

Western Australia

Corruption and Crime Commission Act 2003

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Corruption and Crime Commission Act 2003

CONTENTS

Part 1 — Preliminary

| | | |
|----|------------------------|---|
| 1. | Short title | 2 |
| 2. | Commencement | 2 |
| 3. | Terms used in this Act | 2 |
| 4. | Application | 3 |
| 5. | Act to bind the Crown | 3 |

Part 2 — The Corruption and Crime Commission

Division 1 — Office of Corruption and Crime Commission

| | | |
|-----|---------------------------------------|---|
| 6. | Corruption and Crime Commission | 4 |
| 7. | Corruption and Crime Commissioner | 4 |
| 8. | Qualifications for appointment | 5 |
| 9. | Terms and conditions of service | 5 |
| 10. | Removal or suspension of Commissioner | 5 |
| 11. | Declaration of inability to act | 6 |
| 12. | Acting appointment | 6 |
| 13. | Oath or affirmation of office | 8 |

Division 2 — Functions of Corruption and Crime Commission

| | | |
|-----|---|----|
| 14. | Commission's general functions | 8 |
| 15. | Commission's prevention and education function | 8 |
| 16. | Commission's functions in relation to Police Royal Commission | 9 |
| 17. | Commission's functions in relation to the A-CC | 10 |

Part 3 — Disclosure, secrecy and protection of witnesses

| | | |
|-----|--|----|
| 18. | Disclosure generally | 11 |
| 19. | Disclosure by the Commission or officers of the Commission | 13 |
| 20. | Disclosure by other officials | 15 |
| 21. | Exclusion of other laws | 16 |
| 22. | Application of <i>Telecommunications (Interception) Western Australia Act 1996</i> | 16 |
| 23. | Witness protection arrangements | 16 |

Part 4 — Administration

Division 1 — Staff

| | | |
|-----|---|----|
| 24. | Commission is not an SES organisation | 18 |
| 25. | Staff of the Commission | 18 |
| 26. | Service as public service officer | 18 |
| 27. | Secondment of staff and use of facilities | 19 |
| 28. | Engagement of service providers | 20 |
| 29. | Oath or affirmation | 20 |
| 30. | Authorised officers | 21 |

Division 2 — Financial provisions

| | | |
|-----|---|----|
| 31. | Funds of Commission | 22 |
| 32. | Application of <i>Financial Administration and Audit Act 1985</i> | 22 |

Part 5 — Parliamentary Inspector of the Corruption and Crime Commission

Division 1 — Office of Parliamentary Inspector of the Corruption and Crime Commission

| | | |
|-----|--|----|
| 33. | Parliamentary Inspector of the Corruption and Crime Commission | 23 |
| 34. | Appointment of Parliamentary Inspector | 23 |
| 35. | Qualifications for appointment | 23 |
| 36. | Terms and conditions of service | 24 |
| 37. | Removal or suspension of Parliamentary Inspector | 24 |
| 38. | Acting appointment | 25 |
| 39. | Oath or affirmation of office | 26 |

| | | |
|-----|---|----|
| | Division 2 — Functions of the Parliamentary Inspector | |
| 40. | Functions | 27 |
| | Division 3 — Disclosure | |
| 41. | Restriction on disclosure generally | 28 |
| 42. | Disclosure by Parliamentary Inspector or officer | 28 |
| 43. | Disclosure by other officials | 30 |
| | Division 4 — Staff | |
| 44. | Staff of the Parliamentary Inspector | 31 |
| 45. | Service as public service officer | 31 |
| 46. | Secondment of staff and use of facilities | 32 |
| 47. | Engagement of service providers | 33 |
| 48. | Oath or affirmation | 33 |
| | Division 5 — Financial provisions | |
| 49. | Funds of Parliamentary Inspector | 33 |
| 50. | Application of <i>Financial Administration and Audit Act 1985</i> | 34 |
| | Part 6 — Other matters | |
| 51. | Facilitating proof of certain things | 35 |
| 52. | Disclosure of interests | 35 |
| 53. | Protection against liability | 36 |
| 54. | Protections as to allegations and information | 37 |
| 55. | Protection for compliance with this Act | 38 |
| 56. | Proceedings for defamation not to lie | 38 |
| 57. | Privilege, protection or immunity not limited or abridged | 38 |
| 58. | Records | 38 |
| 59. | Execution of documents by Commission | 39 |
| 60. | Review of Act | 40 |
| 61. | Regulations | 40 |
| | Part 7 — Consequential amendments | |
| 62. | Other Acts amended | 41 |
| | Schedule 1 — Terms and conditions of service of Commissioner | |
| 1. | Tenure of office | 42 |
| 2. | Terms of appointment | 42 |

| | | |
|----|--|----|
| 3. | Remuneration, leave and entitlements | 42 |
| 4. | Provisions where Commissioner was Judge | 43 |
| 5. | Provisions where Commissioner was public service officer | 44 |
| 6. | Resignation | 44 |
| 7. | Vacancy | 44 |

Schedule 2 — Terms and conditions of service of Parliamentary Inspector

| | | |
|----|---|----|
| 1. | Tenure of office | 46 |
| 2. | Terms of appointment | 46 |
| 3. | Remuneration, leave and entitlements | 46 |
| 4. | Provisions where Parliamentary Inspector was Judge | 47 |
| 5. | Provisions where Parliamentary Inspector was public service officer | 47 |
| 6. | Resignation | 48 |
| 7. | Vacancy | 48 |

Schedule 3 — Amendments to other Acts as a consequence of enactment of *Corruption and Crime Commission Act 2003*

Division 1 — Amendments to other Acts

| | | |
|-----|--|----|
| 1. | <i>Constitution Acts Amendment Act 1899</i> amended | 49 |
| 2. | <i>Court Security and Custodial Services Act 1999</i> amended | 49 |
| 3. | <i>The Criminal Code</i> amended | 50 |
| 4. | <i>Financial Administration and Audit Act 1985</i> amended | 52 |
| 5. | <i>Freedom of Information Act 1992</i> amended | 52 |
| 6. | <i>Juries Act 1957</i> amended | 53 |
| 7. | <i>Prisons Act 1981</i> amended | 54 |
| 8. | <i>Public Interest Disclosure Act 2003</i> amended | 55 |
| 9. | <i>Salaries and Allowances Act 1975</i> amended | 57 |
| 10. | <i>Spent Convictions Act 1988</i> amended | 58 |
| 11. | <i>Witness Protection (Western Australia) Act 1996</i> amended | 59 |

Defined Terms

Western Australia

Corruption and Crime Commission Act 2003

No. 48 of 2003

An Act to —

- **provide for the establishment and operation of a Corruption and Crime Commission;**
- **provide for the establishment and operation of a Parliamentary Inspector of the Corruption and Crime Commission;**
- **repeal the *Anti-Corruption Commission Act 1988*;**
- **repeal the *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002*;**
- **make amendments and provide for transitional matters as a consequence of the enactment of this Act and the repeal of other Acts.**

[Assented to 3 July 2003]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Corruption and Crime Commission Act 2003*.

2. Commencement

- (1) This Act comes into operation on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. Terms used in this Act

In this Act unless the contrary intention appears —

“**A-CC**” means the Anti-Corruption Commission established under the *Anti-Corruption Commission Act 1988*;

“**Commission**” means the Corruption and Crime Commission established under this Act;

“**Commissioner**” means the person holding the office of Commissioner established under this Act or acting in that office for the reasons mentioned in section 12(1)(a) or (b);

“**disclose**” means —

- (a) publish in any way; or
- (b) divulge or communicate to any person in any way;

“**officer of the Commission**” means —

- (a) the Commissioner;
- (b) a person appointed under section 25;
- (c) a person seconded or otherwise engaged under section 27; or
- (d) a person engaged under section 28;

“**officer of the Parliamentary Inspector**” means —

- (a) a person appointed under section 44;

- (b) a person seconded or otherwise engaged under section 46; or
- (c) a person engaged under section 47;

“Parliamentary Inspector” means the person holding the office of Parliamentary Inspector of the Corruption and Crime Commission established under this Act or acting in the office for the reasons mentioned in section 38(1)(a) or (b);

“Police Royal Commission” has the meaning given to “Commission” under the *Royal Commission (Police) Act 2002*;

“public officer” has the meaning given by section 1 of *The Criminal Code*;

“public service officer” has the meaning given by section 3(1) of the *Public Sector Management Act 1994*;

“record” includes anything that is a document as defined in section 79B of the *Evidence Act 1906*.

4. Application

- (1) The Commission may receive information and otherwise perform its functions in relation to acts, omissions or conduct occurring before or after the coming into operation of this Act.
- (2) The Commission may receive information and otherwise perform its functions in relation to acts, omissions or conduct alleged to have been done, omitted or engaged in by a person who was a public officer at the time of the alleged acts, omissions or conduct even if the person has ceased to be a public officer.

5. Act to bind the Crown

This Act binds the Crown in right of the State and, so far as the legislative power of the State permits, the Crown in its other capacities.

Part 2 — The Corruption and Crime Commission

Division 1 — Office of Corruption and Crime Commission

6. Corruption and Crime Commission

- (1) A commission called the Corruption and Crime Commission is established.
- (2) The Commission is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Commission in its corporate name.

7. Corruption and Crime Commissioner

- (1) There is to be a Commissioner who, in the name of the Commission, is to perform the functions of the Commission under this Act and any other written law.
- (2) Without limiting subsection (1), if under this Act or any other written law an act or thing may or must be done by, to, by reference to or in relation to the Commission, the act or thing is to be regarded as effectually done if done to, by reference to or in relation to the Commissioner.
- (3) The Commissioner is to be appointed by the Governor by commission under the Public Seal of the State.
- (4) Before an appointment is made under subsection (3) the Premier is to consult with the Parliamentary leader of each party in the Parliament.
- (5) The Commissioner is to hold office in accordance with this Act.
- (6) The office of Commissioner is not an office in the Public Service.

8. Qualifications for appointment

- (1) In subsection (2) —
“**legal experience**” means —
- (a) standing and practice in the State as a legal practitioner;
 - (b) standing and practice in another State or a Territory as a barrister or solicitor of the Supreme Court of that State or Territory;
 - (c) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or
 - (d) a combination of 2 or more kinds of legal experience defined in this section.
- (2) Subject to subsection (3), a person is eligible for appointment as Commissioner if that person —
- (a) is or has been a legal practitioner and has had not less than 8 years legal experience; or
 - (b) is a practising barrister of the High Court of Australia and has had not less than 8 years legal experience.
- (3) A person who is or has been a police officer is not eligible to be appointed as Commissioner.

9. Terms and conditions of service

Schedule 1 has effect with respect to the tenure, remuneration and conditions of service of the Commissioner and the other matters provided for in that Schedule.

10. Removal or suspension of Commissioner

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

- (2) If the Governor is satisfied that the Commissioner —
- (a) is incapable of properly performing the duties of office;
 - (b) has shown himself or herself incompetent properly to perform, or has neglected, those duties; or
 - (c) has been guilty of misconduct,

the Governor may suspend the Commissioner from office.

- (3) If the Commissioner has been suspended from office under subsection (2) the Commissioner is to be restored to office unless —
- (a) a statement of the grounds of the 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 the removal of the Commissioner from office.

11. Declaration of inability to act

The Commissioner may declare himself or herself unable to act in respect of a particular matter by reason of —

- (a) an actual or potential conflict of interest; or
- (b) having to perform other functions under this Act.

12. Acting appointment

- (1) The Governor may appoint a person who is eligible for appointment as Commissioner to act in the office of Commissioner —
- (a) during a vacancy in that office;
 - (b) during any period or during all periods when the person holding the office of Commissioner, or a person appointed under this subsection, is unable to perform the functions of that office or is absent from the State; or

- (c) in relation to any matter in respect of which the person holding the office of Commissioner, or a person appointed under this subsection, has under section 11 declared himself or herself unable to act.
- (2) An appointment under this section —
 - (a) may be made at any time and may be terminated at any time by the Governor; and
 - (b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.
- (3) Subject to this Act, the terms and conditions of appointment, including remuneration and other entitlements, of a person acting under this section are to be as determined from time to time by the Governor.
- (4) A person acting under this section for the reason mentioned in subsection (1)(c) may perform functions of the Commissioner in relation to the matter for which he or she is appointed even though the Commissioner is at the same time performing other functions of the office.
- (5) If a person is acting under this section for the reason mentioned in subsection (1)(c), a reference to the Commissioner in a provision of this Act that is relevant to the performance by that person of a function of the Commissioner in relation to the matter for which that person is appointed includes a reference to that person.
- (6) The validity of anything done by or in relation to a person purporting to act under this section is not to be called into question on the ground that —
 - (a) the occasion for an appointment under this section had not arisen;
 - (b) there is a defect or irregularity in the appointment;
 - (c) the appointment had ceased to have effect; or

- (d) the occasion for the person to act had not arisen or had ceased.

13. Oath or affirmation of office

- (1) Before beginning to perform the functions of the office of Commissioner a person is to take an oath or make an affirmation that he or she —
 - (a) will faithfully and impartially perform the functions of the office; and
 - (b) will not, except in accordance with this Act, disclose any information received under this Act.
- (2) The oath or affirmation is to be administered by a Judge.

Division 2 — Functions of Corruption and Crime Commission

14. Commission’s general functions

The Commission has the functions conferred or imposed by or under this Act or any other written law.

15. Commission’s prevention and education function

- (1) The Commission has a function (the “**prevention and education function**”) of helping to prevent misconduct.
- (2) Without limiting the ways the Commission may perform the prevention and education function, the Commission performs that function by —
 - (a) taking action to raise standards of integrity and conduct in public officers and public authorities;
 - (b) providing information to, consulting with, and making recommendations to public authorities;
 - (c) providing information relevant to its prevention and education function to the general community; and
 - (d) reporting on ways to prevent misconduct.

16. Commission's functions in relation to Police Royal Commission

- (1) In this section —
“**record**” includes —
- (a) evidence in any form; and
 - (b) information and other things.
- (2) The Commission has the following functions in relation to the Police Royal Commission —
- (a) to receive and assess all matters referred to the Commission by the Police Royal Commission under subsection (3);
 - (b) to receive and assess all matters not completed by the Police Royal Commission at the end of the Police Royal Commission (as determined under section 3(2) of the *Royal Commission (Police) Act 2002*);
 - (c) to treat any investigation or assessment of the Police Royal Commission in relation to a matter referred to in paragraph (a) or (b) as an investigation or assessment of the Commission;
 - (d) to initiate or continue the investigation of any such matters where appropriate, and otherwise deal with those matters;
 - (e) to receive and deal with records of the Police Royal Commission.
- (3) The Police Royal Commission may refer any matter before the Police Royal Commission to the Commission to be dealt with under this Act.
- (4) When the Commission receives a matter referred to in paragraph (2)(a) or (2)(b), any record of the Police Royal Commission for the purposes of or in relation to the matter is to

be transferred to the Commission, and becomes a record of the Commission and may be dealt with accordingly.

- (5) The Commission may enter into arrangements with the person appointed to be the Police Royal Commission regarding —
 - (a) the cooperative performance of the respective functions of the Commission and the Police Royal Commission;
 - (b) the joint use of facilities and staff; and
 - (c) the transfer of records from the Police Royal Commission to the Commission.
- (6) For the purposes of subsection (2), the Commission has, in addition to its functions under this Act, all of the functions of the Police Royal Commission.
- (7) To the extent that a duty of the Commission under this Act is inconsistent with a duty of the Police Royal Commission, this Act prevails.

17. Commission's functions in relation to the A-CC

The Commission may enter into arrangements with the A-CC regarding —

- (a) the cooperative performance of the respective functions of the Commission and the A-CC;
- (b) the joint use of facilities and staff; and
- (c) the transfer of records and other things from the A-CC to the Commission.

Part 3 — Disclosure, secrecy and protection of witnesses

18. Disclosure generally

(1) In this section —

“restricted matter” means any of the following —

- (a) any evidence given before the Commission;
 - (b) the contents of any statement of information or document, or a description of any thing, produced to the Commission;
 - (c) the contents of any document, or a description of any thing, seized under this Act;
 - (d) any information that might enable a person who has been, or is about to be, examined before the Commission to be identified or located;
 - (e) the fact that any person has been or may be about to be examined before the Commission.
- (2) Subject to subsections (3) and (4), a restricted matter must not be disclosed.
- (3) Unless the Commission orders otherwise, a restricted matter may be disclosed if that matter has already been disclosed at a part of an examination that was open to the public.
- (4) A restricted matter may be disclosed —
- (a) in accordance with a direction of the Commission;
 - (b) to a legal practitioner for the purpose of obtaining legal advice or representation relating to a notice, summons or matter;
 - (c) to a person for the purpose of obtaining legal aid relating to a notice, summons or matter;
 - (d) to an officer or agent of a body corporate by the body corporate or another officer or agent of the body

s. 18

corporate for the purpose of ensuring compliance with a notice or summons;

- (e) by a legal practitioner for the purpose of complying with a legal duty of disclosure arising from his or her professional relationship with a client;
- (f) by a legal practitioner referred to in paragraph (b) for the purpose of giving legal advice, making representations, or obtaining legal aid, relating to the notice, summons or matter;
- (g) by a person referred to in paragraph (c) for the purpose of obtaining legal aid relating to the notice, summons or matter; or
- (h) if that disclosure is otherwise authorised or required under this Act.

(5) This section does not apply to —

- (a) the Commission or a relevant person as defined in section 19(1); or
- (b) a relevant person as defined in section 42(1),

in relation to a restricted matter that is official information under section 19 or 42, as the case may be.

(6) This section does not apply to —

- (a) an authority or person referred to in section 20 or 43; or
- (b) any person or employee under the control of an authority or person referred to in section 20 or 43,

in relation to a restricted matter that is information to which section 20 or 43, as the case may be, applies.

(7) If a restricted matter is disclosed contrary to this section, any person who so discloses the matter, or causes the matter to be so disclosed, commits an offence.

Penalty: Imprisonment for 3 years and a fine of \$60 000.

19. Disclosure by the Commission or officers of the Commission

(1) In this section —

“Commission lawyer” means —

- (a) a legal practitioner appointed to assist the Commission; and
- (b) a person who assists, or performs services for or on behalf of a legal practitioner appointed to assist the Commission in the performance of the legal practitioner’s duties assisting the Commission;

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions;

“official information”, in relation to a relevant person, means information acquired by the person by reason of, or in the course of, the performance of the person’s functions under this Act;

“produce” includes permit access to;

“relevant person” means a person who is or was —

- (a) an officer of the Commission; or
- (b) a Commission lawyer.

(2) Subject to subsections (3), (4) and (6) a relevant person must not, either directly or indirectly —

- (a) make a record of any official information; or
- (b) disclose any official information.

Penalty: Imprisonment for 3 years and a fine of \$60 000.

(3) Despite subsection (2), a relevant person may make a record of official information —

- (a) under or for the purposes of this Act;
- (b) otherwise in connection with the performance of the person’s functions under this Act.

s. 19

- (4) Despite subsection (2), official information may be disclosed by a relevant person if it is disclosed —
 - (a) under or for the purposes of this Act;
 - (b) for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act or any other prosecutions or disciplinary action in relation to misconduct;
 - (c) when the Commission has certified that disclosure is necessary in the public interest;
 - (d) to either House of Parliament or to a Standing Committee;
 - (e) to any prescribed authority or person; or
 - (f) otherwise in connection with the performance of the person's functions under this Act.
- (5) A relevant person is not authorised to disclose operational information under subsection (4)(4)(d) or (4)(e) unless the Commission has certified under subsection (4)(4)(c) that disclosure is necessary in the public interest.
- (6) Despite subsection (2), a relevant person may disclose the fact that an allegation has been received or initiated by the Commission or the details of an allegation.
- (7) A relevant person cannot be required to produce or disclose any official information in or to any court except for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act.
- (8) This section also applies to the Commission as if references to official information were references to all information acquired by the Commission by reason of, or in the course of, the performance of the Commission's functions under this Act.

20. Disclosure by other officials

(1) In this section —

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to.

(2) This section applies to information if, in circumstances referred to in section 19(4), it is disclosed to an authority or person for use in connection with the performance of a function of the authority or person under a written law.

(3) The authority or person, or any person or employee under the control of the authority or person —

(a) must not, either directly or indirectly —

(i) make a record of information to which this section applies; or

(ii) disclose any information to which this section applies,

except for the purpose for which it was disclosed to the authority or person; and

(b) cannot be required to produce or disclose the information in or to any court except for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act.

Penalty, for a contravention of paragraph (a): Imprisonment for 3 years and a fine of \$60 000.

(4) Subsection (3) does not prevent the disclosure of the fact that an allegation has been received or initiated by the Commission or the details of an allegation.

s. 21

21. Exclusion of other laws

Section 18(7), 19(2) and 20(3) apply despite any law or rule of law, written or otherwise, under which a person may be required to produce or disclose any matter of information.

22. Application of *Telecommunications (Interception) Western Australia Act 1996*

Section 22 of the *Telecommunications (Interception) Western Australia Act 1996* does not apply to prevent the disclosure of any information or record for the purposes of any proceedings for an offence under this Act.

23. Witness protection arrangements

- (1) If it appears to the Commission that, because a person —
- (a) is helping or has helped the Commission in the performance of its functions;
 - (b) is to attend, is attending, or has attended, before the Commission or an officer of the Commission to give evidence or to produce a document or thing; or
 - (c) proposes to produce, or has produced, a document or thing to the Commission or an officer of the Commission,

the safety of any person may be prejudiced or any person may be subjected to intimidation or harassment, the Commission may make arrangements to avoid prejudice to the safety of any person, or to protect any person from intimidation or harassment.

- (2) The Commission may make such arrangements as it thinks fit under subsection (1), including arrangements with —
- (a) the Minister;
 - (b) the Commissioner of Police;
 - (c) the Commissioner (however designated) of the police force of another State or Territory;

- (d) the Commissioner of the Australian Federal Police; and
 - (e) any other person, body or authority the Commission thinks fit.
- (3) Nothing in this section affects the *Witness Protection (Western Australia) Act 1996*.

Part 4 — Administration

Division 1 — Staff

24. Commission is not an SES organisation

The Commission is not, and is not to become, an SES organisation under the *Public Sector Management Act 1994*.

25. Staff of the Commission

- (1) The Commission may appoint members of staff.
- (2) A member of staff is not to be appointed for a term exceeding 5 years and is eligible for reappointment.
- (3) The staff are not to be employed under Part 3 of the *Public Sector Management Act 1994*.
- (4) The power conferred by subsection (1) includes powers to determine remuneration and other terms and conditions of service of staff, to remove, suspend and discipline staff and to terminate the employment of staff.
- (5) The remuneration of and other terms and conditions of employment of staff are not to be less favourable than is provided for in —
 - (a) an applicable award, order or agreement under the *Industrial Relations Act 1979*; or
 - (b) the *Minimum Conditions of Employment Act 1993*.

26. Service as public service officer

- (1) If a public service officer is appointed to the staff of the Commission under section 25, that person is entitled to retain all his or her accruing and existing rights, including any rights under the *Superannuation and Family Benefits Act 1938*, as if service as an officer of the Commission were a continuation of service as a public service officer.

- (2) If a person ceases to be an officer of the Commission and becomes a public service officer the service as an officer of the Commission is to be regarded as service in the Public Service for the purpose of determining that person's rights as a public service officer and, if applicable, for the purposes of the *Superannuation and Family Benefits Act 1938*.
- (3) If —
- (a) an officer of the Commission was immediately before his or her appointment under section 25 a permanent officer under Part 3 of the *Public Sector Management Act 1994*; and
 - (b) that person ceases to be an officer of the Commission for a reason other than dismissal for substandard performance, breach of discipline or misconduct,
- that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment under section 25.

27. Secondment of staff and use of facilities

- (1) The Commission may arrange for any officer or employee —
- (a) in the Public Service;
 - (b) in a State agency; or
 - (c) otherwise in the service of the State,
- to be seconded or otherwise engaged to assist the Commission.
- (2) The Commission may arrange for —
- (a) an officer or employee of a body or authority of another State, a Territory or the Commonwealth or otherwise in the service of another State, a Territory or the Commonwealth;
 - (b) a member of the Australian Federal Police Force;
 - (c) a member of the Police Force of another State or Territory; or

- (d) a member of the Police Force of another country,
to be seconded or otherwise engaged to assist the Commission.
- (3) A person seconded or engaged under subsection (1) or (2) is subject to the control and direction of the Commission and is not subject to the control and direction of any other employing authority.
- (4) The Commission may by arrangement make use of the facilities of a department of the Public Service or a State agency.
- (5) The Commission may by arrangement make use of the facilities of a body or authority of another State, a Territory or the Commonwealth.
- (6) An arrangement under subsection (1) or (4) (other than an arrangement in relation to staff or facilities of the Police Force) is to be made with the relevant employing authority on terms agreed by the parties.
- (7) An arrangement under subsection (1) or (4) in relation to staff or facilities of the Police Force is to be made with the Commissioner of Police on terms agreed by the parties.
- (8) An arrangement under subsection (2) or (5) is to be made with the relevant body or authority on terms agreed by the parties.

28. Engagement of service providers

- (1) The Commission may engage suitably qualified persons to provide the Commission with services, information or advice.
- (2) A person engaged under subsection (1) is engaged on the terms and conditions decided by the Commission.

29. Oath or affirmation

- (1) Before commencing duties as an officer of the Commission, the officer must take an oath or affirmation that, except in accordance with this Act, the officer will not disclose any information received by the officer under this Act.

- (2) The oath or affirmation is to be administered by the Commissioner.

30. Authorised officers

- (1) In this section —
“authorised officer” means —
- (a) the Commissioner; and
 - (b) an officer of the Commission appointed under subsection (2).
- (2) The Commission may appoint an officer of the Commission as an authorised officer.
- (3) An authorised officer has and may perform all of the functions that a special constable appointed under section 35A of the *Police Act 1892* has and may perform under any law of the State.
- (4) An authorised officer has and may perform the functions referred to in subsection (3) only when acting in his or her capacity as an officer of the Commission.
- (5) Section 8(1)(d)(i) of the *Firearms Act 1973* applies to an authorised officer when acting in his or her capacity as an officer of the Commission as if the authorised officer were a member of the Police Force.
- (6) This section does not operate to subject an authorised officer to the control and direction of the Commissioner of Police or any other police officer when the authorised officer is acting in his or her capacity as an officer of the Commission.

Division 2 — Financial provisions

31. Funds of Commission

- (1) The funds available for the purpose of enabling the Commission to perform its functions consist of —
 - (a) moneys from time to time appropriated by Parliament and paid to the Commission; and
 - (b) any moneys, other than moneys referred to in paragraph (a), lawfully received by, made available to or payable to the Commission.
- (2) The funds referred to in subsection (1) are to be credited to an account called the “Corruption and Crime Commission Fund” held as part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*.
- (3) The funds recorded as standing to the credit of the Fund are to be applied to —
 - (a) the remuneration and allowances payable to officers of the Commission;
 - (b) moneys payable under an arrangement referred to in section 27;
 - (c) expenditure incurred by the Commission in the performance of its functions; and
 - (d) all expenditure, other than expenditure referred to in paragraphs (a), (b) and (c), lawfully incurred by the Commission for the purposes of, or in meeting the costs and expenses of the administration of, this Act.

32. Application of *Financial Administration and Audit Act 1985*

Subject to section 31, the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commission and its operations.

Part 5 — Parliamentary Inspector of the Corruption and Crime Commission

Division 1 — Office of Parliamentary Inspector of the Corruption and Crime Commission

33. Parliamentary Inspector of the Corruption and Crime Commission

- (1) An office called the Parliamentary Inspector of the Corruption and Crime Commission is established.
- (2) The office is not an office in the Public Service.
- (3) The office is not, and is not to become, an SES organisation under the *Public Sector Management Act 1994*.

34. Appointment of Parliamentary Inspector

- (1) The Parliamentary Inspector is to be appointed by the Governor, by commission under the Public Seal of the State.
- (2) Before an appointment is made under subsection (1) the Premier is to consult with the Parliamentary leader of each party in the Parliament.
- (3) The Parliamentary Inspector is to hold office in accordance with this Act.

35. Qualifications for appointment

- (1) In subsection (2) —
“**legal experience**” means —
 - (a) standing and practice in the State as a legal practitioner;
 - (b) standing and practice in another State or a Territory as a barrister or solicitor of the Supreme Court of that State or Territory;

- (c) judicial services (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or
 - (d) a combination of 2 or more kinds of legal experience defined in this section.
- (2) A person is eligible for appointment as Parliamentary Inspector if that person —
- (a) is or has been a legal practitioner and has had not less than 8 years legal experience; or
 - (b) is a practising barrister of the High Court of Australia and has had not less than 8 years legal experience.

36. Terms and conditions of service

Schedule 2 has effect with respect to the tenure, remuneration and conditions of service of the Parliamentary Inspector and the other matters provided for in that Schedule.

37. Removal or suspension of Parliamentary Inspector

- (1) The Parliamentary Inspector may, at any time, be suspended or removed from office by the Governor on addresses from both Houses of Parliament.
- (2) If the Governor is satisfied that the Parliamentary Inspector —
- (a) is incapable of properly performing the duties of office;
 - (b) has shown himself or herself incompetent properly to perform, or has neglected, those duties; or
 - (c) has been guilty of misconduct,

the Governor may suspend the Parliamentary Inspector from office.

- (3) If the Parliamentary Inspector has been suspended from office under subsection (2) the Parliamentary Inspector is to be restored to office unless —
- (a) a statement of the grounds of the 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 the removal of the Parliamentary Inspector from office.

38. Acting appointment

- (1) The Governor may appoint a person who is eligible for appointment as Parliamentary Inspector to act in the office of Parliamentary Inspector —
- (a) during a vacancy in that office;
 - (b) during any period or during all periods when the person holding the office of Parliamentary Inspector, or a person appointed under this subsection, is unable to perform the functions of that office or is absent from the State; or
 - (c) in relation to any matter in respect of which the person holding the office of Parliamentary Inspector, or a person appointed under this subsection, has under section 40(3) declared himself or herself unable to act.
- (2) An appointment under this section —
- (a) may be made at any time and may be terminated at any time by the Governor; and
 - (b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.
- (3) Subject to this Act, the terms and conditions of appointment, including remuneration and other entitlements, of a person

acting under this section are to be as determined from time to time by the Governor.

- (4) A person acting under this section for the reason mentioned in subsection (1)(c) may perform functions of the Parliamentary Inspector in relation to the matter for which he or she is appointed even though the Parliamentary Inspector is at the same time performing other functions of the office.
- (5) If a person is acting under this section for the reason mentioned in subsection (1)(c), a reference to the Parliamentary Inspector in a provision of this Act that is relevant to the performance by that person of a function of the Parliamentary Inspector in relation to the matter for which that person is appointed includes a reference to that person.
- (6) The validity of anything done by or in relation to a person purporting to act under this section is not to be called into question on the ground that —
 - (a) the occasion for an appointment under this section had not arisen;
 - (b) there is a defect or irregularity in the appointment;
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

39. Oath or affirmation of office

- (1) Before beginning to perform the functions of the office of Parliamentary Inspector a person is to take an oath or make an affirmation that he or she —
 - (a) will faithfully and impartially perform the functions of the office; and
 - (b) will not, except in accordance with this Act, disclose any information received under this Act.
- (2) The oath or affirmation is to be administered by a Judge.

Division 2 — Functions of the Parliamentary Inspector

40. Functions

- (1) The Parliamentary Inspector has the following functions —
 - (a) to audit the operations of the Commission for the purpose of monitoring compliance with the laws of the State;
 - (b) to deal with matters of misconduct on the part of the Commission, officers of the Commission and officers of the Parliamentary Inspector;
 - (c) to assess the effectiveness and appropriateness of the Commission's procedures;
 - (d) to make recommendations to the Commission, independent agencies and appropriate authorities;
 - (e) to report and make recommendations to Parliament and Standing Committees;
 - (f) to perform any other function given to the Parliamentary Inspector under this or another Act.
- (2) The functions of the Parliamentary Inspector may be performed —
 - (a) on the Parliamentary Inspector's own initiative;
 - (b) at the request of the Minister;
 - (c) in response to a matter reported to the Parliamentary Inspector; or
 - (d) in response to a reference by Parliament, a Standing Committee or the Commission.
- (3) The Parliamentary Inspector may declare himself or herself unable to act in respect of a particular matter by reason of an actual or potential conflict of interest.
- (4) The Commission is not to exercise any of its powers in relation to the Parliamentary Inspector.

Division 3 — Disclosure

41. Restriction on disclosure generally

Section 18 applies to any matters relating to the Parliamentary Inspector as if a reference in that section to the Commission were a reference to the Parliamentary Inspector.

42. Disclosure by Parliamentary Inspector or officer

(1) In this section —

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions;

“official information”, in relation to a relevant person, means information acquired by the person by reason of, or in the course of, the performance of the person’s functions under this Act;

“produce” includes permit access to;

“relevant person” means a person who is or was —

- (a) the Parliamentary Inspector; or
- (b) an officer of the Parliamentary Inspector.

(2) Subject to subsections (3), (4) and (6) a relevant person must not, either directly or indirectly —

- (a) make a record of official information; or
- (b) disclose any official information.

Penalty: Imprisonment for 3 years and a fine of \$60 000.

(3) Despite subsection (2), a relevant person may make a record of official information —

- (a) under or for the purposes of this Act;
- (b) otherwise in connection with the performance of the person’s functions under this Act.

- (4) Despite subsection (2), official information may be disclosed by a relevant person if it is disclosed —
- (a) under or for the purposes of this Act;
 - (b) for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act or any other prosecution or disciplinary action in relation to misconduct;
 - (c) to either House of Parliament or to a Standing Committee;
 - (d) to any prescribed authority or person; or
 - (e) otherwise in connection with the performance of the person's functions under this Act.
- (5) A relevant person is not authorised to disclose operational information under subsection (4)(c) or (d) unless —
- (a) that operational information arises from a matter relating to misconduct reported, notified or referred to the Parliamentary Inspector; and
 - (b) the Parliamentary Inspector has certified that disclosure is necessary in the public interest.
- (6) Despite subsection (2), a relevant person may disclose —
- (a) the fact that an allegation has been received or initiated by the Commission or the details of an allegation; or
 - (b) the fact that a matter relating to misconduct has been reported, notified or referred to the Parliamentary Inspector or the details of the matter.
- (7) A relevant person cannot be required to produce or disclose any official information in or to any court except for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act.

43. Disclosure by other officials

(1) In this section —

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to.

(2) This section applies to information if, in circumstances referred to in section 42(4), it is disclosed to an authority or person for use in connection with the performance of a function of the authority or person under a written law.

(3) The authority or person, or any person or employee under the control of the authority or person —

(a) must not, either directly or indirectly —

(i) make a record of information to which this section applies; or

(ii) disclose any information to which this section applies,

except for the purpose for which it was disclosed to the authority or person; and

(b) cannot be required to produce or disclose the information in or to any court except for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act.

Penalty, for a contravention of paragraph (a): Imprisonment for 3 years and a fine of \$60 000.

(4) Subsection (2) does not prevent the disclosure of —

(a) the fact that an allegation has been received or initiated by the Commission or the details of an allegation; or

(b) the fact that a matter relating to misconduct has been reported, notified or referred to the Parliamentary Inspector or the details of the matter.

Division 4 — Staff

44. Staff of the Parliamentary Inspector

- (1) The Parliamentary Inspector may appoint members of staff.
- (2) A member of staff is not to be appointed for a term exceeding 5 years and is eligible for reappointment.
- (3) The staff are not to be employed under Part 3 of the *Public Sector Management Act 1994*.
- (4) The power conferred by subsection (1) includes powers to determine remuneration and other terms and conditions of service of staff, to remove, suspend and discipline staff and to terminate the employment of staff.
- (5) The remuneration of and other terms and conditions of employment of staff are not to be less favourable than is provided for in —
 - (a) an applicable award, order or agreement under the *Industrial Relations Act 1979*; or
 - (b) the *Minimum Conditions of Employment Act 1993*.

45. Service as public service officer

- (1) If a public service officer is appointed to the staff of the Parliamentary Inspector under section 44, that person is entitled to retain all his or her accruing and existing rights, including any rights under the *Superannuation and Family Benefits Act 1938*, as if service as an officer of the Parliamentary Inspector were a continuation of service as a public service officer.
- (2) If a person ceases to be an officer of the Parliamentary Inspector and becomes a public service officer the service as an officer of the Parliamentary Inspector is to be regarded as service in the Public Service for the purpose of determining that person's rights as a public service officer and, if applicable, for the purposes of the *Superannuation and Family Benefits Act 1938*.

(3) If —

- (a) an officer of the Parliamentary Inspector was immediately before his or her appointment under section 44 a permanent officer under Part 3 of the *Public Sector Management Act 1994*; and
- (b) that person ceases to be an officer of the Parliamentary Inspector for a reason other than dismissal for substandard performance, breach of discipline or misconduct,

that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment under section 44.

46. Secondment of staff and use of facilities

(1) The Parliamentary Inspector may arrange for any officer or employee —

- (a) in the Public Service;
- (b) in a State agency; or
- (c) otherwise in the service of the State,

to be seconded or otherwise engaged to assist the Parliamentary Inspector.

(2) The Parliamentary Inspector may arrange for —

- (a) a member of the Australian Federal Police Force;
- (b) a member of the Police Force of another State or Territory; or
- (c) a member of the Police Force of another country,

to be seconded or otherwise engaged to assist the Parliamentary Inspector.

(3) A person seconded or engaged under subsection (1) or (2) is subject to the control and direction of the Parliamentary Inspector and is not subject to the control and direction of any other employing authority.

- (4) The Parliamentary Inspector may by arrangement make use of the facilities of a department of the Public Service or a State agency.
- (5) An arrangement under subsection (1) or (4) (other than an arrangement in relation to staff or facilities of the Police Force) is to be made with the relevant employing authority on terms agreed by the parties.
- (6) An arrangement under subsection (1) or (4) in relation to staff or facilities of the Police Force is to be made with the Commissioner of Police on terms agreed by the parties.
- (7) An arrangement under subsection (2) is to be made with the relevant authority on terms agreed by the parties.

47. Engagement of service providers

- (1) The Parliamentary Inspector may engage suitably qualified persons to provide the Parliamentary Inspector with services, information or advice.
- (2) A person engaged under subsection (1) is engaged on the terms and conditions decided by the Parliamentary Inspector.

48. Oath or affirmation

- (1) Before commencing duties as an officer of the Parliamentary Inspector, the officer must take an oath or affirmation that, except in accordance with this Act, the officer will not disclose any information received by the officer under this Act.
- (2) The oath or affirmation is to be administered by the Parliamentary Inspector.

Division 5 — Financial provisions

49. Funds of Parliamentary Inspector

- (1) The funds available for the purpose of enabling the Parliamentary Inspector to perform his or her functions consist of —

Corruption and Crime Commission Act 2003

Part 5 Parliamentary Inspector of the Corruption and Crime

Division 5 Financial provisions

s. 50

- (a) moneys from time to time appropriated by Parliament and paid to the Parliamentary Inspector; and
 - (b) any moneys, other than moneys referred to in paragraph (a), lawfully received by, made available to or payable to the Parliamentary Inspector.
- (2) The funds referred to in subsection (1) are to be credited to an account called the “Parliamentary Inspector of the Corruption and Crime Commission Fund” held as part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*.
- (3) The funds recorded as standing to the credit of the Fund are to be applied to —
- (a) the remuneration and allowances payable to officers of the Parliamentary Inspector;
 - (b) moneys payable under an arrangement referred to in section 46;
 - (c) expenditure incurred by the Parliamentary Inspector in the performance of his or her functions; and
 - (d) all expenditure, other than expenditure referred to in paragraphs (a), (b) and (c), lawfully incurred by the Parliamentary Inspector for the purposes of, or in meeting the costs and expenses of the administration of, this Part.

50. Application of *Financial Administration and Audit Act 1985*

Subject to section 49, the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Parliamentary Inspector and his or her operations.

Part 6 — Other matters

51. Facilitating proof of certain things

- (1) In all legal proceedings the production of —
 - (a) a document purporting to be signed by the Governor and to be sealed with the Public Seal of the State and purporting to appoint a person to be the Commissioner or the Parliamentary Inspector; or
 - (b) a document purporting to be a copy of a document described in paragraph (a) and certified in writing to be a true copy of it by a person purporting to be a person named in the document as the Commissioner or the Parliamentary Inspector,

is evidence that the Governor has appointed any person described in that document as the Commissioner or the Parliamentary Inspector, as the case requires.

- (2) A transcript of proceedings before the Commission or the Parliamentary Inspector that has been certified by the Commission or the Parliamentary Inspector, as the case requires, to be a correct transcript is sufficient evidence of the proceedings and any statement or disclosure made in those proceedings.

52. Disclosure of interests

- (1) A person who is an officer of the Commission and who has a material personal interest in a matter in respect of which the Commission is performing its functions must, as soon as possible after the relevant facts have come to the knowledge of the person, disclose the nature of the interest to the Commission.

Penalty: Imprisonment for 3 years and a fine of \$60 000.

- (2) The Commission is to ensure that a person who has disclosed an interest in a matter under subsection (1) is not involved in considering, inquiring into or investigating that matter unless

the Commission is satisfied that the involvement of the person would not prejudice the consideration, inquiry or investigation of the matter.

- (3) A person who is an officer of the Parliamentary Inspector and who has a material personal interest in a matter in respect of which the Parliamentary Inspector is performing his or her functions must, as soon as possible after the relevant facts have come to the knowledge of the person, disclose the nature of the interest to the Parliamentary Inspector.

Penalty: Imprisonment for 3 years and a fine of \$60 000.

- (4) The Parliamentary Inspector is to ensure that a person who has disclosed an interest in a matter under subsection (3) is not involved in considering, inquiring into or investigating that matter unless the Parliamentary Inspector is satisfied that the involvement of the person would not prejudice the consideration, inquiry or investigation of the matter.

53. Protection against liability

- (1) In this section —

“official” means —

- (a) an officer of the Commission;
 - (b) a person acting under the direction of an officer of the Commission;
 - (c) an officer of the Parliamentary Inspector;
 - (d) a person acting under the direction of an officer of the Parliamentary Inspector.
- (2) An action in tort does not lie against the State, a Minister, the Commission, the Parliamentary Inspector or an official for anything done, in good faith, in the performance or purported performance of a function under this Act or any other written law.
- (3) The protection given by subsection (2) applies even though the thing done as described in that subsection may have been

capable of being done whether or not this Act or any other written law had been enacted.

- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

54. Protections as to allegations and information

- (1) In this section —

“allegation” includes any matter reported, notified or referred to the Parliamentary Inspector.

- (2) If an allegation has been made to the Commission or the Parliamentary Inspector or any information has been given to the Commission or the Parliamentary Inspector no civil or criminal liability, other than liability under this Act, attaches to a person by reason that the allegation was made or the information was given.

- (3) If a Minister or an independent agency discloses, in good faith —

- (a) the fact that the Commission has received or initiated an allegation or the details of an allegation; or
(b) the fact that the Parliamentary Inspector has received an allegation or the details of an allegation received by the Parliamentary Inspector,

no civil or criminal liability attaches to the State, a Minister or an independent agency by reason of that disclosure.

- (4) If —

- (a) the principal officer of a notifying authority; or
(b) the officer constituting a notifying authority,

discloses, in good faith, the fact that the officer has made an allegation to the Commission or the details of an allegation that the officer has made to the Commission, no civil or criminal liability attaches to the State, a Minister, the notifying authority or the principal officer or officer by reason of that disclosure.

55. Protection for compliance with this Act

- (1) No civil or criminal liability, other than liability under this Act, attaches to a person for compliance, or purported compliance in good faith, with a requirement made under this Act.
- (2) In particular, if a person produced a document or thing under a notice or summons under this Act, no civil liability attaches to the person for producing the document or thing, whether the liability would arise under a contract or otherwise.

56. Proceedings for defamation not to lie

No action or proceeding, civil or criminal, lies against the State, against a Minister, or against a person employed or engaged by the State, in respect of the printing or publishing of a transcript of an examination or inquiry or a report of, or a recommendation made by, the Commission or the Parliamentary Inspector.

57. Privilege, protection or immunity not limited or abridged

Sections 53 to 56 do not limit or abridge any privilege, protection or immunity existing apart from those sections.

58. Records

- (1) The Commission is to cause records to be kept of any investigation, including transcripts of all examinations before the Commission.
- (2) The Commission is to keep any records and other things of the Police Royal Commission, the A-CC or the Parliamentary Commissioner that are transferred to the Commission by that body or person or under this Act.

- (3) The Commission may make any order considered to be appropriate, in accordance with the *State Records Act 2000*, as to —
 - (a) who can have a copy of any of the records and on what conditions;
 - (b) how records are to be dealt with when an investigation is complete.
- (4) If, after the completion of an investigation, any question arises as to how any records should be dealt with, the question is to be referred to the State Records Commission which may order that any record be dealt with as the State Records Commission considers appropriate in accordance with the *State Records Act 2000*.
- (5) For the purposes of the *State Records Act 2000* any records that are transferred to the custody of the Director of State Records as State archives, are to be treated by the Director as restricted access archives unless the Attorney General requests otherwise.

59. Execution of documents by Commission

- (1) The Commission is to have a common seal.
- (2) A document is duly executed by the Commission if —
 - (a) the common seal of the Commission is affixed to it in accordance with subsections (3) and (4); or
 - (b) it is signed on behalf of the Commission by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Commission is not to be affixed to any document except as authorised by the Commission.
- (4) The common seal of the Commission is to be affixed to a document in the presence of the Commissioner, who is to sign the document to attest that the common seal was so affixed.

s. 60

- (5) The Commission may, by writing under its common seal, authorise an officer of the Commission to sign documents on behalf of the Commission, either generally or subject to conditions or restrictions specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Commission, it is to be presumed that the seal is the common seal of the Commission unless the contrary is shown.

60. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years after its commencement.
- (2) The Minister is to prepare a report based on the review made under subsection (1) and cause the report to be laid before each House of Parliament within 6 years after the commencement of this Act.

61. Regulations

The Governor may make regulations 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 purposes of this Act.

Part 7 — Consequential amendments

62. Other Acts amended

Schedule 3 Division 1 has effect.

**Schedule 1 — Terms and conditions of service
of Commissioner**

[s. 9]

1. Tenure of office

Subject to this Act, the Commissioner holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment, and is eligible for reappointment.

2. Terms of appointment

- (1) The Commissioner is to be appointed on a full-time basis.
- (2) The Commissioner must not, except in so far as authorised to do so by the Governor, hold any office of profit or trust (other than office as Commissioner) or engage in any occupation for reward outside the duties of the office of Commissioner.
- (3) Section 52 of the *Interpretation Act 1984* does not apply to the office of Commissioner.

3. Remuneration, leave and entitlements

- (1) The Commissioner is entitled to be paid remuneration and to receive allowances or reimbursements at the same rate as a Puisne Judge of the Supreme Court.
- (2) The Commissioner is entitled to the same conditions in respect of leave of absence as a Judge of the Supreme Court.
- (3) The provisions of the *Judges' Salaries and Pensions Act 1950* that relate to pensions apply, with such modifications as circumstances require, to and in relation to —
 - (a) the Commissioner; and
 - (b) after the Commissioner's death, the Commissioner's spouse or defacto partner and children,

as they apply to and in relation to a Judge of the Supreme Court appointed after the commencement of that Act and to and in relation to the spouse or defacto partner and children of a Judge of the

Supreme Court after that Judge's death, and for that purpose "Judge" in that Act include the Commissioner.

- (4) Subclause (1) has effect subject to subclause (5) of this clause and clause 4.
- (5) If the Commissioner is receiving a non-contributory pension under the *Judges' Salaries and Pensions Act 1950* or any other Act, or under a law of the Commonwealth or of another State or Territory, the Commissioner is to be paid the difference between that pension and the remuneration payable under subclause (1), in lieu of the full amount of that remuneration.
- (6) The remuneration payable to the holder of the office of Commissioner is to be charged to the Consolidated Fund which, to the necessary extent, is by this clause appropriated accordingly.

4. Provisions where Commissioner was Judge

- (1) If a person who, immediately before appointment to the office of Commissioner, was a Judge of the Supreme Court, is appointed as Commissioner, that person is to be paid the same remuneration and have the same other rights or privileges as if the person had continued to be the holder of that judicial office.
- (2) For the purposes of the *Judges' Salaries and Pensions Act 1950*, the service as Commissioner of a former judge is taken to be service as the holder of the same judicial office as the office that person held before appointment as Commissioner.
- (3) The person's service as Commissioner is, for all purposes, taken to be service as the holder of that judicial office.
- (4) If the term of office of a former judge who was a Judge of the Supreme Court expires by effluxion of time and he or she is not reappointed as Commissioner, that person is entitled to be appointed as a Judge of the Supreme Court.
- (5) If the term of office of a former judge who was a Judge of the District Court expires by effluxion of time and he or she is not reappointed as Commissioner, that person is entitled to be appointed as a Judge of the District Court.

- (6) In this clause —
“**former Judge**” means a person who, immediately before appointment to the office of Commissioner, was a Judge of the Supreme Court or the District Court.

5. Provisions where Commissioner was public service officer

- (1) If a public service officer is appointed as Commissioner, that person is entitled to retain all his or her accruing and existing rights, including any rights under the *Superannuation and Family Benefits Act 1938*, as if service as Commissioner were a continuation of service as a public service officer.
- (2) If a person ceases to be Commissioner and becomes a public service officer, the service as Commissioner is to be regarded as service in the Public Service for the purposes of determining that person’s rights as a public service officer and, if applicable, for the purposes of the *Superannuation and Family Benefits Act 1938*.
- (3) If —
- (a) the Commissioner immediately before his or her appointment as Commissioner occupied an office under Part 3 of the *Public Sector Management Act 1994*; and
 - (b) his or her term of office expires by effluxion of time and he or she is not reappointed as Commissioner,

that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment as Commissioner.

6. Resignation

The Commissioner may, at any time, by instrument in writing addressed to the Governor, resign the office of Commissioner, and on receipt of the resignation by the Governor, the Commissioner is to vacate the office of Commissioner.

7. Vacancy

The office of Commissioner becomes vacant if the Commissioner —

- (a) dies;

- (b) resigns the office under clause 6;
- (c) becomes a police officer;
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) is removed from office under section 10.

Schedule 2 — Terms and conditions of service of Parliamentary Inspector

[s. 36]

1. Tenure of office

Subject to this Act, the Parliamentary Inspector holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment, and is eligible for reappointment.

2. Terms of appointment

- (1) The Parliamentary Inspector may be appointed on either a full-time or part-time basis.
- (2) If the Parliamentary Inspector is appointed on a full-time basis, the Parliamentary Inspector must not, except in so far as authorised to do so by the Governor, hold any office of profit or trust (other than office as Parliamentary Inspector) or engage in any occupation for reward outside the duties of the office of Parliamentary Inspector.
- (3) Section 52 of the *Interpretation Act 1984* does not apply to the office of Parliamentary Inspector.

3. Remuneration, leave and entitlements

- (1) The Parliamentary Inspector is to be paid remuneration at such rate as the Governor may determine.
- (2) Subclause (1) has effect subject to —
 - (a) subclause (4) of this clause and clause 4; and
 - (b) the *Salaries and Allowances Act 1975*.
- (3) The rate of remuneration of the Parliamentary Inspector is not to be reduced during the term of office of the Parliamentary Inspector without the consent of the Parliamentary Inspector.
- (4) If the Parliamentary Inspector is receiving a non-contributory pension under the *Judges' Salaries and Pensions Act 1950* or any other Act, or under a law of the Commonwealth or of another State or Territory, the Parliamentary Inspector is to be paid the difference between that pension and the remuneration payable under subclause (1), in lieu of the full amount of that remuneration.

- (5) The remuneration payable to the holder of the office of Parliamentary Inspector is to be charged to the Consolidated Fund which, to the necessary extent, is by this clause appropriated accordingly.
- (6) The Parliamentary Inspector is entitled to such leave of absence and other entitlements as the Governor determines.

4. Provisions where Parliamentary Inspector was Judge

- (1) If a person who, immediately before appointment to the office of Parliamentary Inspector, was a Judge of the Supreme Court or the District Court, is appointed as Parliamentary Inspector, that person is to be paid the same remuneration and have the same other rights or privileges as if the person had continued to be the holder of that judicial office.
- (2) For the purposes of the *Judges' Salaries and Pensions Act 1950*, the service as Parliamentary Inspector of a person referred to in subclause (1) is taken to be service as the holder of the same judicial office as the office that person held before appointment as Parliamentary Inspector.
- (3) The person's service as Parliamentary Inspector is, for all purposes, taken to be service as the holder of that judicial office.
- (4) If the term of office of a person referred to in subclause (1) who was a Judge of the Supreme Court expires by effluxion of time and he or she is not reappointed as Parliamentary Inspector, that person is entitled to be appointed as a Judge of the Supreme Court.
- (5) If the term of office of a person referred to in subclause (1) who was a Judge of the District Court expires by effluxion of time and he or she is not reappointed as Parliamentary Inspector, that person is entitled to be appointed as a Judge of the District Court.

5. Provisions where Parliamentary Inspector was public service officer

- (1) If a public service officer is appointed to the office of Parliamentary Inspector, that person is entitled to retain all his or her accruing and existing rights, including any rights under the *Superannuation and Family Benefits Act 1938*, as if service in the office of Parliamentary Inspector were a continuation of service as a public service officer.

Schedule 2 Terms and conditions of service of Parliamentary Inspector

(2) If a person ceases to hold the office of Parliamentary Inspector and becomes a public service officer, the service as Parliamentary Inspector is to be regarded as service in the Public Service for the purposes of determining that person's rights as a public service officer and, if applicable, for the purposes of the *Superannuation and Family Benefits Act 1938*.

(3) If —

- (a) the Parliamentary Inspector immediately before his or her appointment to the office of Parliamentary Inspector occupied an office under Part 3 of the *Public Sector Management Act 1994*; and
- (b) his or her term of office expires by effluxion of time and he or she is not reappointed as Parliamentary Inspector,

that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment as Parliamentary Inspector.

6. Resignation

The Parliamentary Inspector may, at any time, by instrument in writing addressed to the Governor, resign the office of Parliamentary Inspector and, on receipt of the resignation by the Governor, the Parliamentary Inspector is to vacate the office of Parliamentary Inspector.

7. Vacancy

The office of Parliamentary Inspector becomes vacant if the Parliamentary Inspector —

- (a) dies;
- (b) resigns the office under clause 6;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (d) is removed from office under section 37.

**Schedule 3 — Amendments to other Acts as a consequence
of enactment of *Corruption and Crime Commission
Act 2003***

[s. 62]

Division 1 — Amendments to other Acts

1. *Constitution Acts Amendment Act 1899* amended

- (1) The amendments in this clause are to the *Constitution Acts Amendment Act 1899**.

[* *Reprinted as at 8 June 2001.
For subsequent amendments see 2001 Index to Legislation of
Western Australia, Table 1, p. 72 and Acts Nos. 24 and 25 of 2001,
5, 20, 24 and 30 of 2002.*]

- (2) Schedule V Part 1 Division 2 is amended as follows:

- (a) by inserting after the item relating to the Clerk of the
Legislative Council the following item —

“

Commissioner appointed under the *Corruption and
Crime Commission Act 2003*.

”;

- (b) by inserting after the item relating to the Parliamentary
Commissioner for Administrative Investigations the
following item —

“

Parliamentary Inspector of the Corruption and Crime
Commission appointed under the *Corruption
and Crime Commission Act 2003*.

”.

2. *Court Security and Custodial Services Act 1999* amended

- (1) The amendment in this clause is to the *Court Security and Custodial Services Act 1999**.

[* *Reprinted as at 13 July 2001.*]

Schedule 3 Amendments to other Acts as a consequence of enactment of

- (2) Section 38(1) is amended by inserting before “the *Freedom of Information Act 1992*” —

“ the *Corruption and Crime Commission Act 2003*, ”.

3. The Criminal Code amended

- (1) The amendments in this clause are to *The Criminal Code**.

[* *Reprint 10 as at 7 February 2003 (see the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Act Compilation Act 1913).*]

- (2) Section 570(1) is amended as follows:

- (a) in the definition of “interview” by inserting before paragraph (a) the following paragraph —

“

(aa) an officer of the Corruption and Crime Commission; or

”;

- (b) by inserting after the definition of “lawyer” the following definition —

“

“officer of the Corruption and Crime Commission”
has the meaning given to “officer of the Commission” by section 3 of the *Corruption and Crime Commission Act 2003*;

”;

- (c) by inserting after the definition of “Parliamentary Commissioner” the following definition —

“

“Parliamentary Inspector” has the meaning given by section 3 of the *Corruption and Crime Commission Act 2003*;

”.

- (3) Section 570B(1) is amended as follows:
- (a) in the definition of “authorised person” by inserting before paragraph (e) the following paragraphs —
“
 - (dd) an officer of the Corruption and Crime Commission;
 - (de) the Parliamentary Inspector;”.
- (4) Section 570B(3a) is amended by inserting after paragraph (a) the following paragraphs —
“
 - (aa) an officer of the Corruption and Crime Commission;
 - (ab) the Parliamentary Inspector; or”.
- (5) Section 570B(4) is amended by inserting before “who supplies” —
“
an officer of the Corruption and Crime Commission or
the Parliamentary Inspector acting in the course of duty
”.
- (6) Section 570B(5) is amended by inserting before “or (e)” —
“ , (dd), (de) ”.
- (7) Section 570D(1) is amended in the definition of “admission” by inserting after “Police Force” —
“ or an officer of the Corruption and Crime Commission ”.
- (8) Section 570GA(1), (2) and (3) are each amended by inserting after “Commission” —
“ or the Corruption and Crime Commission ”.
- (9) Section 570GA(4) is amended in the definition of “interview” by inserting after “by” —
“ an officer of the Corruption and Crime Commission or ”.

Schedule 3 Amendments to other Acts as a consequence of enactment of

- (10) Section 570H(2) is amended by inserting after paragraph (a) the following paragraph —

“

- (aa) an officer of the Corruption and Crime Commission;

”.

4. *Financial Administration and Audit Act 1985 amended*

- (1) The amendments in this clause are to the *Financial Administration and Audit Act 1985**.

[* *Reprinted as at 16 September 2002.*

For subsequent amendments see Acts Nos. 30 and 38 of 2002.]

- (2) Schedule 1 is amended by inserting in the appropriate alphabetical positions the following items —

“

Corruption and Crime Commission
Parliamentary Inspector of the Corruption and Crime
Commission

”.

5. *Freedom of Information Act 1992 amended*

- (1) The amendments in this clause are to the *Freedom of Information Act 1992**.

[* *Reprinted as at 3 March 2000.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 144 and Act No. 21 of 2002.]

- (2) Schedule 2 is amended as follows:

- (a) by inserting after the item relating to the Auditor General the following item —

“ The Corruption and Crime Commission. ”;

- (b) by inserting before the item relating to the Parole Board the following item —

“

The Parliamentary Inspector of the Corruption and Crime Commission.

”.

6. *Juries Act 1957* amended

- (1) The amendments in this clause are to the *Juries Act 1957**.

[* *Reprinted as at 3 July 2000.*]

- (2) After section 56B(2)(b) the following paragraphs are inserted —

“

- (ba) to the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;
- (bb) to the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;

”.

- (3) After section 56C(2)(b) the following paragraphs are inserted —

“

- (ba) to the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;
- (bb) to the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;

”.

Schedule 3 Amendments to other Acts as a consequence of enactment of

- (4) After the Second Schedule Part 1 item 1(d) the following paragraphs are inserted —

“

- (da) Commissioner appointed under the *Corruption and Crime Commission Act 2003*;
- (db) Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;

”.

- (5) After the Second Schedule Part 1 item 2(i) the following paragraphs are inserted —

“

- (j) Officer of the Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003*;
- (ja) Officer of the Parliamentary Inspector of the Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003*;

”.

7. Prisons Act 1981 amended

- (1) The amendments in this clause are to the *Prisons Act 1981**.

[* *Reprinted as at 22 December 2000.*

For subsequent amendments see Act No. 10 of 2002.]

- (2) Section 15C(1) is amended by inserting before “the *Freedom of Information Act 1992*” —

“ the *Corruption and Crime Commission Act 2003*, ”.

- (3) After section 109I(5)(a) the following paragraph is inserted —

“

- (aa) a pending investigation, or an investigation or other action by the Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003*; or

”.

- (4) Section 109O(1) is amended by inserting before “the Director” —

“

the Corruption and Crime Commission, the
Parliamentary Inspector of the Corruption and Crime
Commission,

”.

- (5) Before section 109P(a) the following paragraph is inserted —

“

(aa) is disclosed to a person who is —

(i) the Corruption and Crime Commission;

(ii) a person who is an officer of the
Corruption and Crime Commission,

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

”.

- (6) Section 109P(b) is amended by inserting after “the functions of
either” —

“the Corruption and Crime Commission, ”.

8. *Public Interest Disclosure Act 2003* amended

- (1) The amendments in this clause are to the *Public Interest Disclosure
Act 2003**.

[* *Act No. 29 of 2003.*]

- (2) Section 3(1) is amended by inserting after the definition of
“Commissioner of Police” the following definition —

“

“Corruption and Crime Commission” has the
meaning given to “Commission” in section 3 of
the *Corruption and Crime Commission Act 2003*;

”.

Schedule 3 Amendments to other Acts as a consequence of enactment of

- (3) Section 5(3)(a) is amended by inserting after “Commission” —
“ or to the Corruption and Crime Commission ”.
- (4) Section 5(3)(d) is amended by deleting “Parliamentary Commissioner” and inserting instead —
“ Corruption and Crime Commission ”.
- (5) After section 11(2) the following subsection is inserted —
“
(3) To avoid doubt, it is declared that information that section 18, 19 or 20 of the *Corruption and Crime Commission Act 2003* prevents a person from disclosing is not to be given or disclosed under section 10.
”.
- (6) Section 12(1) is amended by inserting after “Commission” in both places where it occurs —
“ , the Corruption and Crime Commission ”.
- (7) Section 16(1) is amended as follows —
(a) by deleting “or” after paragraph (d);
(b) by deleting the full stop after paragraph (e) and inserting a semicolon instead;
(c) by inserting after paragraph (e) —
“
(f) the identifying disclosure is made in accordance with section 19 or 20 of the *Corruption and Crime Commission Act 2003*;
or
”.
- (8) Section 16(3) is amended as follows:
(a) by deleting the full stop after paragraph (f) and inserting a semicolon and “or” instead;

(b) by inserting after paragraph (f) —

“

(g) the disclosure is made in accordance with section 19 or 20 of the *Corruption and Crime Commission Act 2003*.

”.

(9) Section 24(1) is amended by inserting after “statement” —

“ to a proper authority ”.

(10) After section 24(1) the following subsection is inserted —

“

(1a) For the purposes of subsection (1) a statement is made to a proper authority if, were the statement truly a disclosure of public interest information, it is disclosed to a proper authority for the purposes of section 5(3).

”.

9. *Salaries and Allowances Act 1975* amended

(1) The amendments in this clause are to the *Salaries and Allowances Act 1975**.

[* *Reprinted as at 8 September 2000.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 335.]

(2) Section 7(1) is amended by inserting after “magistrates” —

“

and the Commissioner appointed under the *Corruption and Crime Commission Act 2003*, the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*

”.

10. *Spent Convictions Act 1988* amended

- (1) The amendments in this clause are to the *Spent Convictions Act 1988**.

[* *Reprinted as at 1 September 2000.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 348-9.]

- (2) The Table to Schedule 3 item 1 is amended by inserting after item 10A the following item —

“

- | | |
|---|------------------------------|
| 10B. A person — | Section 18 and Division 4 |
| (a) appointed as or being considered for appointment as the Commissioner under the <i>Corruption and Crime Commission Act 2003</i> ; | |
| (b) appointed as or being considered for appointment as the Parliamentary Inspector of the Corruption and Crime Commission under the <i>Corruption and Crime Commission Act 2003</i> ; | |
| (c) appointed as or being considered for appointment as an officer of the Corruption and Crime Commission under section 25 of the <i>Corruption and Crime Commission Act 2003</i> ; | |
| (d) seconded or otherwise engaged, or being considered for secondment or engagement, as an officer of the Corruption and Crime Commission under section 27 of the <i>Corruption and Crime Commission Act 2003</i> ; | |

- (e) engaged or being considered for engagement as an officer of the Corruption and Crime Commission under section 28 of the *Corruption and Crime Commission Act 2003*;
- (f) appointed as or being considered for appointment as an employee of the Parliamentary Inspector of the Corruption and Crime Commission under section 44 of the *Corruption and Crime Commission Act 2003*;
- (g) seconded or otherwise engaged, or being considered for secondment or engagement, as an officer of the Parliamentary Inspector of the Corruption and Crime Commission under section 46 of the *Corruption and Crime Commission Act 2003*;
- (h) engaged or being considered for engagement as an officer of the Parliamentary Inspector of the Corruption and Crime Commission under section 47 of the *Corruption and Crime Commission Act 2003*.

”.

11. *Witness Protection (Western Australia) Act 1996* amended

- (1) The amendments in this section are to the *Witness Protection (Western Australia) Act 1996**.

[* *Act No. 11 of 1996.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 419.]

Schedule 3 Amendments to other Acts as a consequence of enactment of

- (2) Section 3(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“Corruption and Crime Commission” has the meaning given to “Commission” in section 3 of the *Corruption and Crime Commission Act 2003*;

“officer of the Corruption and Crime Commission” has the meaning given to “officer of the Commission” in section 3 of the *Corruption and Crime Commission Act 2003*;

”.

- (3) Section 11(1)(c) is amended by inserting after “complain to” the following —

“ the Corruption and Crime Commission or ”.

- (4) After section 14(2) the following subsection is inserted —

“

- (2a) The Commissioner must permit the Corruption and Crime Commission, or an officer of the Corruption and Crime Commission, to have access to any part of the register, and to any documents kept in conjunction with it, that are relevant to an investigation under the *Corruption and Crime Commission Act 2003*.

”.

- (5) After section 34(2) the following subsection is inserted —

“

- (2a) Subject to subsection (3), nothing in this Act prevents the Corruption and Crime Commission from disclosing information in accordance with the *Corruption and Crime Commission Act 2003*.

”.

(6) Section 34(3) is amended as follows:

(a) by deleting “and (2)” and inserting instead —

“ , (2) and (2a) ”;

(b) by deleting “or by the Parliamentary Commissioner,” and inserting instead —

“

the Parliamentary Commissioner, or the Corruption and Crime Commission,

”.

=====

Defined Terms

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

| Defined Term | Provision(s) |
|--|--------------------------------|
| A-CC..... | 3 |
| allegation..... | 54(1) |
| authorised officer | 30(1) |
| Commission | 3 |
| Commission lawyer | 19(1) |
| Commissioner | 3 |
| Corruption and Crime Commission | Sch. 3, cl. 8(2), 3, cl. 11(2) |
| court | 19(1), 20(1), 42(1), 43(1) |
| disclose | 3 |
| legal experience | 8(1) |
| officer of the Commission | 3 |
| officer of the Corruption and Crime Commission | Sch. 3, cl. 3(2), 3, cl. 11(2) |
| officer of the Parliamentary Inspector | 3 |
| official..... | 53(1) |
| official information | 19(1), 42(1) |
| Parliamentary Inspector | 3, Sch. 3, cl. 3(2) |
| Police Royal Commission..... | 3 |
| prevention and education function | 15(1) |
| produce | 19(1), 20(1), 42(1), 43(1) |
| public officer..... | 3 |
| public service officer..... | 3 |
| record | 3, 16(1) |
| relevant person..... | 19(1), 42(1) |
| restricted | 18(1) |