the reportable allegation or reportable conviction on behalf of the head of the relevant entity;

and

(b) must inform the Commissioner of the name and contact details of the person or body, or position or unit in the

relevant entity, responsible for conducting the investigation on behalf of the relevant entity.

(2) The head of a relevant entity must take all reasonable steps to ensure that an investigation under subsection (1) is carried out in a timely way.

(3) As soon as practicable after conducting an investigation in relation to an employee under subsection (1), the head of a relevant entity must either —

(a) make a finding of reportable conduct in relation to the employee if the head of relevant entity has formed the view, on reasonable grounds, that reportable conduct involving the employee has occurred; or

(b) make a finding that there are no grounds, or no reasonable grounds, for the head of the relevant entity to form the view that reportable conduct involving the employee has occurred.

(4) As soon as practicable after making a finding of reportable conduct in relation to an employee under this Act, the head of the relevant entity must ensure that —

(a) appropriate action is taken in relation to the employee in response to the finding; and

(b) if the head of the relevant entity has formed the view that it is needed, appropriate action is taken to improve the identification or prevention of reportable conduct or the reporting, notification or investigation of reportable allegations and reportable convictions involving employees of the relevant entity.

(5) The Commissioner may, in writing, request the head of a relevant entity to provide investigation information to the Commissioner.

(6) The head of a relevant entity must comply with a request under subsection (5).

(7) It is an offence for the head of a relevant entity to fail, without reasonable excuse, to comply with subsection (1) or (6).

Penalty for this subsection: a fine of $5 000.

[Section 19W inserted: No. 25 of 2022 s. 7.]

19X. Informing employee of certain matters and giving employee opportunity to make submissions

(1) This section applies if an employee of a relevant entity is the subject of an investigation under section 19W(1).

(2) Before any adverse finding in relation to the employee is made as a result of the investigation, the head of the relevant entity —

(a) must —

(i) inform the employee that the employee is the subject of the investigation; and

(ii) inform the employee of the reportable allegation or reportable conviction being investigated; and

(iii) give the employee an opportunity to make submissions to the head of the relevant entity setting out the employee's response in relation to the reportable allegation or reportable conviction being investigated;

and

(b) must, after complying with paragraph (a) and considering any submissions made by the employee —

(i) inform the employee of the proposed adverse finding; and

(ii) give the employee an opportunity to make submissions to the head of the relevant entity setting out the employee's responses in relation to the proposed adverse finding.

(3) Before any disciplinary or other action is taken in relation to the employee as a result of the findings of the investigation, the head of the relevant entity must —

(a) inform the employee of the action that is proposed to be taken; and

(b) give the employee an opportunity to make submissions to the head of the relevant entity setting out the employee's response in relation to the action that is proposed to be taken.

[Section 19X inserted: No. 25 of 2022 s. 7.]

19Y. Commissioner must be notified of matters affecting investigation

(1) The head of a relevant entity must, as soon as practicable, notify the Commissioner if, in relation to a matter being investigated under section 19W(1), the head of the relevant entity —

(a) forms the view on reasonable grounds that —

(i) the matter does not constitute reportable conduct; or

(ii) the report of the matter to the relevant entity under section 19T is frivolous or vexatious or not made in good faith;

or

(b) becomes aware that another appropriate person or body is dealing with or investigating the matter; or

(c) is required by law to comply with the directions of another person or body in relation to the investigation of the matter; or

(d) is requested or directed by another appropriate person or body to cease, or discontinue for a period, the investigation of the matter.

(2) The notice must —

(a) be given in writing and be in the form approved by the Commissioner (if any); and

(b) contain the information required by the Commissioner.

(3) The head of the relevant entity may, in the notice, request the Commissioner to exempt the head of the relevant entity under section 19P(1) from the requirement to continue the investigation.

[Section 19Y inserted: No. 25 of 2022 s. 7.]

19Z. Head of relevant entity must report outcome of investigation to Commissioner

(1) The head of a relevant entity must, as soon as practicable after the end of an investigation under section 19W(1), give the Commissioner —

(a) a written report setting out —

(i) the findings of the investigation and the reasons for those findings; and

(ii) any submissions made by the employee under section 19X; and

(iii) any disciplinary or other action taken, or proposed to be taken, in relation to the employee as a result of the findings of the investigation; and

(iv) if the entity does not propose to take any disciplinary or other action in relation to the employee — the reasons why no action is to be taken; and

(v) any action taken, or proposed to be taken, as a result of the findings of the investigation, to improve the identification or prevention of reportable conduct, or the reporting, notification or investigation of reportable allegations and

reportable convictions, involving employees of the relevant entity;

and

(b) any other information that the head of the relevant entity considers relevant to the report.

(2) After receiving the report and other information, the Commissioner may, by written notice given to the head of the relevant entity, request any additional information specified in the notice that the Commissioner considers relevant to determine whether —

(a) the reportable allegation or reportable conviction was properly investigated; and

(b) appropriate action was taken as a result of the investigation.

(3) The head of a relevant entity must comply with a request under subsection (2).

(4) It is an offence for the head of a relevant entity to fail, without reasonable excuse, to comply with subsection (1) or (3).

Penalty for this subsection: a fine of $5 000.

[Section 19Z inserted: No. 25 of 2022 s. 7.]

19ZA. Head of relevant entity must report outcome of investigation to employee if employee informed of investigation

(1) This section applies if an employee of a relevant entity is the subject of an investigation under section 19W(1) and the head of the relevant entity has informed the employee of the investigation.

(2) The head of a relevant entity must, as soon as practicable after the end of an investigation under section 19W(1), give the employee —

(a) written notice stating that the investigation has ended; and

(b) a written report setting out the findings of the investigation and the reasons for those findings.

[Section 19ZA inserted: No. 25 of 2022 s. 7.]

19ZB. Commissioner may conduct own investigation

(1) The Commissioner may conduct an investigation into any of the following —

(a) any reportable allegation or reportable conviction involving an employee of a relevant entity;

(b) the handling or investigation by the head of a relevant entity of a reportable allegation or reportable conviction involving an employee of the relevant entity;

(c) any action taken or not taken by the head of a relevant entity in response to a finding of reportable conduct in relation to an employee of the relevant entity.

(2) The Commissioner must not conduct an investigation under this section unless the Commissioner considers that it is in the public interest to do so.

(3) The Commissioner may decide to conduct an investigation under this section —

(a) on the Commissioner's own initiative; or

(b) in response to a report or disclosure under this Division; or

(c) in response to a complaint made to the Commissioner by an employee of a relevant entity in relation to any of the following —

(i) the handling or investigation by the head of a relevant entity under this Division of a reportable allegation or reportable conviction involving the employee;

(ii) a finding of reportable conduct in relation to the employee;

(iii) any action taken or not taken by the head of a relevant entity in response to a finding of reportable conduct in relation to the employee;

or

(d) in response to a complaint made to the Commissioner by any other person in relation to any of the following that affects the person in the person's personal capacity —

(i) the handling or investigation by the head of a relevant entity under this Division of a reportable allegation or reportable conviction involving an employee of the relevant entity;

(ii) a finding of reportable conduct in relation to an employee of the relevant entity;

(iii) any action taken or not taken by the head of a relevant entity in response to a finding of reportable conduct in relation to an employee of the relevant entity.

(4) The Commissioner may make the following findings following an investigation under subsection (1)(a) —

(a) in the case of an investigation of a reportable allegation involving an employee of a relevant entity —

(i) that the Commissioner is of the opinion that the employee has engaged in reportable conduct; or

(ii) that there are no grounds, or no reasonable grounds, for the Commissioner to form the opinion that the employee has engaged in reportable conduct;

(b) in the case of an investigation of a reportable conviction involving an employee of a relevant entity —

(i) that the employee has a reportable conviction; or

(ii) that the employee does not have a reportable conviction.

[Section 19ZB inserted: No. 25 of 2022 s. 7.]

19ZC. Notice to head of relevant entity of Commissioner's investigation

(1) If the Commissioner decides to conduct an investigation under section 19ZB, the Commissioner must give the head of the relevant entity written notice stating —

(a) that the Commissioner intends to conduct an investigation under section 19ZB; and

(b) the matters to be investigated; and

(c) whether the Commissioner requires the head of the relevant entity not to commence, or to suspend, an investigation into a matter the Commissioner has decided to investigate.

(2) The Commissioner, on completing an investigation under section 19ZB, may require the head of the relevant entity to continue an investigation that is suspended under subsection (1)(c).

(3) The head of a relevant entity must, as far as practicable, comply with a requirement of the Commissioner under subsection (1)(c) or (2).

(4) It is an offence for the head of a relevant entity to fail, without reasonable excuse, to comply with subsection (3).

Penalty for this subsection: a fine of $5 000.

[Section 19ZC inserted: No. 25 of 2022 s. 7.]

19ZD. Provisions relating to investigation under section 19ZB(1)(a)

(1) This section applies if the Commissioner decides to conduct an investigation under section 19ZB(1)(a).

(2) The Commissioner must give the employee who is the subject of the investigation written notice stating —

(a) that the Commissioner intends to conduct an investigation under section 19ZB(1)(a); and

(b) the reportable allegation or reportable conviction to be investigated.

(3) As soon as practicable after the investigation ends, the Commissioner —

(a) must give the head of the relevant entity —

(i) written notice stating that the investigation has ended; and

(ii) a written report setting out the findings of the investigation and the reasons for those findings;

and

(b) may make any recommendations that the Commissioner thinks fit.

(4) The head of a relevant entity must not take any action to implement a recommendation of the Commissioner under subsection (3)(b) involving an employee of the relevant entity until the later of the following —

(a) the end of the period under section 19ZF(2) for the employee to apply for a review of a finding of the Commissioner on the investigation;

(b) if the employee makes an application under section 19ZF(1) for a review of a finding of the Commissioner on the investigation — the final determination of the review.

(5) Nothing in subsection (4) prevents —

(a) the CEO as defined in the CCS Act section 3 from taking action under that Act to safeguard or promote a child's wellbeing; or

(b) the head of a relevant entity taking any action that the head of the relevant entity considers should be taken to safeguard or promote a child's wellbeing.

(6) As soon as practicable after the investigation ends, the Commissioner must give the employee who was the subject of the investigation —

(a) written notice stating that the investigation has ended; and

(b) a written report setting out —

(i) the findings of the investigation and the reasons for those findings; and

(ii) any recommendation made under subsection (3)(b) in relation to the employee.

[Section 19ZD inserted: No. 25 of 2022 s. 7.]

19ZE. Provision relating to investigation under section 19ZB(1)(b) or (c)

As soon as practicable after an investigation referred to in section 19ZB(1)(b) or (c) ends, the Commissioner —

(a) must give the head of the relevant entity —

(i) written notice stating that the investigation has ended; and

(ii) a written report setting out the findings of the investigation and the reasons for those findings;

and

(b) may make any recommendations that the Commissioner thinks fit.

[Section 19ZE inserted: No. 25 of 2022 s. 7.]

19ZF. Application to State Administrative Tribunal for review

(1) A person aggrieved by a finding of the Commissioner on an investigation conducted under section 19ZB(1)(a) may apply to the State Administrative Tribunal for a review of the finding.

(2) An application under subsection (1) must be made within 28 days after the person is notified of the finding for which the review is sought.

(3) For a review under this section, the State Administrative Tribunal must be constituted by a judicial member as defined in the *State Administrative Tribunal Act 2004* section 3(1).

(4) A finding of the Commissioner on an investigation conducted under section 19ZB(1)(a) is taken to be a decision for the purposes of the *State Administrative Tribunal Act 2004* Part 3 Division 3.

[Section 19ZF inserted: No. 25 of 2022 s. 7.]

19ZG. Concurrent investigations or proceedings

(1) This section applies if —

(a) the Commissioner of Police advises the Commissioner or the head of a relevant entity that an investigation or finding under this Division is likely to compromise a police investigation; or

(b) another person or body with authority to investigate the conduct of an employee of a relevant entity advises the Commissioner or the head of the relevant entity that an investigation or finding under this Division is likely to compromise an investigation by that person or body (a ***relevant investigation***).

(2) The Commissioner or the head of the relevant entity may —

(a) suspend the investigation or finding until otherwise advised; and

(b) take steps to manage any risks while the investigation or finding is suspended.

(3) Before making a decision under subsection (2)(a) about whether to suspend or continue an investigation, the Commissioner or the head of the relevant entity must consult with, as the case requires —

(a) the Commissioner of Police or the officer in charge of the police investigation; or

(b) the person or body conducting the relevant investigation.

(4) Before making a decision under subsection (2)(b) about the steps to be taken to manage risks, the Commissioner or the head of the relevant entity must consult with, as the case requires —

(a) the Commissioner of Police or the officer in charge of the police investigation; or

(b) the person or body conducting the relevant investigation.

(5) If the head of the relevant entity decides to suspend an investigation or finding under this section, the head of the relevant entity must advise the Commissioner of —

(a) the suspension; and

(b) the steps being taken to manage the risks.

(6) If the Commissioner or the head of the relevant entity decides not to suspend the investigation, the Commissioner or the head of the relevant entity must ensure the investigation is conducted in a way that does not compromise the police investigation or the relevant investigation, as the case requires.

(7) This section does not affect the operation of any other Act.

(8) In this section, a reference to a police investigation or relevant investigation includes a reference to any court proceeding (including an appeal) arising out of the investigation.

[Section 19ZG inserted: No. 25 of 2022 s. 7.]

Subdivision 5 — Disclosure of information

[Heading inserted: No. 25 of 2022 s. 7.]

19ZH. Disclosure of information to child, parent, guardian or other person with parental responsibility

(1) The Commissioner or the head of a relevant entity may disclose information about the matters referred to in subsection (2) to —

(a) a child who is the subject of conduct that forms the basis of a reportable allegation or a reportable conviction that is being, or has been, investigated by the Commissioner or the head of the relevant entity; or

(b) a parent or guardian of a child referred to in paragraph (a), or a person who has parental responsibility for the child.

(2) For the purposes of subsection (1), the matters are —

(a) the progress of the investigation; or

(b) the findings of the investigation; or

(c) any action taken as a result of the investigation.

(3) The Commissioner or the head of a relevant entity must not disclose information under subsection (1) —

(a) if the disclosure would —

(i) put the wellbeing of the child, or the safety of any other person, at risk; or

(ii) contravene the CCS Act section 124F or 240; or

(iii) compromise an investigation under this Act, a police investigation, a relevant investigation referred to in section 19ZG or an investigation under another Act;

or

(b) if the disclosure would be to a parent, guardian or other person referred to in subsection (1)(b) and the

Commissioner, or head of the relevant entity, is satisfied that the child has sufficient maturity and understanding to consent to the disclosure and the child does not consent to the disclosure; or

(c) in any circumstances prescribed by the regulations.

[Section 19ZH inserted: No. 25 of 2022 s. 7.]

19ZI. Commissioner may request information about reportable convictions

(1) In this section —

Registrar, of a relevant court, means —

(a) in the case of the Supreme Court — the Principal Registrar of the Supreme Court; or

(b) in the case of the District Court — the Principal Registrar of the District Court; or

(c) in the case of the Magistrates Court — the Principal Registrar of the Magistrates Court; or

(d) in the case of the Children's Court — a registrar of the Children's Court;

relevant court means the Supreme Court, the District Court, the Magistrates Court or the Children's Court.

(2) The Commissioner may request a Registrar of a relevant court to provide information relating to a reportable conviction entered against an employee of a relevant entity that the Commissioner reasonably requires for the purposes of an investigation under the reportable conduct scheme.

(3) The Commissioner is authorised to disclose information obtained under this Division or Division 3 or 4 for the purpose of that request.

(4) A Registrar of a relevant court to whom a request for information is made under subsection (2) is authorised to

disclose the information to the Commissioner for the purposes of an investigation under the reportable conduct scheme.

(5) This section applies despite section 13(2).

[Section 19ZI inserted: No. 25 of 2022 s. 7.]

19ZJ. Prohibition on publishing certain information

(1) In this section —

publish means to disseminate to the public or a section of the public by any means, including the following —

(a) in a book, newspaper, magazine or other written publication;

(b) by radio broadcast, television, a website, an online facility or other electronic means.

(2) A person must not publish, or cause to be published, information that identifies, or is likely to lead to the identification of, another person as a person who has made a report under section 19T.

Penalty for this subsection: imprisonment for 2 years or a fine of $8 000.

(3) A person must not publish, or cause to be published, information that identifies, or is likely to lead to the identification of, another person as a child who is the subject of conduct that forms the basis of —

(a) a report that has been made under section 19T; or

(b) a finding of reportable conduct in relation to an employee of a relevant entity that has been made under this Act.

Penalty for this subsection: imprisonment for 2 years or a fine of $8 000.

(4) A person does not commit an offence under subsection (2) or (3) if the publication of the information is authorised under any other Act.

[Section 19ZJ inserted: No. 25 of 2022 s. 7.]

Subdivision 6 — Review of amendments made by *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022*

[Heading inserted: No. 25 of 2022 s. 7.]

19ZK. Review of amendments made by *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022*

(1) The Minister must review the operation and effectiveness of the amendments made to this Act by the *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022*, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which section 7 of that Act comes into operation.

(2) The review must include consideration as to whether the reportable conduct scheme should be expanded to apply to any other entities.

(3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

[Section 19ZK inserted: No. 25 of 2022 s. 7.]

Division 3 — Conduct of investigations

19. Proceedings on investigations

(1) Subject to subsection (1a), before investigating under this Act any action taken by or on behalf of a department or authority the Commissioner shall notify the principal officer thereof and the responsible Minister in writing of his intention so to do,

specifying the action in respect of which the investigation is to be conducted.

(1a) If the Commissioner is of the opinion that, because of the nature or circumstances of a complaint, the complaint could be investigated and resolved expeditiously by conducting an informal investigation then —

(a) instead of notifying the principal officer in writing the Commissioner may notify the principal officer orally; and

(b) the Commissioner may notify the responsible Minister but does not have to do so.

(2) Every investigation by the Commissioner under this Act shall be conducted in private.

(3) Subject to any Rules of Parliament made under this Act, the Commissioner is not required to hold any hearing for the purposes of an investigation, and he may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit. Any person who is concerned or involved in the investigation may be represented by counsel or otherwise.

(4) If, at any time during the course of an investigation, it appears to the Commissioner that there may be grounds for making a report on that investigation that may affect or concern any department or authority to which this Act applies he shall, before making that report, afford to the principal officer thereof an opportunity to comment on the subject matter of the investigation.

(5) The Commissioner may, at any time during or after an investigation, consult any Minister of the Crown who is concerned in the subject matter of the investigation.

(6) In relation to any investigation, if a Minister of the Crown so requests or the investigation relates to any recommendation made to such a Minister, the Commissioner shall consult that

Minister before forming a final opinion on any of the matters referred to in section 25(1) or (2).

(7) If, during or after an investigation, the Commissioner is of the opinion that there is evidence of any breach of duty or misconduct on the part of any member, officer, or employee of any department or authority to which this Act applies —

(a) he shall report that matter to the principal officer thereof; and

(b) he shall furnish a copy of the report to the Minister charged with the administration of that department or the enactment by which the authority is constituted or, in the case of a contractor or subcontractor, to the Minister to whom the administration of the *Court Security and Custodial Services Act 1999*, the *Declared Places (Mental Impairment) Act 2015* or the *Prisons Act 1981* is committed, as is relevant to the case.

(8) Subject to this Act and any Rules of Parliament made thereunder the Commissioner may regulate his procedure on an investigation in such manner as he thinks fit.

(9) This section applies to an investigation by the Commissioner for the purposes of the reportable conduct scheme as follows —

(a) subsections (1) and (1a) do not apply;

(b) a reference to a department or authority is taken to be a reference to a relevant entity;

(c) a reference to the principal officer of a department or authority is taken to be a reference to the head of a relevant entity;

(d) subsection (7)(b) applies only if the investigation relates to a relevant entity that is a department or authority.

[Section 19 amended: No. 78 of 1996 s. 13 and 21; No. 43 of 1999 s. 20; No. 47 of 1999 s. 27; No. 4 of 2015 s. 87(4); No. 25 of 2022 s. 8; No. 10 of 2023 s. 410.]

20. Commissioner has powers under *Royal Commissions Act 1968*; privilege and secrecy provisions

(1) Where the Commissioner has decided to investigate any matter under this Act —

(a) the Commissioner has all the powers, rights and privileges that are specified in the *Royal Commissions Act 1968*, as appertaining to a Royal Commission and the Chairman thereof; and

(b) all the provisions of that Act have effect as if they were enacted in this Act and in terms made applicable to the Commissioner and that matter as if the matter were one into which a Royal Commission was appointed to inquire under that Act.

(2A) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the service of the Crown or any authority to which this Act applies, whether imposed by any enactment or by any rule of law, applies to the disclosure of information for the purposes of an investigation by the Commissioner under this Act.

(2AA) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the head of a relevant entity or an investigator conducting an investigation under Division 3B, whether imposed by any enactment or by any rule of law, applies to the disclosure of information for the purposes of an investigation by the Commissioner under this Act.

(2B) The Crown, any authority to which this Act applies or a relevant entity is not entitled in relation to any investigation by the Commissioner under this Act to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(3) Subject to subsections (2A), (2AA) and (2B), a person is not compelled for the purposes of an investigation by the

Commissioner under this Act to give any evidence or produce any document that the person could not be compelled to give or produce in proceedings before a court.

[Section 20 amended: No. 68 of 1976 s. 6; No. 19 of 2010 s. 51; No. 25 of 2022 s. 9.]

21. Power to enter premises

(1) For the purposes of conducting an investigation under this Act, the Commissioner may, at any time, enter any premises occupied or used by any department or authority to which this Act applies, and inspect those premises or anything for the time being therein.

(2) For the purposes of conducting an investigation under Division 3B, the Commissioner may, at any time, enter any premises occupied or used by any relevant entity, and inspect those premises or any thing for the time being in those premises.

[Section 21 amended: No. 124 of 1984 s. 7; No. 78 of 1996 s. 21; No. 10 of 1998 s. 57(2); No. 25 of 2022 s. 10.]

22. Protection for proceedings in Cabinet

(1) A person shall not be required or authorised by virtue of this Act —

(a) to furnish any information or answer any question relating to proceedings of Cabinet or of any committee of Cabinet; or

(b) to produce or inspect so much of any document as relates to any such proceedings.

(2) For the purposes of this section a certificate issued by the Director General, Department of the Premier and Cabinet, with the approval of the Premier of the State, certifying that any information or question, or any document or part of a document, relates to any such proceedings as are referred to in subsection (1) is conclusive of the fact so certified.

22A. Consultation other than in relation to reportable conduct scheme

(1) The Commissioner may consult the Corruption and Crime Commission, the Public Sector Commissioner, the Inspector of Custodial Services or the Director of Public Prosecutions concerning —

(a) any complaint under this Act; or

(b) any investigation under this Act, other than an investigation conducted for the purposes of the reportable conduct scheme.

(2) Information obtained by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff in the course of, or for the purpose of, an investigation under this Act may be disclosed for the purposes of any consultation under subsection (1).

[Section 22A inserted: No. 78 of 1996 s. 14; amended: No. 43 of 1999 s. 20; No. 74 of 2003 s. 91(13); No. 78 of 2003 s. 72; No. 35 of 2014 s. 36(3); No. 25 of 2022 s. 11.]

22AA. Consultation in relation to reportable conduct scheme

(1) The Commissioner may consult any of the persons or bodies specified in subsection (2) concerning —

(a) a reportable allegation or reportable conviction; or

(b) any investigation under this Act conducted for the purposes of the reportable conduct scheme; or

(c) any other matter that is relevant to the functions of the Commissioner under the reportable conduct scheme.

(2) For the purposes of subsection (1), the persons and bodies are —

(a) the Corruption and Crime Commission;

(b) the Public Sector Commissioner;

(c) the Inspector of Custodial Services;

(d) the Director of Public Prosecutions;

(e) a person or body that has functions under the law of another State, a Territory or the Commonwealth that substantially correspond to the functions of the Commissioner under the reportable conduct scheme.

(3) The Commissioner or the head of a relevant entity may consult any of the persons or bodies specified in subsection (4) concerning —

(a) a reportable allegation or reportable conviction; or

(b) any investigation under this Act conducted for the purposes of the reportable conduct scheme; or

(c) any other matter that is relevant to the functions of the Commissioner or the head of the relevant entity under the reportable conduct scheme.

(4) For the purposes of subsection (3), the persons and bodies are —

(a) the Commissioner of Police;

(b) the Commissioner for Children and Young People;

(c) the CEO as defined in the CCS Act section 3;

(d) the CEO as defined in the *Working with Children (Criminal Record Checking) Act 2004* section 4.

(5) Information obtained by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff under this Act for the purposes of the reportable conduct scheme may be disclosed for the purposes of any consultation by the Commissioner under subsection (1) or (3).

(6) Information obtained by the head of a relevant entity or an investigator conducting an investigation under Division 3B for the purposes of the reportable conduct scheme may be disclosed for the purposes of any consultation by the head of the relevant entity under subsection (3).

[Section 22AA inserted: No. 25 of 2022 s. 12.]

22B. Disclosure of certain information other than in relation to reportable conduct scheme

A person who is the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff authorised for the purposes of this section by the Commissioner or the Deputy Commissioner may disclose information obtained by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff in the course of, or for the purpose of, an investigation under this Act (other than an investigation conducted for the purposes of the reportable conduct scheme) if the information —

[(a) deleted]

(aa) is disclosed to a person who is —

(i) the Inspector of Custodial Services; or

(ii) a member of the staff of the Inspector authorised for the purposes of this subparagraph by the Inspector,

and concerns a matter that is relevant to the functions of the Inspector; or

(b) is disclosed to a person who is —

(i) the Director of Public Prosecutions; or

(ii) the Deputy Director of Public Prosecutions; or

(iii) a member of the staff of the Director of Public Prosecutions authorised for the purposes of this subparagraph by the Director of Public Prosecutions or the Deputy Director of Public Prosecutions,

and concerns a matter that is relevant to the functions of any of the following —

(iv) the Corruption and Crime Commission;

(v) the Parliamentary Inspector;

(vi) the Public Sector Commissioner, but only those functions under the *Corruption, Crime and Misconduct Act 2003*;

(vii) the Director of Public Prosecutions;

or

(c) is disclosed to —

(i) the Corruption and Crime Commission; or

(ii) a person who is an officer of the Corruption and Crime Commission authorised for the purposes of this subparagraph by the Corruption and Crime Commission,

and concerns a matter that is relevant to the functions of the Corruption and Crime Commission; or

(d) is disclosed to a person who is —

(i) the Parliamentary Inspector of the Corruption and Crime Commission; or

(ii) an officer of the Parliamentary Inspector of the Corruption and Crime Commission authorised for the purposes of this subparagraph by the Parliamentary Inspector,

and concerns a matter that is relevant to the functions of the Parliamentary Inspector; or

(ea) is disclosed to —

(i) the Public Sector Commissioner; or

(ii) a person who is authorised by the Public Sector Commissioner for the purposes of this subparagraph,

and concerns a matter that is relevant to the functions of the Public Sector Commissioner under the *Corruption, Crime and Misconduct Act 2003*; or

(e) is disclosed to a person who is —

(i) the Commissioner for Children and Young People; or

(ii) a member of the staff of the Commissioner for Children and Young People authorised for the purposes of this subparagraph by the Commissioner for Children and Young People,

and concerns a matter that is relevant to the death of a child.

[Section 22B inserted: No. 78 of 1996 s. 14; amended: No. 43 of 1999 s. 20; No. 74 of 2003 s. 91(14); No. 78 of 2003 s. 72; No. 10 of 2009 s. 8; No. 35 of 2014 s. 36(4); No. 25 of 2022 s. 13.]

22C. Disclosure of certain information in relation to reportable conduct scheme

(1) In this section —

reportable conduct information means information obtained by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff for the purposes of the reportable conduct scheme.

(2) The Commissioner, the Deputy Commissioner or a member of the Commissioner's staff authorised for the purposes of this section by the Commissioner or the Deputy Commissioner may disclose reportable conduct information if —

(a) the information —

(i) is disclosed to a person referred to in section 22B(aa), (b), (c), (d) or (ea); and

(ii) concerns a matter of a kind for which information can be disclosed to that person under section 22B;

or

(b) the information —

(i) is disclosed to the Commissioner of Police; and

(ii) concerns a matter that is relevant to the functions of the Commissioner of Police;

or

(c) the information —

(i) is disclosed to the Commissioner for Children and Young People or a member of the staff of the Commissioner for Children and Young People authorised for the purposes of this subparagraph by the Commissioner for Children and Young People; and

(ii) concerns a matter that is relevant to the functions of the Commissioner for Children and Young People under the *Commissioner for Children and Young People Act 2006*;

or

(d) the information —

(i) is disclosed to the CEO as defined in the CCS Act section 3 or a member of the staff of the Department as defined in that section; and

(ii) concerns a matter that is relevant to the functions of the CEO under that Act;

or

(e) the information —

(i) is disclosed to the CEO as defined in the *Working with Children (Criminal Record Checking) Act 2004* section 4 or an officer of the Department as defined in that section; and

(ii) concerns a matter that is relevant to the functions of the CEO under that Act.

[Section 22C inserted: No. 25 of 2022 s. 14.]

23. Secrecy

(1) Information obtained by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff in the course of, or for the purpose of, an investigation by the Commissioner under this Act, shall not be disclosed, except —

(a) for the purposes of the investigation and of any report or recommendations to be made thereon under this Act; or

(b) for the purposes of any proceedings for any perjury or any offence under the *Royal Commissions Act 1968*, or under this Act alleged to have been committed in any proceedings upon such an investigation; or

(c) as authorised by Division 3B or section 22A, 22AA, 22B or 22C(2).

(1a) The Commissioner may in writing direct the person to whom a document is sent by the Commissioner not to disclose to any other person any information contained in the document except for the purposes of the investigation to which the document relates or any other purpose specified in the direction, and a person to whom such a direction is given must comply with the direction.

(1b) Subsection (1) shall not be taken to preclude the Commissioner from disclosing information, or making a statement, to any person or to the public or a section of the public with respect to the performance of the functions of, or an investigation by, the Commissioner if, in the Commissioner's opinion, it is in the interests of any department or authority to which this Act applies, of any person or of the proper operation of the reportable conduct scheme, or is otherwise in the public interest, so to disclose that information or to make that statement.

(1c) The Commissioner shall not disclose information or make a statement under subsection (1b) with respect to a particular investigation where the disclosure of that information, or the making of that statement, is likely to interfere with the carrying

out of that or any other investigation or the making of a report by him under this Act.

(1d) The Commissioner shall not, in disclosing information or making a statement under subsection (1b) with respect to a particular investigation —

(a) set out opinions that are, either expressly or impliedly, critical of any department, authority or relevant entity to which this Act applies or any person unless the Commissioner has complied with subsection (1e) in relation to the investigation; or

(b) disclose the name of a complainant or any other matter that would enable a complainant to be identified unless it is fair and reasonable in all the circumstances to do so.

(1e) Where the Commissioner proposes to disclose information or make a statement setting out opinions referred to in subsection (1d)(a) the Commissioner must, before doing so, afford —

(a) if the opinions relate to a department or authority, the principal officer of the department or authority and the officer of that department or authority principally concerned in the complaint; or

(aa) if the opinions relate to a relevant entity, the head of the relevant entity; or

(b) if the opinions relate to a person, that person,

the opportunity to appear before the Commissioner and to make submissions, either orally or in writing, in relation to the complaint.

(1f) This section has effect notwithstanding section 19(2).

(2) Any person who discloses information contrary to the provisions of this section is guilty of an offence.

[Section 23 amended: No. 68 of 1976 s. 7; No. 124 of 1984 s. 8; No. 14 of 1994 s. 19(2); No. 29 of 1996 s. 26; No. 78 of 1996 s. 15 and 21; No. 74 of 2003 s. 91(15); No. 25 of 2022 s. 15.]

23A. Certain documents sent to or by Commissioner not admissible

(1) Any document that is sent to the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff or by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff in the course of, or for the purposes of, an investigation under this Act and was prepared specifically for the purposes of the investigation shall be privileged and be not admissible in evidence in any proceedings other than proceedings for perjury or any offence under the *Royal Commissions Act 1968* or under this Act alleged to have been committed in any proceedings upon such an investigation.

(2) Subsection (1) does not apply to a document sent to the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff or by the Commissioner, the Deputy Commissioner or a member of the Commissioner's staff in the course of, or for the purposes of —

(a) an investigation by the head of a relevant entity under section 19W(1); or

(b) an investigation by the Commissioner under section 19ZB(1)(a).

[Section 23A inserted: No. 73 of 1976 s. 8; amended: No. 74 of 2003 s. 91(16); No. 25 of 2022 s. 16.]

24. Obstruction

Any person who —

(a) without lawful excuse, wilfully obstructs, hinders, or resists the Commissioner or any other person in the exercise of his powers under this Act; or

(b) without lawful excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Act; or

(c) wilfully makes any false statement to, or misleads, or attempts to mislead, the Commissioner or any other person in the exercise of his powers under this Act,

is guilty of an offence.

Division 4 — Action on investigations

25. Procedure on completion of investigation

(1) Where, as a result of an investigation conducted under this Act (not being an investigation conducted pursuant to section 15), the Commissioner is of the opinion that the action to which the investigation relates —

(a) appears to have been taken contrary to law; or

(b) was unreasonable, unjust, oppressive, or improperly discriminatory; or

(c) was in accordance with a rule of law or a provision of an enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; or

(d) was taken in the exercise of a power or discretion, and was so taken for an improper purpose or on irrelevant grounds, or on the taking into account of irrelevant considerations; or

(e) was a decision that was made in the exercise of a power or discretion and the reasons for the decision were not, but should have been, given; or

(f) was based wholly or partly on a mistake of law or fact; or

(g) was wrong,

he shall, as in the circumstances of the case he thinks fit, carry out the duties imposed on him by subsection (2).

(2) Where in such a case as is referred to in subsection (1) the Commissioner is of the opinion —

(a) that the subject matter of the investigation should be referred to the appropriate authority for further consideration; or

(b) that action can be, and should be, taken to rectify, or mitigate or alter the effects of, the action to which the investigation relates; or

(c) that any practice in accordance with which the action was taken should be varied; or

(d) that any law in accordance with which, or on the basis of which, the action was taken should be reconsidered; or

(e) that reasons should be given for the action; or

(f) that any other steps should be taken,

the Commissioner shall report his opinion, and his reasons therefor, to the principal officer of the appropriate authority, and may make such recommendations as he thinks fit.

(3) Where the Commissioner makes any report or recommendations to the principal officer of an authority under subsection (2), he shall send a copy thereof to the responsible Minister.

(4) If under subsection (2) the Commissioner makes recommendations to the principal officer of an authority he may request that officer to notify him, within a specified time, of the steps that have been or are proposed to be taken to give effect to the recommendations, or, if no such steps have been, or are proposed to be taken, the reasons therefor.

(5) Where it appears to the Commissioner that no steps that seem to him to be appropriate have been taken within a reasonable time of his making any report or recommendations under subsection (2), the Commissioner, after considering the comments (if any) made by or on behalf of the principal officer to whom the report or recommendations were made, may, if he thinks fit, send to the Premier of the State a copy of the report and the recommendations together with a copy of any such comments.

(6) Where a copy of any report, recommendations, or comments has been sent to the Premier of the State under subsection (5), the Commissioner may lay before each House of Parliament such report on the matters to which they relate as he thinks fit.

(7) The Commissioner shall not in any report under this Act make any comment defamatory of or adverse to any person unless that person has been given an opportunity of being heard in the matter and his defence is fairly set forth in the report.

(8) This section applies in relation to an investigation by the Commissioner for the purposes of the reportable conduct scheme as follows —

(a) any reference to the appropriate authority is taken to be a reference to the relevant entity;

(b) any reference to the principal officer of the appropriate authority is taken to be a reference to the head of the relevant entity;

(c) subsection (3) applies only if the investigation relates to a relevant entity that is a department or authority;

(d) for the purposes of an investigation referred to in section 19ZB(1)(a) —

(i) subsections (1) and (2) do not apply; and

(ii) a reference in subsections (3) to (5) to a recommendation under subsection (2) is taken to

be a reference to a recommendation under section 19ZD(3)(b).

[Section 25 amended: No. 25 of 2022 s. 17.]

26. Information to complainant on investigation

Where the Commissioner conducts an investigation on a complaint made under this Act he shall inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation and may from time to time if he thinks it proper, at any time prior to the conclusion of the investigation, inform the complainant in such manner as he thinks proper of the progress then made in the conduct of the investigation, and, where the Commissioner has made any recommendation under section 25(2) and it appears to him that steps which seem to him to be appropriate have not been taken within a reasonable time of the making of those recommendations, the Commissioner shall inform the complainant of the recommendations, making such comments thereon as he thinks proper.

[Section 26 amended: No. 68 of 1976 s. 9.]

Division 5 — Annual and other reports of the Commissioner

27. Commissioner may report to Parliament

(1) Notwithstanding the *Financial Management Act 2006*, the Commissioner may at any time, if he thinks fit, lay before each House of Parliament a report on any matter arising in connection with the exercise of his functions.

(2) If neither House of Parliament is sitting at the time when the Commissioner wishes to lay a report in accordance with subsection (1) then the Commissioner may —

(a) send copies of the report to the Clerks of both Houses of Parliament; and

(b) make the report available to the public.

[Section 27 inserted: No. 98 of 1985 s. 3; amended: No. 78 of 1996 s. 16; No. 77 of 2006 Sch. 1 cl. 118(1).]

28. Annual report to include report on reportable conduct scheme

(1) The annual report of the accountable authority of the Parliamentary Commissioner for Administrative Investigations under the *Financial Management Act 2006* Part 5 must include a report about the operation of the reportable conduct scheme in the financial year to which the report relates, including the following —

(a) a description of the activities of the Commissioner in relation to the reportable conduct scheme;

(b) an evaluation of the response of relevant entities to the recommendations of the Commissioner under the reportable conduct scheme;

(c) a description of matters relating to the reportable conduct scheme, including trends, notifications and investigations.

(2) A report under subsection (1) must not include information that could lead to the identification of a child or a person investigated under the reportable conduct scheme.

(3) This section does not limit the power of the Commissioner under section 27(1) to also, at any time, lay before each House of Parliament a report in relation to the reportable conduct scheme.

[Section 28 inserted: No. 25 of 2022 s. 18.]

Part IV — Miscellaneous

29. Supreme Court may determine jurisdictional questions

(1) Where, in the course of an investigation under this Act, the question arises as to whether the Commissioner has jurisdiction to conduct the investigation, the Commissioner, or the party the subject of the investigation, may make an application to the Supreme Court for a determination of that question, and, on the application, the Court may make such order as it considers proper.

(2) References in this section, in relation to an investigation into any action taken by or on behalf of an authority, to the party subject to the investigation shall be construed as references to that authority or the principal officer thereof.

(3) References in this section, in relation to an investigation for the purposes of the reportable conduct scheme, to the party subject to the investigation include references to the relevant entity or the head of the relevant entity.

[Section 29 amended: No. 25 of 2022 s. 19.]

29A. Delegation by Commissioner of Police

(1) The Commissioner of Police may delegate any power or duty of the Commissioner of Police under section 19ZG, 22AA or 22C(2)(b) to the following persons —

(a) a specified police officer;

(b) police officers of a specified rank or class;

(c) another person appointed or employed under the *Police Act 1892*.

(2) The delegation must be in writing signed by the Commissioner of Police.

(3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

(4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(5) Nothing in this section limits the ability of the Commissioner of Police to perform a function through an officer or agent.

[Section 29A inserted: No. 25 of 2022 s. 20.]

30. Protection of Commissioner and officers

(1) Neither the Commissioner, the Deputy Commissioner nor any member of the Commissioner's staff is liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act, unless the act was done in bad faith.

(2) No civil or criminal proceedings shall be brought against the Commissioner, the Deputy Commissioner or any member of the Commissioner's staff in respect of any such act as is referred to in subsection (1) without the leave of the Supreme Court, and the Supreme Court shall not give leave under this section unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith.

(3) Notwithstanding anything in the foregoing provisions of this section, no prerogative writ shall be issued compelling the Commissioner to carry out any investigation, and no proceedings shall be brought against the Commissioner whereby the issue of such a writ is sought.

(4) Except as required for the purpose of proceedings referred to in section 23(1)(b), neither the Commissioner, the Deputy Commissioner nor any member of the Commissioner's staff shall be called to give evidence or produce any document in any court, or in any judicial proceedings, in respect of any matter

coming to his knowledge in the exercise of his functions under this Act.

[Section 30 amended: No. 124 of 1984 s. 10; No. 74 of 2003 s. 91(17)-(19).]

30A. Protection of complainants etc.

(1) A person is not liable to any civil proceedings in respect of —

(a) making a complaint under this Act; or

(b) providing information in the course of, or for the purpose of, an investigation under this Act; or

(c) providing information about the death of a child for the purposes of Part III Division 3A.

(2) Subsection (1) does not apply if the complaint was made, or the information was provided, in bad faith.

(3) No civil proceedings shall be brought against a person in respect of an act referred to in subsection (1)(a), (b) or (c) without the leave of the Supreme Court, and the Supreme Court shall not give leave unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith.

[Section 30A inserted: No. 78 of 1996 s. 17; amended: No. 10 of 2009 s. 9.]

30AA. Protection from liability for giving information: reportable conduct scheme

(1) This section applies if a person acting in good faith —

(a) gives a report, notification or information to the Commissioner under Part III Division 3B or in the course of, or for the purposes of, an investigation into a reportable allegation or reportable conviction under this Act; or

(b) gives a report, notification or information to the head of a relevant entity under Part III Division 3B; or

(c) gives information to an investigator conducting an investigation under Part III Division 3B.

(2) The report, notification or information may be given despite any other enactment, law or agreement that prohibits or restricts its disclosure.

(3) In giving the information or making the report or notification the person —

(a) does not incur any civil or criminal liability or liability to be punished for a contempt of court; and

(b) is not to be taken to have breached any duty of confidentiality or secrecy imposed by law; and

(c) is not to be taken to have breached any professional ethics or standards or any principles of conduct applicable to the person's employment or to have engaged in unprofessional conduct.

(4) Civil proceedings cannot be brought against a person in respect of an act referred to in subsection (1)(a), (b) or (c) without the leave of the Supreme Court, and the Supreme Court must not give leave unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith.

[Section 30AA inserted: No. 25 of 2022 s. 21.]

30B. Victimisation

(1) A person shall not —

(a) prejudice, or threaten to prejudice, the safety or career of; or

(b) intimidate or harass, or threaten to intimidate or harass; or

(c) do any act that is, or is likely to be, to the detriment of,

another person because the other person —

(d) has made or will or may in the future make a complaint under this Act; or

(e) has provided, is providing or will or may in the future provide information in the course of, or for the purpose of, an investigation under this Act; or

(ea) has made or will or may in the future make a report to the head of a relevant entity or the Commissioner under section 19T or give a notification to the Commissioner under Part III Division 3B; or

(eb) has provided, is providing or will or may in the future provide information in the course of, or for the purpose of, an investigation of a reportable allegation or reportable conviction to the Commissioner or the head of a relevant entity under this Act; or

(f) has exercised a power conferred by this Act on the other person or has performed a duty imposed by this Act on the other person or is exercising or performing, or will or may in the future exercise or perform, any such power or duty.

Penalty: $8 000 or imprisonment for 2 years.

(2) A person who attempts to commit an offence under subsection (1) commits an offence and is liable to the penalty set out in subsection (1).

(3) A person who —

(a) intends that an offence under subsection (1) be committed; and

(b) incites another person to commit the offence,

commits an offence and is liable to the penalty set out in subsection (1).

[Section 30B inserted: No. 78 of 1996 s. 17; amended: No. 25 of 2022 s. 22.]

31. General penalty

Unless otherwise expressly provided, a person who is guilty of an offence under this Act is liable to a penalty of $1 000.

[Section 31 inserted: No. 78 of 1996 s. 18.]

32. Expenses of Act

Except as otherwise expressly provided in this Act the expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for that purpose.

33. Regulations

The Governor may make regulations —

(a) amending Schedule 1 or 2; or

(b) prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the reportable conduct scheme.

[Section 33 inserted: No. 25 of 2022 s. 23.]

34. Energy and water ombudsman schemes

(1) The Parliamentary Commissioner may enter into an agreement with the governing body of an energy ombudsman scheme or a water ombudsman scheme under which —

(a) the person for the time being holding or acting in the office of Parliamentary Commissioner is to serve as the ombudsman under the scheme; and

(b) officers referred to in section 9 are to assist him or her in doing so.

(2) The persons referred to in subsection (1)(a) and (b) may provide services in accordance with the agreement.

(3) Section 5(9) does not apply to the rendering of services under the agreement.

(4) The services are to be paid for by the governing body of that scheme at a rate to be provided for in the agreement.

(5) For the purposes of this Act, the rendering of services under an agreement is not to be regarded —

(a) as the exercise or performance of powers, functions or duties under this Act; or

(b) as attracting the operation of section 27 or 32.

(6) Despite subsection (5), section 30(1), (2) and (3) apply for the purpose of this section in the same way as they apply in respect of the other functions of the Commissioner.

(7) In this section —

energy ombudsman scheme means a scheme approved under section 11ZPZ of the *Energy Coordination Act 1994* or section 92 of the *Electricity Industry Act 2004*;

governing body of an energy ombudsman scheme or a water ombudsman scheme means the entity responsible for the operation of the scheme;

water ombudsman scheme means a scheme approved under the *Water Services Act 2012* Part 4.

[Section 34 inserted: No. 53 of 2003 s. 34; amended: No. 33 of 2004 s. 48; No. 25 of 2012 s. 221.]

Schedule 1 — Departments and authorities, and extent, to which this Act does not apply

[s. 13(2)(n)]

[Heading inserted: No. 10 of 2009 s. 10.]

Act establishing department or authority	Department or authority, and extent, to which this Act does not apply
Auditor General Act 2006	The Auditor General to the extent of the Auditor General's functions other than that of chief executive officer of the department of the Public Service known as the Office of the Auditor General.
Commissioner for Children and Young People Act 2006	Commissioner for Children and Young People to the extent of the Commissioner's functions other than that of chief employee under the *Public Sector Management Act 1994*.
Corruption, Crime and Misconduct Act 2003	Corruption and Crime Commission. Parliamentary Inspector of the Corruption and Crime Commission.
Director of Public Prosecutions Act 1991	Director of Public Prosecutions. Deputy Director of Public Prosecutions.
Economic Regulation Authority Act 2003	Economic Regulation Authority to the extent of its functions given by or under the *National Gas Access (WA) Act 2009* or referred to in the *Railways (Access) Act 1998* section 20(1).
Electoral Act 1907	Electoral Commissioner to the extent of the Electoral Commissioner's functions other than that of chief executive officer of the department of the Public Service known as the Western Australian Electoral Commission. Deputy Electoral Commissioner.

Act establishing department or authority	Department or authority, and extent, to which this Act does not apply
Equal Opportunity Act 1984	Commissioner for Equal Opportunity. Director of Equal Opportunity in Public Employment.
Information Commissioner Act 2024	Information Commissioner. Information Access Deputy Commissioner. Privacy Deputy Commissioner.
Inspector of Custodial Services Act 2003	Inspector of Custodial Services.
Parliamentary Commissioner Act 1971	Parliamentary Commissioner for Administrative Investigations. Deputy Parliamentary Commissioner for Administrative Investigations.
Public Sector Management Act 1994	Public Sector Commissioner to the extent of the Commissioner's functions other than that of chief executive officer of the department of the Public Service principally assisting in the administration of the *Public Sector Management Act 1994*.
Racing and Wagering Western Australia Act 2003	Racing and Wagering Western Australia.
Royal Commissions Act 1968	Any Royal Commission.
Solicitor-General Act 1969	Solicitor-General.

[Schedule 1 inserted: No. 10 of 2009 s. 10; amended: No. 16 of 2009 s. 71; No. 39 of 2010 s. 80; No. 35 of 2014 s. 36(5); No. 25 of 2022 s. 24; No. 52 of 2024 s. 70.]

Schedule 2 — Relevant entities to which this Act applies

[s. 19I]

[Heading inserted: No. 25 of 2022 s. 25.]

Column 1	Column 2
Public bodies	A department.
	An authority.
Providers of education services	A school as defined in the *School Education Act 1999* section 4.
	A college or other vocational education and training institution as those terms are defined in the *Vocational Education and Training Act 1996* section 5(1).
	A registered training provider as defined in the *Vocational Education and Training Act 1996* section 5(1).
	A university established under a written law.
	An Australian university college, an authorised non-university institution or a recognised overseas university as those terms are defined in the *Higher Education Act 2004* section 3.
Providers of health services	A health service provider as defined in the *Health Services Act 2016* section 6.
	A private hospital service provider as defined in the *Private Hospitals and Health Services Act 1927* section 2(1).
	A provider of a mental health service as defined in the *Mental Health Act 2014* section 4 that has inpatient beds for children.

Column 1	Column 2
	A provider of a drug and alcohol treatment service that has inpatient beds for children. An ambulance service.
Providers of out-of-home care services	A person who has entered into an agreement under the CCS Act section 15(1) for the provision of placement services.
Providers of child care services	An education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1). A child care service as defined in the *Child Care Services Act 2007* section 4.
Providers of youth justice services	A provider of a detention centre as defined in the *Young Offenders Act 1994* section 3. A provider of community justice services funded by the department principally assisting in the administration of the *Young Offenders Act 1994*.
Religious bodies	A religious body that provides, or has provided, activities, facilities, programs or services that provide a means for adults to have contact with children. **Examples of activities, facilities, programs or services —** (a) altar serving; (b) art groups; (c) bible study groups; (d) choirs and music groups; (e) creches and other child minding services; (f) dance groups;

Column 1	Column 2
	(g) faith-based children's and youth groups; (h) multi-faith networks; (i) open days; (j) prayer groups; (k) religious community engagement and outreach; (l) religious festivals and celebrations; (m) religious services; (n) sports teams; (o) Saturday schools, Sunday schools and after school religious education; (p) tutoring services; (q) youth camps.
Providers of disability services	A service provider as defined in the *Disability Services Act 1993* section 3. A registered provider of supports and services under the National Disability Insurance Scheme established under the *National Disability Insurance Scheme Act 2013* (Commonwealth).
Providers of accommodation and respite services for children	A provider of a homelessness service that provides overnight beds specifically for children as part of its primary activities and is funded by the department principally assisting in the administration of the CCS Act. A provider of boarding facilities for students who are children. An entity that provides overnight camps for children as part of its primary activity.

Column 1	Column 2
	A provider of any other accommodation or respite services for children.

[Schedule 2 inserted: No. 25 of 2022 s. 25; amended: No. 25 of 2022 s. 27.]

Notes

This is a compilation of the *Parliamentary Commissioner Act 1971* and includes amendments made by other written laws [3, 4]. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Parliamentary Commissioner Act 1971	64 of 1971	22 Dec 1971	12 May 1972 (see s. 2 and *Gazette* 12 May 1972 p. 1043)
Parliamentary Commissioner Act Amendment Act 1976	68 of 1976	6 Oct 1976	6 Oct 1976
Parliamentary Commissioner Amendment Act 1982	13 of 1982	14 May 1982	14 May 1982
Reprint of the *Parliamentary Commissioner Act 1971* approved 19 Jul 1983 (includes amendments listed above)			
Parliamentary Commissioner Amendment Act 1984	124 of 1984	27 Dec 1984	s. 1 and 2: 27 Dec 1984; Act other than s. 1 and 2: 1 Jul 1985 (see s. 2 and *Gazette* 28 Jun 1985 p. 2291)
Acts Amendment (Authority for Intellectually Handicapped Persons) Act 1985 Pt. III	69 of 1985	15 Nov 1985	1 Jan 1986 (see s. 2 and *Gazette* 13 Dec 1985 p. 4757)
Acts Amendment (State Planning Commission) Act 1985 Pt. IV	92 of 1985	4 Dec 1985	6 Dec 1985 (see s. 2 and *Gazette* 6 Dec 1985 p. 4591)
Acts Amendment (Financial Administration and Audit) Act 1985 s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and *Gazette* 30 Jun 1986 p. 2255)
Acts Amendment (Water Authorities) Act 1985 Pt. X	110 of 1985	17 Dec 1985	14 Mar 1986 (see s. 2 and *Gazette* 14 Mar 1986 p. 726)
Acts Amendment (Meat Industry) Act 1985 Pt. IV	107 of 1985	7 Jan 1986	1 Jul 1986 (see s. 2 and *Gazette* 27 Jun 1986 p. 2159)

Short title	Number and year	Assent	Commencement
Perth Mint Amendment Act 1986 Pt. III	39 of 1986	1 Aug 1986	1 Oct 1986 (see s. 2 and *Gazette* 30 Sep 1986 p. 3769)
State Government Insurance Commission Act 1986 s. 46(2)	51 of 1986	5 Aug 1986	1 Jan 1987 (see s. 2 and *Gazette* 19 Dec 1986 p. 4859)
Western Australian Sports Centre Trust Act 1986 s. 21	101 of 1986	12 Dec 1986	24 Dec 1986 (see s. 2 and *Gazette* 24 Dec 1986 p. 4963)
Boxing Control Act 1987 s. 64	2 of 1987	29 May 1987	22 Feb 1991 (see s. 2 and *Gazette* 22 Feb 1991 p. 867)
Great Southern Development Authority Act 1987 s. 34	9 of 1987	11 Jun 1987	29 Apr 1988 (see s. 2 and *Gazette* 29 Apr 1988 p. 1292)
Occupational Health, Safety and Welfare Amendment Act 1987 s. 19	43 of 1987	6 Jul 1987	16 Sep 1988 (see s. 2 and *Gazette* 16 Sep 1988 p. 3757)
Acts Amendment (Corrective Services) Act 1987 Pt. VI	47 of 1987	3 Oct 1987	11 Dec 1987 (see s. 2 and *Gazette* 11 Dec 1987 p. 4363)
Gaming Commission Act 1987 s. 116	50 of 1987	8 Oct 1987	4 Mar 1988 (see s. 2 and *Gazette* 4 Mar 1988 p. 665)
Mines Regulation Amendment Act 1987 s. 21	64 of 1987	18 Nov 1987	3 Jun 1988 (see s. 2 and *Gazette* 3 Jun 1988 p. 1851)
Minerals and Energy Research Act 1987 s. 42	89 of 1987	9 Dec 1987	1 Feb 1988 (see s. 2 and *Gazette* 15 Jan 1988 p. 67)
Rottnest Island Authority Act 1987 s. 51	91 of 1987	9 Dec 1987	30 May 1988 (see s. 2 and *Gazette* 30 May 1988 p. 1823)
Gold Banking Corporation Act 1987 s. 79	99 of 1987	18 Dec 1987	30 Jun 1988 (see s. 2 and *Gazette* 30 Jun 1988 p. 2133)
Acts Amendment (Public Service) Act 1987 s. 32	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and *Gazette* 16 Mar 1988 p. 813)
Acts Amendment (Retail Trading Hours) Act 1987 s. 11	114 of 1987	31 Dec 1987	1 Sep 1988 (see s. 2 and *Gazette* 12 Aug 1988 p. 2695)

Short title	Number and year	Assent	Commencement
Geraldton Mid-West Development Authority Act 1988 s. 33	4 of 1988	30 Jun 1988	22 Jul 1988 (see s. 2 and *Gazette* 22 Jul 1988 p. 2479)
Acts Amendment (Swan River Trust) Act 1988 Pt. 8	21 of 1988	5 Oct 1988	1 Mar 1989 (see s. 2 and *Gazette* 27 Jan 1989 p. 264)
Art Gallery Amendment Act 1988 s. 8	59 of 1988	8 Dec 1988	20 Jan 1989 (see s. 2 and *Gazette* 20 Jan 1989 p. 110)
Horticultural Produce Commission Act 1988 s. 27(1)	75 of 1988	23 Dec 1988	1 Sep 1989 (see s. 2 and *Gazette* 1 Sep 1989 p. 3017)
Reprint of the *Parliamentary Commissioner Act 1971* as at 31 Mar 1989 (includes amendments listed above except those in the *Boxing Control Act 1987* and the *Horticultural Produce Commission Act 1988*)			
Coal Industry Superannuation Act 1989 s. 33(2)	28 of 1989	12 Dec 1989	1 Jul 1990 (see s. 2 and *Gazette* 22 Jun 1990 p. 3027)
Acts Amendment (Parliamentary Superannuation) Act 1989 Pt. 4	31 of 1989	15 Dec 1989	15 Dec 1989 (see s. 2)
Acts Amendment (Perth Market Authority) Act 1990 Pt. 6	6 of 1990	12 Jul 1990	1 Jan 1991 (see s. 2 and *Gazette* 21 Dec 1990 p. 6211)
Acts Amendment (Gold Banking Corporation) Act 1990 Pt. 5	10 of 1990	31 Jul 1990	28 Sep 1990 (see s. 2 and *Gazette* 28 Sep 1990 p. 4981)
Lotteries Commission Act 1990 s. 33	16 of 1990	31 Jul 1990	1 Jan 1991 (see s. 2 and *Gazette* 28 Dec 1990 p. 6369)
Guardianship and Administration Act 1990 s. 123	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and *Gazette* 2 Oct 1992 p. 4811)
Goldfields-Esperance Development Authority Act 1990 s. 36	39 of 1990	8 Nov 1990	7 Dec 1990 (see s. 2 and *Gazette* 7 Dec 1990 p. 5979)
State Employment and Skills Development Authority Act 1990 s. 48	40 of 1990	26 Nov 1990	22 Mar 1991 (see s. 2 and *Gazette* 22 Mar 1991 p. 1209)

Short title	Number and year	Assent	Commencement
Soil and Land Conservation Amendment Act 1990 s. 17	91 of 1990	17 Dec 1990	28 Oct 1995 (see s. 2 and *Gazette* 27 Oct 1995 p. 4937)
R & I Bank Act 1990 s. 45(1)	73 of 1990	20 Dec 1990	1 Jan 1991 (see s. 2(2) and *Gazette* 28 Dec 1990 p. 6369)
Building and Construction Industry Training Fund and Levy Collection Act 1990 s. 33	76 of 1990	20 Dec 1990	1 Jul 1991 (see s. 2 and *Gazette* 28 Jun 1991 p. 3101)
Acts Amendment (Heritage Council) Act 1990 s. 4	97 of 1990	22 Dec 1990	25 Feb 1991 (see s. 2 and *Gazette* 22 Feb 1991 p. 868)
Tobacco Control Act 1990 s. 39	104 of 1990	2 Jan 1991	8 Feb 1991 (see s. 2(1) and *Gazette* 8 Feb 1991 p. 575)
State Supply Commission Act 1991 s. 35	5 of 1991	6 Jun 1991	20 Sep 1991 (see s. 2 and *Gazette* 20 Sep 1991 p. 4855)
Human Reproductive Technology Act 1991 s. 62	22 of 1991	8 Oct 1991	6 Mar 1992 (see s. 2 and *Gazette* 6 Mar 1992 p. 1107)
East Perth Redevelopment Act 1991 s. 59	62 of 1991	30 Dec 1991	1 Jul 1992 (see s. 2 and *Gazette* 1 Jul 1992 p. 2945)
South West Development Authority Amendment Act 1992 s. 12(2)	5 of 1992	14 May 1992	11 Aug 1992 (see s. 2 and *Gazette* 11 Aug 1992 p. 3959)
Western Australian Financial Institutions Authority Act 1992 s. 57	29 of 1992	19 Jun 1992	1 Jul 1992 (see s. 2 and *Gazette* 26 Jun 1992 p. 2643)
Western Australian Land Authority Act 1992 s. 49	35 of 1992	23 Jun 1992	1 Jul 1992 (see s. 2(2) and *Gazette* 30 Jun 1992 p. 2869)
Reprint of the *Parliamentary Commissioner Act 1971* as at 21 Oct 1992 (includes amendments listed above except those in the *Soil and Land Conservation Amendment Act 1990*)			
Pilbara Development Commission Act 1992 s. 25	59 of 1992	11 Dec 1992	1 Jul 1993 (see s. 2 and *Gazette* 1 Jul 1993 p. 3209)

Short title	Number and year	Assent	Commencement
Local Government (Superannuation) Amendment and Repeal Act 1993 s. 17	2 of 1993	18 Aug 1993	1 Jul 1993 (see s. 2)
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Rural Adjustment and Finance Corporation Act 1993 s. 57	10 of 1993	6 Oct 1993	24 Dec 1993 (see s. 2 and *Gazette* 24 Dec 1993 p. 6796)
Workplace Agreements Act 1993 s. 103	13 of 1993	23 Nov 1993	1 Dec 1993 (see s. 2 and *Gazette* 30 Nov 1993 p. 6439)
Bee Industry Amendment and Repeal Act 1993 s. 21	26 of 1993	15 Dec 1993	4 Feb 1994 (see s. 2 and *Gazette* 4 Feb 1994 p. 339)
Mines Regulation Amendment Act 1993 s. 12	30 of 1993	16 Dec 1993	24 Dec 1993 (see s. 2 and *Gazette* 24 Dec 1993 p. 6796)
Disability Services Act 1993 s. 58	36 of 1993	16 Dec 1993	23 Dec 1993 (see s. 2)
Regional Development Commissions Act 1993 s. 44	53 of 1993	22 Dec 1993	8 Apr 1994 (see s. 2 and *Gazette* 8 Apr 1994 p. 1462)
Adoption Act 1994 s. 145	9 of 1994	15 Apr 1994	1 Jan 1995 (see s. 2 and *Gazette* 25 Nov 1994 p. 5905)
Acts Amendment (Official Corruption Commission) Act 1994 s. 19	14 of 1994	22 Apr 1994	24 May 1994 (see s. 2 and *Gazette* 24 May 1994 p. 2193)
Acts Amendment (Public Sector Management) Act 1994 s. 19	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Subiaco Redevelopment Act 1994 s. 67	35 of 1994	8 Jul 1994	24 Aug 1994 (see s. 2 and *Gazette* 23 Aug 1994 p. 4364)
Perth International Centre for Application of Solar Energy Act 1994 s. 35	36 of 1994	8 Jul 1994	22 Jul 1994 (see s. 2 and *Gazette* 22 Jul 1994 p. 3727)

Short title	Number and year	Assent	Commencement
Acts Amendment (Coal Mining Industry) Act 1994 s. 23	45 of 1994	22 Sep 1994	22 Sep 1994 (see s. 2(1))
Mines Safety and Inspection Act 1994 s. 109	62 of 1994	7 Nov 1994	9 Dec 1995 (see s. 2 and *Gazette* 8 Dec 1995 p. 5935)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Energy Corporations (Transitional and Consequential Provisions) Act 1994 s. 109	89 of 1994	15 Dec 1994	1 Jan 1995 (see s. 2(2) and *Gazette* 23 Dec 1994 p. 7069)
Taxi Act 1994 s. 50	83 of 1994	20 Dec 1994	10 Jan 1995 (see s. 2 and *Gazette* 10 Jan 1995 p. 73)
Hospitals Amendment Act 1994 s. 18	103 of 1994	11 Jan 1995	3 Feb 1995 (see s. 2 and *Gazette* 3 Feb 1995 p. 333)
Planning Legislation Amendment Act (No. 2) 1994 s. 44 and 46	84 of 1994	13 Jan 1995	1 Mar 1995 (see s. 2 and *Gazette* 21 Feb 1995 p. 567)
Industrial Legislation Amendment Act 1995 s. 35	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and *Gazette* 24 Nov 1995 p. 5389)
Reprint of the *Parliamentary Commissioner Act 1971* as at 25 May 1995 (includes amendments listed above except those in the *Mines Safety and Inspection Act 1994* and the *Industrial Legislation Amendment Act 1995*)			
Marketing of Potatoes Amendment Act 1995 s. 58(4)	11 of 1995	30 Jun 1995	4 Sep 1995 (see s. 2 and *Gazette* 1 Sep 1995 p. 4063)
Occupational Safety and Health Legislation Amendment Act 1995 s. 48	30 of 1995	11 Sep 1995	1 Oct 1995 (see s. 2 and *Gazette* 15 Sep 1995 p. 4301)
Acts Amendment (Racing and Betting Legislation) Act 1995 s. 94	63 of 1995	27 Dec 1995	28 Jun 1996 (see s. 2 and *Gazette* 25 Jun 1996 p. 2901)

Short title	Number and year	Assent	Commencement
Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 s. 188	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and *Gazette* 29 Dec 1995 p. 6291)
Health Services (Conciliation and Review) Act 1995 s. 80(6)	75 of 1995	9 Jan 1996	16 Aug 1996 (see s. 2 and *Gazette* 16 Aug 1996 p. 4007)
Guardianship and Administration Amendment Act 1996 s. 38	7 of 1996	24 May 1996	1 Jul 1996 (see s. 2 and *Gazette* 28 Jun 1996 p. 3014)
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Official Corruption Commission Amendment Act 1996 s. 26	29 of 1996	28 Aug 1996	30 Aug 1996 (see s. 2 and *Gazette* 30 Aug 1996 p. 4365)
Financial Legislation Amendment Act 1996 s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Parliamentary Commissioner Amendment Act 1996	78 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2)
Reprint of the *Parliamentary Commissioner Act 1971* as at 20 Jan 1997 (includes amendments listed above)			
Acts Amendment and Repeal (Family Court) Act 1997 s. 34	41 of 1997	9 Dec 1997	26 Sep 1998 (see s. 2 and *Gazette* 25 Sep 1998 p. 5295)
Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 57 and 76	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Gas Pipelines Access (Western Australia) Act 1998 Sch. 3 Div. 8	65 of 1998	15 Jan 1999	9 Feb 1999 (see s. 2 and *Gazette* 8 Feb 1999 p. 441)

Short title	Number and year	Assent	Commencement
Prisons Amendment Act 1999 s. 20 (Sch. 1 cl. 5)	43 of 1999	8 Dec 1999	Sch. 1 cl. 5(1), (3) and (4): 18 Dec 1999 (see s. 2(2) and *Gazette* 17 Dec 1999 p. 6175); Sch. 1 cl. 5(2) and (5)-(7): 18 Jun 2000 (see s. 2(3) and (4) and *Gazette* 16 Jun 2000 p. 2939)
Court Security and Custodial Services (Consequential Provisions) Act 1999 Pt. 8	47 of 1999	8 Dec 1999	18 Dec 1999 (see s. 2 and *Gazette* 17 Dec 1999 p. 6175-6)
Railways (Access) Amendment Act 2000 s. 12	55 of 2000	28 Nov 2000	28 Nov 2000 (see s. 2)
Reprint of the *Parliamentary Commissioner Act 1971* as at 16 Mar 2001 (includes amendments listed above)			
Racing and Gambling Legislation Amendment and Repeal Act 2003 s. 22	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and *Gazette* 29 Jul 2003 p. 3259)
Energy Legislation Amendment Act 2003 s. 34	53 of 2003	8 Oct 2003	17 Apr 2004 (see s. 2(2)(b) and *Gazette* 16 Apr 2004 p. 1209)
Economic Regulation Authority Act 2003 Sch. 2 Div. 10	67 of 2003	5 Dec 2003	1 Jan 2004 (see s. 2 and *Gazette* 30 Dec 2003 p. 5723)
Statutes (Repeals and Minor Amendments) Act 2003 s. 91 [5]	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Inspector of Custodial Services Act 2003 s. 56(1)	75 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Corruption and Crime Commission Amendment and Repeal Act 2003 s. 72-74 [6]	78 of 2003	22 Dec 2003	s. 72(1), 73 and 74(1): 1 Jan 2004 (see s. 2 and *Gazette* 30 Dec 2003 p. 5723); s. 72(2) and 74(2): 7 Jul 2004 (see s. 2 and *Gazette* 6 Jul 2004 p. 2697)

Short title	Number and year	Assent	Commencement
Reprint 7: The *Parliamentary Commissioner Act 1971* as at 1 Oct 2004 (includes amendments listed above)			
Electricity Legislation Amendment Act 2004 Pt. 2 Div. 5	33 of 2004	20 Oct 2004	25 Jun 2005 (see s. 2 and *Gazette* 24 Jun 2005 p. 2751)
State Administrative Tribunal Act 2004 s. 177	54 of 2004	23 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129)
Courts Legislation Amendment and Repeal Act 2004 s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 s. 1325 [7]	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130)
Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 118	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Reprint 8: The *Parliamentary Commissioner Act 1971* as at 3 Oct 2008 (includes amendments listed above)			
Parliamentary Commissioner Amendment Act 2009	10 of 2009	29 Jun 2009	s. 1 and 2: 29 Jun 2009 (see s. 2(a)); Act other than s. 1 and 2: 30 Jun 2009 (see s. 2(b))
National Gas Access (WA) Act 2009 s. 71	16 of 2009	1 Sep 2009	1 Jan 2010 (see s. 2(b) and *Gazette* 31 Dec 2009 p. 5327)
Acts Amendment (Bankruptcy) Act 2009 s. 62	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
Standardisation of Formatting Act 2010 s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and *Gazette* 10 Sep 2010 p. 4341)
Public Sector Reform Act 2010 s. 80	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and *Gazette* 5 Nov 2010 p. 5563)
Reprint 9: The *Parliamentary Commissioner Act 1971* as at 3 Dec 2010 (includes amendments listed above)			
Water Services Legislation Amendment and Repeal Act 2012 s. 221	25 of 2012	3 Sep 2012	18 Nov 2013 (see s. 2(b) and *Gazette* 14 Nov 2013 p. 5028)

Short title	Number and year	Assent	Commencement
Mental Health Legislation Amendment Act 2014 Pt. 4 Div. 4 Subdiv. 18	25 of 2014	3 Nov 2014	30 Nov 2015 (see s. 2(b) and *Gazette* 13 Nov 2015 p. 4632)
Corruption and Crime Commission Amendment (Misconduct) Act 2014 s. 36	35 of 2014	9 Dec 2014	1 Jul 2015 (see s. 2(b) and *Gazette* 26 Jun 2015 p. 2235)
Declared Places (Mentally Impaired Accused) Act 2015 s. 87	4 of 2015	3 Mar 2015	17 Jun 2015 (see s. 2(b) and *Gazette* 16 Jun 2015 p. 2071)
Reprint 10: The *Parliamentary Commissioner Act 1971* as at 4 Mar 2016 (includes amendments listed above)			
Local Government Legislation Amendment Act 2016 Pt. 3 Div. 26	26 of 2016	21 Sep 2016	21 Jan 2017 (see s. 2(b) and *Gazette* 20 Jan 2017 p. 648)
Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022	25 of 2022	19 Aug 2022	Pt. 1: 19 Aug 2022 (see s. 2(a)); Act other than Pt. 1 and Pt. 2 Div. 2: 1 Jan 2023 (see s. 2(c) and SL 2022/206 cl. 2); Pt. 2 Div. 2: 1 Jan 2024 (see s. 2(b))
Criminal Law (Mental Impairment) Act 2023 Pt. 15 Div. 22 and s. 410 and 412	10 of 2023	13 Apr 2023	1 Sep 2024 (see s. 2(b) and SL 2024/175 cl. 2)
Information Commissioner Act 2024 Pt. 7 Div. 5	52 of 2024	6 Dec 2024	1 Jul 2025 (see s. 2(1)(d) and SL 2025/102 cl. 2(a))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Native Title (State Provisions) Act 1999 s. 7.3	60 of 1999	10 Jan 2000	Operative on earliest of commencement of Pt. 2 (except s. 2.2), Pt. 3 (except s. 3.1) and Pt. 4 (see s. 1.2)

Short title	Number and year	Assent	Commencement
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 75	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
TAB (Disposal) Act 2019 s. 151	21 of 2019	18 Sep 2019	To be proclaimed (see s. 2(1)(b)(xiii))
Liquor Control Amendment Act 2025 Pt. 5 Div. 2	20 of 2025	12 Dec 2025	To be proclaimed (see s. 2(c))

Other notes

1 The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26.

2 Under the *Liquor Control Act 1988* Sch. 1A cl. 9 a reference to the Liquor Licensing Court is to be read and construed as a reference to the Liquor Commission.

3 The amendments in the *R & I Holdings Act 1990* s. 22(3)(a)(i), the *Caravan Parks and Camping Grounds Act 1995* Sch. 2 it. 5, the *Vocational Education and Training Act 1996* Sch. 3 it. 28, the *Acts Amendment (ICWA) Act 1996* Sch. 1 it. 10 and the *Mental Health (Consequential Provisions) Act 1996* Pt. 14 are not included because the Schedule they sought to amend had been deleted before the amendments purported to come into operation.

4 The *Conservation and Land Management Amendment Act 1991* Sch. it. 6 had not come into operation when it was deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 35(3).

5 The *Statutes (Repeals and Minor Amendments) Act 2003* s. 91(5) and (7) read as follows:

> (5) The amendments made by subsections (2) and (3) do not affect the appointment, or terms and conditions of service, of a person appointed and holding office under section 9 of the *Parliamentary Commissioner Act 1971*, as in force immediately before the commencement of this section, except that the person is taken to have been appointed under section 9 of that Act, as amended by this section.
>
> (7) The purported exercises by the Governor of the power conferred by section 9(1) of the *Parliamentary Commissioner Act 1971*, as

in force immediately before the commencement of this section, to appoint officers on secondment are validated and all such appointments are taken to be secondments effected by the Commissioner under section 9(2a) of the *Parliamentary Commissioner Act 1971* as if that subsection had been in force at the time the appointments were purportedly made.

6 The *Corruption and Crime Commission Amendment and Repeal Act 2003* s. 73 reads as follows:

73. Parliamentary Commissioner must refer certain investigations to CCC

(1) In this section —
records includes —
(a) evidence in any form; and
(b) information and other things.

(2) On the commencement of this Division the Parliamentary Commissioner must —
(a) cease any investigation referred to in section 14(1a) of the *Parliamentary Commissioner Act 1971*;
(b) refer the investigation to the CCC; and
(c) transfer to the CCC any records in the possession of the Parliamentary Commissioner immediately before the commencement of this Division that relate to an investigation referred to in section 14(1a) of the *Parliamentary Commissioner Act 1971*.

(3) Records transferred under subsection (1) become the records of the CCC and may be dealt with accordingly.

7 The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

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