



Western Australia

Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022

As at 19 Aug 2022

No. 25 of 2022
Published on www.legislation.wa.gov.au

Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022

Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Act amended	2

Part 2 — *Parliamentary Commissioner Act 1971* amended

Division 1 — General amendments

4.	Long title amended	3
5.	Section 4 amended	3
6.	Section 19A amended	4
7.	Part III Division 3B inserted	4

Division 3B — Reportable conduct scheme

Subdivision 1 — Preliminary

19C.	Terms used	4
19D.	Employees of relevant entities	7
19E.	Head of a relevant entity	8
19F.	Reportable allegation	9
19G.	Reportable conduct	10
19H.	Reportable conviction	11
19I.	Entities to which reportable conduct scheme applies	12
19J.	Object and principles	12
19K.	Paramount consideration	13
19L.	Certain provisions not applicable if entity is agent of Crown	13

Contents

Subdivision 2 — Role of Commissioner

19M.	Functions of Commissioner in relation to scheme	14
19N.	Commissioner may exempt conduct	15
19O.	Commissioner may exempt entities	15
19P.	Commissioner may exempt investigations	16
19Q.	Commissioner may approve head of relevant entity in certain circumstances	17

Subdivision 3 — Systems to deal with reportable conduct

19R.	Head of relevant entity must ensure systems in place	18
19S.	Commissioner may require information about systems	19

Subdivision 4 — Notice, investigation and reporting

19T.	Report of reportable allegation or reportable conviction	19
19U.	Head of relevant entity must notify Commissioner	20
19V.	Information may be disclosed to Commissioner or head of entity	22
19W.	Head of relevant entity must respond to reportable allegation or reportable conviction	23
19X.	Informing employee of certain matters and giving employee opportunity to make submissions	25
19Y.	Commissioner must be notified of matters affecting investigation	26
19Z.	Head of relevant entity must report outcome of investigation to Commissioner	27
19ZA.	Head of relevant entity must report outcome of investigation to employee if employee informed of investigation	29
19ZB.	Commissioner may conduct own investigation	29
19ZC.	Notice to head of relevant entity of Commissioner's investigation	32
19ZD.	Provisions relating to investigation under section 19ZB(1)(a)	32
19ZE.	Provision relating to investigation under section 19ZB(1)(b) or (c)	34
19ZF.	Application to State Administrative Tribunal for review	35
19ZG.	Concurrent investigations or proceedings	35

	Subdivision 5 — Disclosure of information	
	19ZH. Disclosure of information to child, parent, guardian or other person with parental responsibility	37
	19ZI. Commissioner may request information about reportable convictions	38
	19ZJ. Prohibition on publishing certain information	39
	Subdivision 6 — Review of amendments made by <i>Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022</i>	
	19ZK. Review of amendments made by <i>Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022</i>	40
8.	Section 19 amended	41
9.	Section 20 amended	41
10.	Section 21 amended	43
11.	Section 22A amended	43
12.	Section 22AA inserted	44
	22AA. Consultation in relation to reportable conduct scheme	44
13.	Section 22B amended	46
14.	Section 22C inserted	46
	22C. Disclosure of certain information in relation to reportable conduct scheme	46
15.	Section 23 amended	48
16.	Section 23A amended	50
17.	Section 25 amended	50
18.	Section 28 inserted	51
	28. Annual report to include report on reportable conduct scheme	51
19.	Section 29 amended	52
20.	Section 29A inserted	52
	29A. Delegation by Commissioner of Police	52
21.	Section 30AA inserted	53
	30AA. Protection from liability for giving information: reportable conduct scheme	53
22.	Section 30B amended	54
23.	Section 33 replaced	55
	33. Regulations	55
24.	Schedule 1 amended	55

Contents

25.	Schedule 2 inserted	56
	Schedule 2 — Relevant entities to which this Act applies	
	Division 2 — Additional amendments	
26.	Section 19G amended	57
27.	Schedule 2 amended	58



Western Australia

Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022

No. 25 of 2022

An Act to amend the *Parliamentary Commissioner Act 1971*.

[Assented to 19 August 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1— on the day on which this Act receives the Royal Assent;
- (b) Part 2 Division 2 — on the day after the period of 12 months beginning on the day on which section 7 comes into operation;
- (c) the rest of the Act — on a day fixed by proclamation.

3. Act amended

This Act amends the *Parliamentary Commissioner Act 1971*.

Part 2 — *Parliamentary Commissioner Act 1971* amended

Division 1 — General amendments

4. Long title amended

In the long title delete “**authorities and to the deaths of certain children**” and insert:

authorities, to the deaths of certain children and to the reportable conduct scheme

5. Section 4 amended

In section 4 insert in alphabetical order:

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

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

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

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;

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;

6. Section 19A amended

In section 19A(1) delete the definition of *CCS Act*.

7. Part III Division 3B inserted

After Part III Division 3A insert:

Division 3B — Reportable conduct scheme

Subdivision 1 — Preliminary

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).

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.

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).

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.

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;
 - (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.

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 unsoundness of mind or an acquittal following 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.

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).

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.

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.

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.

Subdivision 2 — Role of Commissioner

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.

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.

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.

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.

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).

Subdivision 3 — Systems to deal with reportable conduct

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.

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.

Subdivision 4 — Notice, investigation and reporting

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.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Subdivision 5 — Disclosure of information

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.

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).

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.

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

**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.

8. Section 19 amended

After section 19(8) insert:

- (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.

9. Section 20 amended

- (1) In section 20(2A) after “investigation” insert:

by the Commissioner

(2) After section 20(2A) insert:

(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.

(3) In section 20(2B):

(a) delete “Crown or any authority to which this Act applies” and insert:

Crown, any authority to which this Act applies or a relevant entity

(b) delete “such investigation” insert:

investigation by the Commissioner under this Act

(4) In section 20(3):

(a) delete “(2A) and (2B), a person is not compelled for the purposes of an investigation” and insert:

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

(b) delete “he” and insert:

the person

10. Section 21 amended

(1) In section 21 delete “For” and insert:

(1) For

(2) At the end of section 21 insert:

(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.

11. Section 22A amended

In section 22A(1) delete “concerning any complaint under this Act or any investigation under this Act.” and insert:

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.

Note: The heading to amended section 22A is to read:

Consultation other than in relation to reportable conduct scheme

12. Section 22AA inserted

After section 22A insert:

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).

13. Section 22B amended

In section 22B:

- (a) after “this Act” insert:

(other than an investigation conducted for the purposes of the reportable conduct scheme)

- (b) in paragraph (e)(ii) delete “Commissioner,” and insert:

Commissioner for Children and Young People,

Note: The heading to amended section 22B is to read:

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

14. Section 22C inserted

After section 22B insert:

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.

15. Section 23 amended

- (1) In section 23(1):

- (a) after “an investigation” (1st occurrence) insert:

by the Commissioner

- (b) in paragraph (c) delete “section 22A or 22B.” and insert:

Division 3B or section 22A, 22AA, 22B or 22C(2).

- (2) In section 23(1a) delete “relates, and a person to whom such a direction is given shall” and insert:

relates or any other purpose specified in the direction, and a person to whom such a direction is given must

(3) In section 23(1b):

(a) delete “his opinion,” and insert:

the Commissioner’s opinion,

(b) delete “applies or of any person,” and insert:

applies, of any person or of the proper operation of the
reportable conduct scheme,

(4) In section 23(1d)(a) delete “department or authority” and insert:

department, authority or relevant entity

(5) In section 23(1e):

(a) delete “he shall,” and insert:

the Commissioner must,

(b) after section 23(1e)(a) insert:

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

(c) delete “before him” and insert:

before the Commissioner

16. Section 23A amended

(1) In section 23A delete “Any” and insert:

(1) Any

(2) At the end of section 23A insert:

(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).

Note: The heading to amended section 23A is to read:

Certain documents sent to or by Commissioner not admissible

17. Section 25 amended

After section 25(7) insert:

(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).

18. Section 28 inserted

At the end of Part III Division 5 insert:

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.

19. Section 29 amended

After section 29(2) insert:

- (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.

20. Section 29A inserted

After section 29 insert:

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.

21. Section 30AA inserted

After section 30A insert:

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.

22. Section 30B amended

After section 30B(1)(e) insert:

- (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

23. Section 33 replaced

Delete section 33 and insert:

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.

24. Schedule 1 amended

In Schedule 1 delete the item relating to the *State Administrative Tribunal Act 2004*.

25. Schedule 2 inserted

After Schedule 1 insert:

Schedule 2 — Relevant entities to which this Act applies

[s. 19I]

Column 1	Column 2
Public bodies	A department. An authority.
Providers of education services	A school as defined in the <i>School Education Act 1999</i> section 4. A college or other vocational education and training institution as those terms are defined in the <i>Vocational Education and Training Act 1996</i> section 5(1). A registered training provider as defined in the <i>Vocational Education and Training Act 1996</i> 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 <i>Higher Education Act 2004</i> section 3.
Providers of health services	A health service provider as defined in the <i>Health Services Act 2016</i> section 6. A private hospital service provider as defined in the <i>Private Hospitals and Health Services Act 1927</i> section 2(1).

Column 1

Column 2

	A provider of a mental health service as defined in the <i>Mental Health Act 2014</i> section 4 that has inpatient beds for children.
	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 <i>Education and Care Services National Law (Western Australia)</i> section 5(1).
	A child care service as defined in the <i>Child Care Services Act 2007</i> section 4.
Providers of youth justice services	A provider of a detention centre as defined in the <i>Young Offenders Act 1994</i> section 3.
	A provider of community justice services funded by the department principally assisting in the administration of the <i>Young Offenders Act 1994</i> .

Division 2 — Additional amendments

26. Section 19G amended

After section 19G(1)(c) insert:

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

27. Schedule 2 amended

In Schedule 2 after the item relating to Providers of youth justice services insert:

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;
- (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.

A provider of any other accommodation or respite services for children.

=====