

Western Australia

**Corruption and Crime Commission Amendment
and Repeal Act 2003**

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Corruption and Crime Commission Amendment and Repeal Act 2003

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Western Australia

Corruption and Crime Commission Amendment and Repeal Act 2003

No. 78 of 2003

An Act to —

- **amend the *Corruption and Crime Commission Act 2003*;**
- **repeal the *Anti-Corruption Commission Act 1988*;**
- **repeal the *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002*; and**
- **make amendments and provide for transitional matters as a consequence of the enactment of this Act and the repeal of other Acts.**

[Assented to 22 December 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 Amendment and Repeal 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) A day for the coming into operation of Part 3 Division 3 Subdivision 2 is to be fixed under subsection (1) after the Corruption and Crime Commission has certified, by written notice delivered to the Governor, that —
 - (a) the Corruption and Crime Commission is of the opinion that the functions of the Anti-Corruption Commission are substantially exhausted;
 - (b) each member of staff has —
 - (i) become an officer of the Commission;
 - (ii) become an officer of an organisation (other than the A-CC) within the meaning of the *Public Sector Management Act 1994*;
 - (iii) been registered under Part 4 of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994*;
 - (iv) reached the end of a fixed term contract;
 - (v) resigned; or
 - (vi) had his or her contract terminated.
- (4) Except as provided in subsection (3), so much of this Act as has not been proclaimed is to come into operation upon the date 12 months after the date upon which this Act receives the Royal Assent.

- (5) In this section —
 “member of staff” means a person who is in the employment of the A-CC on the coming into operation of section 6.
- (6) For the purposes of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* the chief executive officer of the Department of the Premier and Cabinet is taken to be the employing authority of the members of staff.
- (7) The chief executive officer of the Department of the Premier and Cabinet shall have the same right to terminate the fixed term contract of any member of staff as if the chief executive officer were the employer of that member of staff.

Part 2 — Amendments to *Corruption and Crime Commission Act 2003*

3. The Act amended

The amendments in this Part are to the *Corruption and Crime Commission Act 2003**.

[* *Act No. 48 of 2003.*]

4. Long title replaced

The long title is repealed and the following long title is inserted instead —

“

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; and**
- **make amendments as a consequence of the enactment of this Act.**

”.

5. Section 3 amended

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

“

“allegation” means —

- (a) a report made to the Commission under section 25;
- (b) a proposition initiated by the Commission under section 26;
- (c) a matter notified under section 28(2); or
- (d) a received matter;

“appropriate authority” means a person, body or organisation who or which is empowered by a law of the State to take investigatory or other action, or both, in relation to misconduct, but does not include an independent agency or either House of Parliament;

“bipartisan support” means the support of —

- (a) members of the Standing Committee who are members of the party of which the Premier is a member; and
- (b) members of the Standing Committee who are members of the party of which the Leader of the Opposition is a member;

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

“contractor” has the meaning given by the *Court Security and Custodial Services Act 1999* or the *Prisons Act 1981*, as is relevant to the case;

“Director of Public Prosecutions” has the meaning given to “Director” in the *Director of Public Prosecutions Act 1991*;

“disciplinary action” means any disciplinary action under any law or contract and includes —

- (a) action under section 8 of the *Police Act 1892*; and
- (b) the taking of action against a person, with a view to dismissing, dispensing with the services of or otherwise terminating the services of that person;

“disciplinary offence” includes any conduct or other matter that constitutes or may constitute grounds for disciplinary action;

“examination” means an examination under Part 7;

“independent agency” means —

- (a) the Parliamentary Commissioner;
- (b) the Director of Public Prosecutions;
- (c) the Auditor General;
- (d) the Inspector of Custodial Services; and
- (e) the Commissioner for Public Sector Standards;

“inquiry” means an inquiry by the Parliamentary Inspector under section 197;

“investigation” means an investigation under this Act and includes a preliminary investigation referred to in section 32;

“legal practitioner” has the meaning given to “practitioner” in the *Legal Practitioners Act 1893*;

“misconduct” has the meaning given by section 4;

“nominating committee” means a committee consisting of —

- (a) the Chief Justice;
- (b) the Chief Judge of the District Court; and
- (c) a person appointed by the Governor to represent the interests of the community;

“notifying authority” means —

- (a) a department or organisation as defined in the *Public Sector Management Act 1994*;
- (b) an entity in respect of which a declaration is in effect under section 52(4) of the *Financial Administration and Audit Act 1985*;
- (c) a statutory authority as defined in the *Financial Administration and Audit Act 1985*;
- (d) an authority to which the *Parliamentary Commissioner Act 1971* applies;

- (e) a person or body, or holder of an office —
 - (i) under whom or which a public officer holds office or by whom or which a public officer is employed; or
 - (ii) who or which is prescribed for the purposes of this subparagraph,

but does not include the President of the Legislative Council or the Speaker of the Legislative Assembly;

“organised crime” means activities of 2 or more persons associated together solely or partly for purposes in the pursuit of which 2 or more Schedule 1 offences are committed, the commission of each of which involves substantial planning and organisation;

“organised crime examination” means an examination to which a person is summoned under an organised crime summons;

“organised crime summons” means a summons issued under section 96 on an application by the Commissioner of Police under section 48;

“Parliamentary Commissioner” has the meaning given to “Commissioner” under the *Parliamentary Commissioner Act 1971*;

“perform” includes to exercise;

“police officer” means a person appointed —

- (a) under Part I of the *Police Act 1892* to be a member of the Police Force;
- (b) under Part III of the *Police Act 1892* to be a special constable; or
- (c) under section 38A of the *Police Act 1892* to be an aboriginal aide;

“principal officer of a notifying authority” means —

- (a) in the case of a department or organisation as defined in the *Public Sector Management Act 1994*, the chief executive officer or chief employee of that department or organisation;
- (b) in the case of a notifying authority that is an entity in respect of which a declaration is in effect under section 52(4) of the *Financial Administration and Audit Act 1985*, the holder of the office that is the subject of that declaration;
- (c) in the case of a contractor and any subcontractor under the relevant contract, the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act; and
- (d) in any other case —
 - (i) the person specified in the regulations as the principal officer of that notifying authority or a notifying authority of that class; or
 - (ii) if no person is specified under subparagraph (i), the person who is the head of that notifying authority, its most senior officer or the person normally entitled to preside at its meetings;

“public authority” means —

- (a) a notifying authority;
- (b) a body mentioned in Schedule V Part 3 to the *Constitution Acts Amendment Act 1899*;
- (c) an authority, board, corporation, commission, council, committee, local

government, regional local government or similar body established under a written law;

- (d) a body that is the governing authority of a body referred to in paragraph (b) or (c); or
- (e) a contractor or subcontractor;

“received matter” means —

- (a) a matter referred to the Commission by the Police Royal Commission, the A-CC or the Parliamentary Commissioner;
- (b) a matter received by the Commission in the performance of its functions under section 19(2)(b); or
- (c) any allegation made to the A-CC under the *Anti-Corruption Commission Act 1988* that has not been finally dealt with under that Act immediately before the repeal of that Act under section 54 of the *Corruption and Crime Commission Amendment and Repeal Act 2003*;

“reviewable police action” means any action taken by a police officer or an employee of the Police Service of the Public Service, that —

- (a) is contrary to law;
- (b) is unreasonable, unjust, oppressive or improperly discriminatory;
- (c) is in accordance with a rule of law, or a provision of an enactment or a practice, that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
- (d) is taken in the exercise of a power or a discretion, and is so taken for an improper purpose or on irrelevant grounds, or on the taking into account of irrelevant considerations; or

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- (e) is a decision that is made in the exercise of a power or a discretion and the reasons for the decision are not, but should be, given;

“Schedule 1 offence” means an offence described in Schedule 1;

“section 5 offence” has the meaning given by section 5;

“serious misconduct” means misconduct of a kind described in section 4(a), (b) or (c);

“Standing Committee” means the committee referred to in section 216A;

“State Records Commission” means the Commission established under section 57 of the *State Records Act 2000*;

“subcontractor” has the meaning given by the *Court Security and Custodial Services Act 1999* or the *Prisons Act 1981*, as is relevant to the case;

“witness” means a person who appears at an examination or an inquiry to give evidence, whether the person has been summoned or appears without being summoned.

”.

- (2) Section 3 is further amended by inserting the following subsection —

“

- (2) Nothing in this Act affects, or is intended to affect, the operation of the *Parliamentary Privileges Act 1891* or the *Parliamentary Papers Act 1891* and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament, unless that House so resolves.

”.

6. Sections 4 and 5 inserted

After section 3 the following sections are inserted —

“

4. Misconduct

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment;
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person;
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or
- (d) a public officer engages in conduct that —
 - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
 - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;
 - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or

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- (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,

and constitutes or could constitute —

- (v) an offence against the *Statutory Corporations (Liability of Directors) Act 1996* or any other written law; or
- (vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

5. Section 5 offences

A section 5 offence is a Schedule 1 offence committed in the course of organised crime.

”.

7. Part 1 amended

- (1) Part 1 is amended by inserting after “**Part 1 – Preliminary**” —

“ **Division 1 — Introduction** ”.

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

“

Division 2 — Purpose

7A. Act's purposes

The main purposes of this Act are —

- (a) to combat and reduce the incidence of organised crime; and
- (b) to improve continuously the integrity of, and to reduce the incidence of misconduct in, the public sector.

7B. How Act's purposes are to be achieved

- (1) The Act's purposes are to be achieved primarily by establishing a permanent commission to be called the Corruption and Crime Commission.
- (2) The Commission is to be able to authorise the use of investigative powers not ordinarily available to the police service to effectively investigate particular cases of organised crime.
- (3) The Commission is to help public authorities to deal effectively and appropriately with misconduct by increasing their capacity to do so while retaining power to itself investigate cases of misconduct, particularly serious misconduct.

”.

8. Section 7 amended

- (1) Section 7(3) is amended by inserting after “appointed” —
- “ on the recommendation of the Premier ”.

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- (2) After section 7(3) the following subsections are inserted —

“

- (3a) Except in the case of the first appointment, the Premier is to recommend the appointment of a person —
- (a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and
 - (b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.
- (3b) Before making nominations under subsection (3a) the nominating committee shall advertise throughout Australia for expressions of interest.

”.

- (3) Section 7(4) is deleted and the following subsections are inserted instead —

“

- (4) Except in the case of the first appointment, before an appointment is made under subsection (3), the Premier must consult with —
- (a) the Standing Committee; or
 - (b) if there is no Standing Committee, the Leader of the Opposition, and the leader of any other political party with at least 5 members in either House.
- (4a) In the case of the first appointment, before the appointment is made the Premier is to consult with the Leader of the Opposition.

”.

9. Section 8 amended

Section 8 is amended as follows —

- (a) by deleting subsections (1) and (2) and inserting instead —

“

- (1) A person is qualified for appointment as the Commissioner if the person has served as, or is qualified for appointment as, a judge of the Supreme Court of Western Australia or another State or Territory, the High Court of Australia or the Federal Court of Australia.

”;

- (b) after subsection (3) the following subsection is inserted —

“

- (4) A person holding a judicial office shall retire upon appointment as Commissioner.

”.

10. Section 12 amended

Section 12 is amended by inserting the following subsection after subsection (2) —

“

- (2a) The process for nomination and consultation with regard to the appointment of a person to act in the office of Commissioner shall be the same as that for the appointment of the Commissioner except that —

- (a) the process may be carried out prospectively even though the necessity for an appointment has not arisen;

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- (b) it may be carried out with respect to a number of persons each of whom is eligible to be appointed should the necessity arise; and
- (c) any bipartisan support for a person lapses on the expiration of 12 months from the date of the resolution.

”.

11. Section 18 inserted

After section 15 the following section is inserted —

“

18. Commission’s misconduct function

- (1) It is a function of the Commission (the “**misconduct function**”) to ensure that an allegation about, or information or matter involving, misconduct is dealt with in an appropriate way.
- (2) Without limiting how the Commission may perform the misconduct function, the Commission performs the function by —
 - (a) receiving and initiating allegations of misconduct;
 - (b) considering whether action is needed in relation to allegations and matters related to misconduct;
 - (c) investigating or taking other action in relation to allegations and matters related to misconduct if it is appropriate to do so, or referring the allegations or matters to independent agencies or appropriate authorities so that they can take action themselves or in cooperation with the Commission;
 - (d) monitoring the way in which independent agencies and appropriate authorities take action in relation to allegations and matters that are referred to them by the Commission;

- (e) regardless of whether or not there has been an allegation of misconduct, investigating whether misconduct —
 - (i) has or may have occurred;
 - (ii) is or may be occurring;
 - (iii) is or may be about to occur; or
 - (iv) is likely to occur;
- (f) making recommendations and furnishing reports on the outcome of investigations;
- (g) consulting, cooperating and exchanging information with independent agencies, appropriate authorities and —
 - (i) the Commissioner of the Australian Federal Police;
 - (ii) the Commissioner of a Police Force of another State or Territory;
 - (iii) the CEO of the Australian Crime Commission established by the *Australian Crime Commission Act 2002* of the Commonwealth;
 - (iv) the Commissioner of Taxation holding office under the *Taxation Administration Act 1953* of the Commonwealth;
 - (v) the Director-General of Security holding office under the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth;
 - (vi) the Director of the Australian Transaction Reports and Analysis Centre under the *Financial Transaction Reports Act 1988* of the Commonwealth;

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- (vii) any person, or authority or body of this State, the Commonwealth, another State or a Territory that is declared by the Minister to be a person, authority or body to which this paragraph applies;
- (h) assembling evidence obtained in the course of exercising the misconduct function and —
 - (i) furnishing to an independent agency or another authority, evidence which may be admissible in the prosecution of a person for a criminal offence against a written law or which may otherwise be relevant to the functions of the agency or authority; and
 - (ii) furnishing to the Attorney General or a suitable authority of another State, a Territory, the Commonwealth or another country, evidence which may be admissible in the prosecution of a person for a criminal offence against a law of the jurisdiction concerned or which may otherwise be relevant to that jurisdiction.
- (3) When the Commission is deciding whether further action for the purposes of this Act in relation to an allegation is warranted, the matters to which it may have regard include the following —
 - (a) the seriousness of the conduct or involvement to which the allegation relates;
 - (b) whether or not the allegation is frivolous or vexatious or is made in good faith;
 - (c) whether or not the conduct or involvement to which the allegation relates is or has been the subject of appropriate investigatory or other action otherwise than for the purposes of this Act;

- (d) whether or not, in all the circumstances, the carrying out of further action for the purposes of this Act in relation to the allegation is justified or is in the public interest.

”.

12. Section 15 amended

Section 15(2) is amended in the following manner —

- (1) by deleting paragraph (a) and inserting instead —

“

- (a) analysing the intelligence it gathers in support of its investigations into organised crime and misconduct; and
- (ab) analysing the results of its investigations and the information it gathers in performing its functions; and
- (ac) analysing systems used within public authorities to prevent misconduct; and
- (ad) using information it gathers from any source in support of its prevention and education function; and

”.

- (2) after paragraph (c) to insert —

“

- (ca) ensuring that in performing all of its functions it has regard to its prevention and education function; and
- (cb) generally increasing the capacity of public authorities to prevent misconduct by providing advice and training to those authorities, if asked, to other entities; and

”.

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13. Section 16 amended

Section 16(2) is amended by deleting “The” and inserting instead —

“

Without limiting the Commission’s functions under section 18, the

”.

14. Section 19 amended

Section 19(4)(d) is amended by deleting “a Standing Committee” and inserting instead —

“ the Standing Committee ”.

15. Section 21 inserted

After section 17 the following section is inserted —

“

21. Commission’s organised crime functions

The Commission has the functions set out in Part 4.

”.

16. Section 21A inserted

After section 17 the following section is inserted —

“

21A. Reviewable police action

- (1) The Commissioner of Police is required to notify the Commission of matters concerning, or that may concern, reviewable police action in accordance with guidelines issued under section 30.
- (2) The Commission may deal with a matter notified under subsection (1) as if it were a matter notified under section 28(2).

”.

17. Parts 3 to 8 inserted

Before Part 3 the following Parts are inserted —

“

Part 3 — Misconduct

Division 1 — Assessments and opinions

22. Assessments and opinions

- (1) Regardless of whether or not there has been an allegation of misconduct, the Commission may make assessments and form opinions as to whether misconduct —
 - (a) has or may have occurred;
 - (b) is or may be occurring;
 - (c) is or may be about to occur; or
 - (d) is likely to occur.
- (2) The Commission may make the assessments and form the opinions on the basis of —
 - (a) consultations, and investigations and other actions (either by itself or in cooperation with an independent agency or appropriate authority);
 - (b) investigations or other action of the Police Royal Commission;
 - (c) preliminary inquiry and further action by the A-CC;
 - (d) investigations or other action of an independent agency or appropriate authority; or
 - (e) information included in any received matter or otherwise given to the Commission.
- (3) The Commission may advise an independent agency or appropriate authority of an assessment or opinion.

23. Commission must not publish opinion as to commission of offence

- (1) The Commission must not publish or report a finding or opinion that a particular person has committed, is committing or is about to commit a criminal offence or a disciplinary offence.
- (2) An opinion that misconduct has occurred, is occurring or is about to occur is not, and is not to be taken as, a finding or opinion that a particular person has committed, or is committing or is about to commit a criminal offence or disciplinary offence.

Division 2 — Allegations

24. Allegations

- (1) Subject to section 27 the Commission —
 - (a) is to receive allegations of misconduct by way of —
 - (i) reports under section 25;
 - (ii) matters notified under section 28(2);
 - and
 - (iii) received matters;
 - and
 - (b) may initiate allegations of misconduct by way of propositions under section 26.
- (2) Before assessing an allegation received by the Commission, the Commission may seek further information about the allegation from the person making the allegation in such form as the Commission thinks fit.

25. Any person may report misconduct

- (1) A public officer or any other person may report to the Commission any matter which that person suspects on reasonable grounds concerns or may concern misconduct that —
 - (a) has or may have occurred;
 - (b) is or may be occurring;
 - (c) is or may be about to occur; or
 - (d) is likely to occur.
- (2) A report may be made to the Commission orally or in writing.
- (3) This section has effect despite —
 - (a) the provisions of any other Act, whether enacted before or after this Act; and
 - (b) any obligation the person has to maintain confidentiality about a matter to which the allegation relates.
- (4) A person who exercises the power conferred by subsection (1) does not commit an offence by reason of that exercise.
- (5) A person who makes a report under this section and who does so
 - (a) knowing that the content of the report is false or misleading in a material respect;
 - (b) maliciously, or recklessly,

is guilty of a crime.

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

Summary conviction penalty: \$10 000.

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- (6) A charge cannot be brought against a person under subsection (5) other than by the Director of Public Prosecutions.
- (7) A publication by —
 - (a) a complainant;
 - (b) a person who has relied upon information derived from a complainant; or
 - (c) a person who has no reliable source of knowledge (which shall be presumed in the absence of proof to the contrary),

that an allegation has been made about a person to the Commission carries with it, an inference that there were reasonable grounds for making the complaint.

26. Proposition by Commission

- (1) The Commission may make a proposition that misconduct —
 - (a) has or may have occurred;
 - (b) is or may be occurring;
 - (c) is or may be about to occur; or
 - (d) is likely to occur.
- (2) A proposition under subsection (1) may be based on the Commission's own experience and knowledge, or assessment of a received matter, and independently of any allegation referred to in section 25.

27. Allegation about Commissioner, Parliamentary Inspector or judicial officer not to be received or initiated

- (1) An allegation about the Commissioner must not be received by the Commission.

- (2) An allegation about a person in his or her capacity as the Parliamentary Inspector, or an officer of the Parliamentary Inspector, must not be received or initiated by the Commission.
- (3) An allegation about a person in his or her capacity as the holder of a judicial office must not be received or initiated by the Commission unless the allegation relates to —
 - (a) the commission or attempted commission of;
 - (b) the incitement of the commission of; or
 - (c) a conspiracy to commit,an offence under section 121 of *The Criminal Code* or is of a kind that, if established, would constitute grounds for removal from judicial office.
- (4) The Commission, when performing its functions in relation to the conduct of a holder of judicial office must proceed having proper regard for preserving the independence of judicial officers.
- (5) When investigating a holder of judicial office, the Commission must act in accordance with conditions and procedures formulated in continuing consultation with the Chief Justice.
- (6) In this section —
“holder of a judicial office” has the same meaning as it has in section 121 of *The Criminal Code*.

27A. Allegations involving parliamentary privilege

- (1) Despite any contrary provision in this Act, an allegation of misconduct, not being serious misconduct —
 - (a) made against a member of the Legislative Council or the Legislative Assembly in the

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performance by him or her of the functions of that office; or

- (b) made against an officer liable to be removed from office under section 35 of the *Constitution Act 1889*,

is to be referred by the Commission to the presiding officer.

- (2) A referral under subsection (1) is to name the member or officer and state the grounds on which the allegation is made and the nature of the misconduct by reference to a provision of section 4. The Commission is not required to disclose how it came to make the allegation.
- (3) Section 22(3) and Division 4 of Part 2 are excluded in their operation with respect to an allegation made under subsection (1).
- (4) In this section and section 27B —
“presiding officer” —
 - (a) is the President where the allegation relates to a member or officer of the Legislative Council, or the Speaker in relation to a member or officer of the Legislative Assembly;
 - (b) if —
 - (i) the office of President or Speaker is vacant, or becomes vacant in the course of an inquiry under section 27B; or
 - (ii) the member subject to an allegation under subsection (1)(a) is the President or the Speaker,

is the member appointed by each House to perform the functions and exercise the powers of the President or

the Speaker during his or her temporary absence or when either office is vacant.

- (5) Nothing in this section prevents a member or officer who is subject to a referral under subsection (1) from being charged with an offence whether or not the charge relates to the matters that form the basis of the allegation so referred.

27B. Dealing with allegation of member's misconduct

- (1) The presiding officer, on receipt of a referral made under section 27A(1), must —
- (a) where the allegation is made under paragraph (a), require a committee of the House whose functions include considering matters relating to the practice, procedure and privileges of the House (the “**Privileges Committee**”), to inquire into the matter;
 - (b) where the allegation is made under paragraph (b), require the Commission to conduct an inquiry.
- (2) If the Privileges Committee resolves to carry out its own inquiry, it must do so by directing the Commission to act on its behalf.
- (3) For the purposes of an inquiry under this section, the Commission —
- (a) has the powers, privileges, rights and immunities of a committee under the *Parliamentary Privileges Act 1891*;
 - (b) is to refer a matter, including an objection made under section 7 of the *Parliamentary Privileges Act 1891*, to the presiding officer for decision in a case where a committee is required to obtain a decision of the House;

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- (c) may order without summons a member or officer of either House to appear and give evidence or produce documents;
 - (d) may be assisted by parliamentary and Commission officers;
 - (e) cannot delegate the performance of a function that cannot be delegated by a committee of a House;
 - (f) is to report to the presiding officer and the Privileges Committee when so requested or at predetermined intervals or both.
- (4) The Commission is to act in conformity with the *Parliamentary Privileges Act 1891*.
- (5) An inquiry cannot be discontinued by direction of the presiding officer or the Privileges Committee unless the Commission consents.
- (6) A recommendation under section 43(1) is to be contained in a report (whether interim or final) to the presiding officer and the Privileges Committee and, either in substitution for, or in addition to the recommendations that may be made under that subsection, may recommend that a member be expelled or an officer be removed under section 35 of the *Constitution Act 1889*.
- (7) The presiding officer must present to the House a report provided under subsection (6), in the form in which it was received, on the sitting day next following its receipt.
- (8) The Commission must not make a recommendation to an independent agency under section 43(4) unless expressly authorized by resolution of the House.

Division 3 — Duty to notify

28. Notification of misconduct

- (1) This section applies to the following persons —
 - (a) the Parliamentary Commissioner;
 - (b) the Inspector of Custodial Services;
 - (c) the principal officer of a notifying authority;
 - (d) an officer who constitutes a notifying authority.
- (2) Subject to subsections (4), (5) and (6), a person to whom this section applies must notify the Commission in writing of any matter —
 - (a) which that person suspects on reasonable grounds concerns or may concern misconduct; and
 - (b) which, in the case of a person referred to in subsection (1)(c) or (d), is of relevance or concern to that person in his or her official capacity.
- (3) The Commission must be notified under subsection (2) as soon as is reasonably practicable after the person becomes aware of the matter.
- (4) A person to whom this section applies is not required to notify the Commission of —
 - (a) a matter that —
 - (i) is being dealt with by that person, or the notifying authority of which that person is the principal officer, under section 33(1)(b); or
 - (ii) is referred to that person, or the notifying authority of which that person is the principal officer, by the Commission under section 33(1)(c);

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- (b) a matter that —
 - (i) is referred to that person, or a notifying authority of which that person is the principal officer, by the Parliamentary Inspector under section 196(3)(f); and
 - (ii) relates to conduct by the Commission, an officer of the Commission or an officer of the Parliamentary Inspector.
- (5) The Director of Public Prosecutions is not required to notify the Commission of a matter if the matter does not relate to conduct by —
 - (a) the Deputy Director, as defined in section 3 of the *Director of Public Prosecutions Act 1991*; or
 - (b) a member of staff appointed or made available for the performance of the functions of the Director of Public Prosecutions under section 30 of the *Director of Public Prosecutions Act 1991*.
- (6) A person to whom this section applies is not required to notify the Commission of a matter which concerns or may concern reviewable police action.

29. Duty to notify is paramount

- (1) The duty of a person to make a notification under section 28 must be complied with despite —
 - (a) the provisions of any other Act, whether enacted before or after this Act; or
 - (b) any obligation the person has to maintain confidentiality about a matter to which the allegation relates,

and the person does not commit an offence by reason of that compliance.

- (2) Subsection (1) does not affect an obligation under another written law to notify misconduct.

30. Commission may issue guidelines about notifications

- (1) The Commission may issue guidelines about —
 - (a) what matters are or are not required to be notified to the Commission under section 28;
 - (b) what reports are required with respect to such matters and also with respect to the matters referred to in section 21A.
- (2) A person who would otherwise have had a duty to notify but for guidelines issued under this section shall have a like duty to make a report in accordance with the guidelines.

31. Commission may report failure to comply

If a person to whom section 21A, 28 or 30 applies does not comply with the duty to make a notification or report under that section, the Commission may report that non-compliance —

- (a) in the case of the principal officer referred to in paragraph (c) of the definition of “principal officer of a notifying authority”, to the CEO as defined in section 3 of the *Court Security and Custodial Services Act 1999* or the chief executive officer as defined in section 3 of the *Prisons Act 1981*, as is relevant to the case; and
- (b) in any other case, to a person or body who or which has the power to take disciplinary action against the person to whom section 28 applies.

Division 4 — Assessments, opinions and investigation

32. Dealing with allegations

- (1) The Commission is to deal with an allegation by assessing the allegation and forming an opinion under section 22, and making a decision under section 33 that the Commission considers appropriate in the circumstances.
- (2) For the purposes of subsection (1) the Commission may conduct a preliminary investigation into the allegation.
- (3) The Commission may consult any person or body about an allegation or other matter.

33. Decision on further action

- (1) Subject to subsection (2), having made an assessment of an allegation the Commission may decide to —
 - (a) investigate or take action without the involvement of any other independent agency or appropriate authority;
 - (b) investigate or take action in cooperation with an independent agency or appropriate authority;
 - (c) refer the allegation to an independent agency or appropriate authority for action; or
 - (d) take no action.
- (2) The Commission may deal with a matter reported to it under section 30 as if it were a matter notified under section 28(2).

34. Matters to be considered in deciding who should take action

- (1) Without limiting the matters to which the Commission may have regard, when the Commission decides

whether or not to make a decision under section 33(1)(a) or (b) the Commission is to have regard to whether, in the opinion of the Commission, serious misconduct —

- (a) has or may have occurred;
 - (b) is or may be occurring;
 - (c) is or may be about to occur; or
 - (d) is likely to occur.
- (2) When the Commission is deciding whether or not to refer an allegation to an independent agency or appropriate authority, the matters to which the Commission is to have regard include the following —
- (a) the seniority of any public officer to whom the allegation relates;
 - (b) whether, in the opinion of the Commission, serious misconduct —
 - (i) has or may have occurred;
 - (ii) is or may be occurring;
 - (iii) is or may be about to occur; or
 - (iv) is likely to occur;
 - (c) the need for there to be an independent investigation rather than an investigation by a public authority with which any public officer to whom the allegation relates is connected by membership or employment or in any other respect.

35. Informant to be notified of decision not to take action

If —

- (a) a person makes an allegation under section 25 or 28(2);

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- (b) an allegation under the A-CC Act is referred to the Commission; or
- (c) a complaint under the *Parliamentary Commissioner Act 1971* is referred to the Commission,

and the Commission decides to take no action, the Commission must notify the person who made the allegation or complaint that the Commission has decided that no action will be taken.

36. Person investigated can be advised of the outcome of the investigation

The Commission may inform a person to whom an allegation relates as to the outcome of any investigation carried out by the Commission or an appropriate authority in relation to the allegation if —

- (a) the person requests the information; or
- (b) the Commission considers that giving the information to the person is in the person's best interests,

and the Commission considers that giving the information to the person is in the public interest.

37. Referral by Commission

- (1) If the Commission decides to refer an allegation to an independent agency or appropriate authority, the Commission is to refer the allegation as soon as is practicable after making that decision.
- (2) The allegation may be accompanied by a report which may include —
 - (a) a recommendation under section 43;
 - (b) such other recommendations as the Commission thinks fit in respect of the action to be taken; and

- (c) such information as the Commission considers would assist the agency or authority to take the action.
- (3) If the allegation is referred to an appropriate authority, the report may also include a recommendation as to the period within which the action should be taken.

38. Referrals to Parliamentary Commissioner or Auditor General

- (1) The Commission is not to refer an allegation to the Parliamentary Commissioner or the Auditor General without having first consulted the Parliamentary Commissioner or the Auditor General.
- (2) If an allegation is referred to the Parliamentary Commissioner, the allegation is to be treated by the Parliamentary Commissioner as if it were a complaint duly made under section 17 of the *Parliamentary Commissioner Act 1971* and that Act applies to and in relation to the allegation accordingly.
- (3) If an allegation is referred to the Auditor General, the Auditor General may investigate the allegation and the *Financial Administration and Audit Act 1985* applies to the investigation as if it were an investigation under section 80(b) of that Act.
- (4) Nothing in the *Financial Administration and Audit Act 1985* prevents the Auditor General, or any person referred to in section 91 of that Act, from disclosing to the Commission, or an officer of the Commission, information obtained in the course of an investigation under subsection (3).

39. Commission may decide to take other action

- (1) Despite having made a decision to act under section 33(1)(a), (b) or (c), the Commission may at any time decide to act under another of those paragraphs.
- (2) The Commission may make the decision whether or not it has acted under the first-mentioned decision.
- (3) The Commission is not to reconsider action taken under section 33(2) except on fresh evidence.
- (4) If an allegation has been referred to the Parliamentary Commissioner, subsection (1) does not apply unless the carrying out of the action by the Commission has been requested or agreed to by the Parliamentary Commissioner.

40. Commission's monitoring role

- (1) If —
 - (a) an appropriate authority takes action in relation to an allegation in cooperation with the Commission; or
 - (b) an allegation is referred to an appropriate authority by the Commission,the appropriate authority must prepare a detailed report of the action the appropriate authority has taken in relation to the allegation.
- (2) The report is to be given to the Commission in writing as soon as practicable after the action is taken.
- (3) The Commission may, by written notice, direct the appropriate authority to give the Commission a detailed report on —
 - (a) action the appropriate authority has taken in relation to the allegation; and

- (b) if action recommended by the Commission under section 37(2) has not been taken, or any action has not been taken within the time recommended under section 37(3), the reasons for not so taking the action.
- (4) The appropriate authority must comply with a direction given to it under subsection (3).
- (5) A report referred to in this section must include details of any prosecution initiated or disciplinary action taken as a consequence of the recommendations.

41. Commission may review dealings with misconduct

- (1) The Commission may review the way an appropriate authority has dealt with misconduct, in relation to either a particular allegation, complaint, information or matter involving misconduct or in relation to a class of allegation, complaint, information or matter involving misconduct.
- (2) The appropriate authority must give the Commission all necessary help to undertake a review under subsection (1).

42. Commission may direct authority not to take action

- (1) In this section —
“**misconduct matter**” means an allegation, complaint, information or matter involving misconduct specified in a notice given under subsection (2).
- (2) The Commission may, by written notice, direct an appropriate authority —
 - (a) not to commence investigation of a misconduct matter or, if an investigation of the matter has already commenced, to discontinue the investigation; and

- (b) to take all reasonable steps to ensure that an investigation of a misconduct matter is not conducted by an officer of the appropriate authority.
- (3) The appropriate authority must comply with a direction given to it under subsection (2).
- (4) The notice absolves the appropriate authority and its officers from any duty with respect to the misconduct matter so far as it relates to investigation of the matter or to the bringing of an offender concerned before the courts to be dealt with according to law.
- (5) Subsection (2)(b) does not apply to a person who is an officer of the Commission.
- (6) Subsection (2) does not prevent an investigation of the misconduct matter that is conducted in accordance with arrangements made between the Commission and the appropriate authority.
- (7) Despite subsection (2), an investigation of the misconduct matter by the appropriate authority may be commenced or resumed if the Commission notifies the appropriate authority that the Commission has revoked the direction given to it under subsection (2).

Division 5 — Recommendations

43. Recommendations by Commission

- (1) The Commission may —
 - (a) make recommendations as to whether consideration should or should not be given to —
 - (i) the prosecution of particular persons;
and

- (ii) the taking of disciplinary action against particular persons;
 - and
 - (b) make recommendations for the taking of other action that the Commission considers should be taken in relation to the subject matter of its assessments or opinions or the results of its investigations.
- (2) The Commission may make the recommendations on the basis of —
- (a) its assessments, consultations, opinions, and investigations and other actions (either by itself or in cooperation with an independent agency or appropriate authority);
 - (b) investigations or other action of the Police Royal Commission;
 - (c) preliminary inquiry or further action by the A-CC;
 - (d) investigations or other action of an independent agency or appropriate authority; or
 - (e) information included in any received matter or otherwise given to the Commission.
- (3) Without limiting subsection (1), the Commission may —
- (a) recommend that further inquiry or investigation into any matter be carried out by an Inquiry Panel appointed under the *Local Government Act 1995*, or in such other manner as the Commission may recommend; and
 - (b) recommend the terms of reference of any such inquiry or investigation.
- (4) The Commission may give the recommendations to an independent agency or appropriate authority.

- (5) If the Commission gives an independent agency a recommendation that consideration should be given to the prosecution of a particular person, the Commission must also give the independent agency all materials in the Commission's possession that would be required for the purposes of section 103 of the *Justices Act 1902* and section 611B of the *The Criminal Code* if that prosecution took place.
- (6) A recommendation made by the Commission under this section is not a finding, and is not to be taken as a finding, that a person has committed or is guilty of a criminal offence or has engaged in conduct that constitutes or provides grounds on which that person's tenure of office, contract of employment, or agreement for the provision of services, is, or may be, terminated.

44. Other action for misconduct

Except as provided in section 42, nothing in this Part limits the action that may lawfully be taken to discipline or otherwise deal with a person for misconduct.

Part 4 — Organised crime: exceptional powers and fortification removal

Division 1 — Basis for, and control of, use of exceptional powers

45. Terms used in this Part

In this Part —

“exceptional powers” means the powers given under Divisions 2, 3, 4 and 5;

“exceptional powers finding” has the meaning given by section 46(2);

“investigation” means an investigation referred to in section 46(1).

46. Finding as to grounds for exercising exceptional powers

- (1) On the application of the Commissioner of Police, the Commission may find whether or not it is satisfied that —
 - (a) there are reasonable grounds for suspecting that a section 5 offence has been, or is being, committed;
 - (b) there are reasonable grounds for suspecting that there might be evidence or other information relevant to the investigation of the offence that can be obtained using exceptional powers; and
 - (c) there are reasonable grounds for believing that the use of exceptional powers would be in the public interest having regard to —
 - (i) whether or not the suspected offence could be effectively investigated without using the powers;
 - (ii) the extent to which the evidence or other information that it is suspected might be obtained would assist in the investigation, and the likelihood of obtaining it; and
 - (iii) the circumstances in which the evidence or information that it is suspected might be obtained is suspected to have come into the possession of any person from whom it might be obtained.
- (2) If the Commission finds that it is satisfied that the grounds described in subsection (1) exist, the finding (an **“exceptional powers finding”**) is to be reduced to

writing and a copy of it is to be given to the Commissioner of Police.

47. Scope of Divisions 2 to 5

- (1) The purpose of Divisions 2 to 5 is to facilitate the investigation of a section 5 offence.
- (2) The investigation of an offence includes the investigation of a suspicion that the offence has been, or is being, committed.
- (3) Divisions 2 to 5 apply if the Commission has made an exceptional powers finding in respect of the section 5 offence concerned.

Division 2 — Examination before Commission

48. Summoning witnesses to attend and produce things on application of Commissioner of Police

The Commission may, on the application of the Commissioner of Police for an organised crime summons, issue a signed summons under section 96 and cause it to be served under that section on the person to whom it is addressed.

49. Examination of witnesses by Commissioner of Police

- (1) In participating in an organised crime examination, the Commissioner of Police is to be represented by a legal practitioner instructed for that purpose, who may be assisted by others not so qualified but who are under the direct supervision of a legal practitioner.
- (2) A person representing the Commissioner of Police may, so far as the Commission thinks proper, examine any witness summoned under an organised crime summons on any matter that the Commission considers relevant to the investigation.

- (3) This section does not limit the operation of section 143.

50. Offences for which a person stands charged

- (1) A person summoned on an organised crime summons cannot be examined about matters that may be relevant to an offence with which the person stands charged, but this section does not prevent any other person from being examined about those matters.
- (2) For the purposes of this section a person stands charged with an offence when —
- (a) the person is informed by the person investigating the offence that he or she will be charged with the offence;
 - (b) the persons investigating the offence ought to have formed the view that the person should be charged with the offence,

whether or not at that time a complaint in respect of the offence has been made or sworn; or

- (c) a complaint in respect of the offence is made or sworn,

whichever happens first.

Division 3 — Entry, search and related matters

51. Commission may limit exercise of power

- (1) The Commission may give directions limiting the exercise of an exceptional power under Divisions 3, 4 and 5.
- (2) The Commission may revoke or vary directions under this section or give further directions limiting the exercise of the exceptional power.
- (3) Limitations may be expressed however the Commission considers appropriate and, without

limiting other ways in which they may be expressed, they may operate by reference to —

- (a) particular powers;
 - (b) particular circumstances;
 - (c) particular persons;
 - (d) particular places;
 - (e) particular articles; or
 - (f) particular times or periods of time.
- (4) The Commission is to give, revoke, or vary a direction under this section in writing a copy of which is to be given to the Commissioner of Police.
- (5) A power under this Division cannot be exercised contrary to a direction under this section.
- (6) The Commission may at any time revoke an exceptional powers finding by notice to the Commissioner of Police.

52. Enhanced power to enter, search, and detain

- (1) A police officer may, for the purposes of investigating the section 5 offence, without a warrant —
- (a) at any time enter any place where there are reasonable grounds for suspecting that the offence has been, or is being, committed; and
 - (b) demand the production of, and inspect, any articles or records kept there.
- (2) A police officer who has entered a place under subsection (1) may —
- (a) search the place and secure the place for the purposes of searching it;
 - (b) stop, detain, and search anyone at the place;
 - (c) photograph any person or thing, and make a copy of or seize any document that the police

officer suspects on reasonable grounds will provide evidence or other information relevant to the investigation of the offence; and

- (d) seize anything else that the police officer suspects on reasonable grounds will provide evidence or other information relevant to the investigation of the offence.
- (3) A police officer may use any force that is reasonably necessary in exercising powers given by subsections (1) and (2).

53. Enhanced power to stop, detain, and search

- (1) This section does not apply unless there are reasonable grounds to suspect that a person is in possession of —
- (a) anything used, or intended to be used, in connection with the commission of the section 5 offence; or
 - (b) anything else that may provide evidence of, or other information about, the offence.
- (2) A police officer may without a warrant stop, detain, and search the person and any conveyance where the police officer reasonably suspects the person to be.
- (3) The power to stop and detain a conveyance includes the power to detain anyone in or on the conveyance for as long as is reasonably necessary to search the conveyance even though, until the conveyance has been searched, the person may not be suspected of anything because of which the person can be detained under subsection (2).
- (4) A police officer may without a warrant seize anything described in subsection (1).

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- (5) A police officer may use any force that is reasonably necessary, and may call on any assistance necessary, in order to perform a function under this section.
- (6) In this section —
 “conveyance” means anything used or capable of being used to transport people or goods by air, land, or water, and it does not matter how it is propelled or that it may ordinarily be stationary.

54. Provisions about searching a person

- (1) In this section —
 “medical practitioner” means an individual who is registered as a medical practitioner under the *Medical Act 1894*;
 “registered nurse” means a person registered under Part 3 of the *Nurses Act 1992*.
- (2) A police officer cannot carry out a search of a person under this Division unless of the same sex as the person searched.
- (3) If a police officer is uncertain as to the sex of a person to be searched —
 - (a) the police officer must ask the person to advise whether a male or female should carry out the search and must act in accordance with the answer; and
 - (b) in the absence of an answer, the person is to be treated as if of the sex that the person outwardly appears to the police officer to be.
- (4) If a police officer of the same sex as the person to be searched is not immediately available to carry out the search, another police officer may —
 - (a) cause the search to be carried out, under the direction of a police officer, by another person of the same sex as the person to be searched;

- (b) detain the person for as long as is reasonably necessary for the person to be searched in accordance with this section; or
 - (c) convey or conduct the person to a place where the person can be searched in accordance with this section.
- (5) Nothing in this Division authorises a search by way of an examination of the body cavities of a person unless it is carried out under subsection (7) by a medical practitioner or a registered nurse.
- (6) A police officer may arrange for a medical practitioner or registered nurse nominated by the police officer to examine the body cavities of the person to be searched and may —
 - (a) detain the person until the arrival of that medical practitioner or registered nurse; or
 - (b) convey or conduct the person to that medical practitioner or registered nurse.
- (7) A medical practitioner or registered nurse may carry out an examination arranged by a police officer under subsection (6) and no action or proceeding, civil or criminal, lies against the medical practitioner or registered nurse in respect of anything reasonably done for the purposes of the examination.
- (8) When performing a function under this section, a police officer or other person may —
 - (a) use any force that is reasonably necessary in the circumstances —
 - (i) to perform the function; and
 - (ii) to overcome any resistance to performing the function that is offered, or that the person exercising the power

reasonably suspects will be offered, by
any person;

and

- (b) call on any assistance necessary in order to perform the function.

55. Extension of power to search

The power given by this Division to search for any thing includes the power to break open anything it is suspected might contain it.

56. Things that have been seized

- (1) If anything is seized under this Division, the person seizing it must take it before the Commission.
- (2) Section 714 of *The Criminal Code* applies to anything seized under this Division as if —
 - (a) the thing had been seized under *The Criminal Code*; and
 - (b) a reference in that section to a justice were a reference to the Commission.

57. Offences under this Division

A person who wilfully —

- (a) delays, obstructs, or otherwise hinders —
 - (i) the performance by a police officer or other person of a function under this Division; or
 - (ii) the rendering of assistance under this Division in the performance of a function;

or

- (b) does not produce anything as demanded under section 52(1)(b),

commits an offence.

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

58. Report on use of powers

- (1) A police officer who exercises an exceptional power under this Division is to submit to the Commissioner of Police a report in writing of each occasion on which that power was exercised, giving details of —
 - (a) what was done in the exercise of the powers;
 - (b) the time and place at which the power was exercised; and
 - (c) any person or property affected by the exercise of the power.
- (2) The report is to be submitted within 5 days after the power is exercised.
- (3) The obligation of a police officer to submit a report under this section about a particular exercise of power within a particular time is sufficiently complied with if the police officer ensures that a report by another police officer who was present when the power was exercised is made within that time dealing with all of the details about which a report is required.
- (4) The Commissioner of Police is to give a copy of the report to the Commission as soon as is reasonably practicable after the Commissioner of Police is given the report.

59. Overseeing exercise of powers under this Division

- (1) The Commission may by notice in writing direct the Commissioner of Police or any other person to give the

Commission details of the exercise of an exceptional power under this Division, including the identity of any person who has exercised the power.

- (2) The Commissioner of Police or any other person to whom a notice is given under subsection (1) is to comply with the direction in the notice as soon as is reasonably practicable.

Division 4 — Assumed identities

60. Approval for assumed identity

- (1) The Commission may under section 103 grant an approval for the acquisition and use of an assumed identity by a police officer as if the police officer were an officer of the Commission.
- (2) If under this section the Commission exercises the powers set out in section 103 in respect of a police officer —
 - (a) Part 6 Division 3 applies to and in respect of the exercise of that power, that police officer, the approval granted and the acquisition and use of an assumed identity under the approval granted as if the police officer were an officer of the Commission and with any other necessary modifications; and
 - (b) section 112 applies as if a reference in that section to the Commission were a reference to the Commissioner of Police.

61. Report about assumed identity approval

- (1) A police officer to whom an assumed identity approval applies must —
 - (a) at least once every 6 months while the approval is in force; and

- (b) as soon as is reasonably practicable after the approval is cancelled,

give a report to the Commissioner of Police setting out a general description of the activities undertaken by the police officer when using the assumed identity.

- (2) The Commissioner of Police is to give a copy of the report to the Commission as soon as is reasonably practicable after the Commissioner of Police is given the report.

62. Overseeing exercise of powers under this Division

- (1) The Commission may by notice in writing direct the Commissioner of Police or any other person to give the Commission details of the acquisition and use of an assumed identity under an approval given to a police officer, including the identity of any person who has exercised the power.
- (2) The Commissioner of Police or any other person to whom a notice is given under subsection (1) is to comply with the direction in the notice as soon as is reasonably practicable.

Division 5 — Controlled operations

63. Terms used in this Division

In this Division —

“**authority**” has the meaning given by section 119;

“**controlled activity**” has the meaning given by section 119;

“**controlled operation**” means an operation that —

- (a) involves the participation of police officers;

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- (b) is conducted, or intended to be conducted, for the purpose of —
 - (i) obtaining or facilitating the obtaining of evidence of criminal activity;
 - (ii) arresting any person involved in criminal activity;
 - (iii) frustrating criminal activity; or
 - (iv) carrying out an activity that is reasonably necessary to facilitate the achievement of a purpose referred to in subparagraph (i), (ii) or (iii);
- and
- (c) involves or may involve a controlled activity;

“criminal activity” means any activity that involves the commission of a section 5 offence by one or more persons.

64. Authority to conduct controlled operation and integrity testing

- (1) The Commission may under section 121 grant an authority to conduct a controlled operation participated in by police officers as if the police officers were officers of the Commission.
- (2) The Commission may under section 123 grant an authority for a police officer to conduct an integrity testing programme as if the police officer were an officer of the Commission.
- (3) If under this section the Commission exercises the powers set out in section 121 or 123 in respect of a police officer —
 - (a) Part 6 Division 4 applies to and in respect of the exercise of that power, the police officers concerned, the authority granted and any

conduct under the authority as if the police officers were officers of the Commission and with any other necessary modifications; and

- (b) section 129 applies as if a reference in that section to the Commission were a reference to the Commissioner of Police.

65. Report about controlled operation or integrity testing programme

- (1) A police officer responsible for a controlled operation for which an authority has been given must —
 - (a) at least once every 6 months while the authority is in force; and
 - (b) as soon as is reasonably practicable after the authority is cancelled,

give a report to the Commissioner of Police setting out the particulars required by subsection (2).

- (2) The report must include the following particulars —
 - (a) the nature of the criminal activities against which the controlled operation was directed;
 - (b) the nature of the controlled activities engaged in for the purposes of the controlled operation.

- (3) A police officer to whom an authority to conduct an integrity testing programme has been given must —
 - (a) at least once every 6 months while the authority is in force; and
 - (b) as soon as is reasonably practicable after the authority is cancelled,

give a report to the Commissioner of Police setting out a general description of the activities undertaken by the police officer under the authority.

- (4) The Commissioner of Police is to give a copy of the report to the Commission as soon as is reasonably practicable after the Commissioner of Police is given the report.

66. Overseeing exercise of powers under this Division

- (1) The Commission may by notice in writing direct the Commissioner of Police or any other person to give the Commission details of any controlled operation or integrity testing programme for which a police officer was responsible, including the identity of any person who participated in the operation or programme.
- (2) The Commissioner of Police or any other person to whom a notice is given under subsection (1) is to comply with the direction in the notice as soon as is reasonably practicable.

Division 6 — Fortifications

67. Terms used in this Division

- (1) In this Part —
 - “fortification”** means any structure or device that, whether alone or as part of a system, is designed to prevent or impede, or to provide any other form of countermeasure against, uninvited entry to premises;
 - “heavily fortified”** has the meaning given by subsection (2);
 - “interested person”** means a person who —
 - (a) is a lessee of the premises, whether or not actually occupying the premises; or
 - (b) is actually occupying, or is entitled to the possession of, the premises;

“owner” means —

- (a) if the premises are on land that is subject to the *Transfer of Land Act 1893* or the *Land Administration Act 1997*, a proprietor of the land within the meaning of the *Transfer of Land Act 1893*;
- (b) if the premises are on land that is subject to the *Registration of Deeds Act 1856*, the holder of an estate or interest in the land that is registered by memorial under that Act;

“submission” means a submission made by an owner or interested person to the Commissioner of Police that a fortification removal notice should not be issued;

“submission period” has the meaning given by section 69(2)(b).

- (2) Premises are heavily fortified if there are, at the premises, fortifications to an extent or of a nature that it would be reasonable to regard as excessive for premises of that kind.

68. Issuing fortification warning notice

- (1) The Commissioner of Police may, without giving notice to any other person, apply to the Commission for the issue of a fortification warning notice.
- (2) The Commission may issue a fortification warning notice if satisfied on the balance of probabilities that there are reasonable grounds for suspecting that the premises to which it relates are —
 - (a) heavily fortified; and
 - (b) habitually used as a place of resort by members of a class of people a significant number of whom may reasonably be suspected to be involved in organised crime.

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- (3) The Commission may be satisfied by a statement made by a police officer and verified by statutory declaration.

69. Contents of fortification warning notice

- (1) A fortification warning notice is addressed to —
 - (a) the owner of the premises to which it relates, or each owner if there are 2 or more, by name; and
 - (b) any other interested persons, without naming them but with an explanation of the term “interested person”.
- (2) The notice must contain —
 - (a) a brief summary of section 68(2), including an explanation of the terms “fortification” and “heavily fortified”, and a statement that the Commission is satisfied as to the matters mentioned in that provision;
 - (b) a warning that unless, within the period of 14 days after the day on which a copy of the notice is given as described in section 70(1) (the “**submission period**”), the Commissioner of Police is satisfied that —
 - (i) the premises are not heavily fortified; or
 - (ii) the premises are not habitually used as a place of resort by members of a class of people a significant number of whom may reasonably be suspected to be involved in organised crime,a fortification removal notice may be issued; and
 - (c) an explanation of how a person who is an owner or interested person can make a submission to the Commissioner of Police that a fortification removal notice should not be issued.

70. Giving fortification warning notice

- (1) A copy of the fortification warning notice may be given —
 - (a) by giving it to any person —
 - (i) who is an owner; or
 - (ii) who is actually occupying the premises and appears to have reached 18 years of age,
in any way described in section 76 of the *Interpretation Act 1984*, registered post being used if it is given by post; or
 - (b) if it appears that any reasonable attempt to give it as described in paragraph (a) is unlikely to be successful, by affixing it to the front entrance or another part of the premises where it can be easily seen.
- (2) Giving a copy of a notice as described in subsection (1)(b) is to be regarded as giving it to each person who is actually occupying the premises and appears to have reached 18 years of age.
- (3) Although it is sufficient for the notice to be given as described in subsection (1), the Commissioner of Police is to make every reasonable attempt to give, as soon as practicable, a copy of the notice to every person who has not already been given a copy of it and who is an owner or interested person, indicating on that copy when the submission period ends.
- (4) If the notice is not given as described in subsection (1) within 14 days after the Commission issues it, the notice lapses and cannot be given at all.

71. Withdrawal notice

- (1) If, before the end of the time within which a fortification removal notice can be issued, the Commissioner of Police decides not to issue a fortification removal notice, the Commissioner of Police is to give a withdrawal notice to each person who was given a fortification warning notice.
- (2) The withdrawal notice must identify the premises, refer to the fortification warning notice, and state that the Commissioner of Police has decided not to issue a fortification removal notice.
- (3) The withdrawal notice may be given in any way in which section 70 would enable a fortification warning notice to be given.

72. Issuing fortification removal notice

- (1) If a fortification warning notice has been given as described in section 70(1) and the submission period has elapsed, the Commissioner of Police may issue a fortification removal notice relating to the premises concerned.
- (2) The Commissioner of Police cannot issue the fortification removal notice unless, after considering each submission, if any, made before the submission period elapsed, the Commissioner of Police reasonably believes that the premises are —
 - (a) heavily fortified; and
 - (b) habitually used as a place of resort by members of a class of people a significant number of whom may reasonably be suspected to be involved in organised crime.

- (3) A fortification removal notice cannot be issued if —
 - (a) a period of more than 28 days has elapsed since the end of the submission period; or
 - (b) the Commissioner of Police has given any person a withdrawal notice referring to the fortification warning notice concerned.

73. Contents of fortification removal notice

- (1) A fortification removal notice is addressed to each person to whom the fortification warning notice was addressed, and in the same way.
- (2) The notice must contain —
 - (a) a statement to the effect that, within 7 days after the day on which the notice is given to the owner of the premises or any further time allowed by the Commissioner of Police, the fortifications at the premises must be removed or modified to the extent necessary to satisfy the Commissioner of Police that the premises are no longer heavily fortified;
 - (b) a warning as to the effect of section 75; and
 - (c) an explanation of the right to apply to the Supreme Court for a review under section 76.
- (3) The notice may, but need not, include details as to what would need to be done before the Commissioner of Police would be satisfied that the premises are no longer heavily fortified.

74. Giving fortification removal notice

- (1) The fortification removal notice is to be given to the owner of the premises and, if it is given by post, registered post is to be used.

- (2) Although it is sufficient for the notice to be given to the owner, the Commissioner of Police is to make every reasonable attempt to give a copy of the notice, as soon as practicable, to every interested person.
- (3) A copy of the notice may be given under subsection (2) in any way in which section 70 would enable a fortification warning notice to be given.

75. Enforcing fortification removal notice

- (1) If the fortifications at the premises are not, within the time specified in the fortification removal notice or any further time allowed by the Commissioner of Police, removed or modified to the extent necessary to satisfy the Commissioner of Police that the premises are no longer heavily fortified, the Commissioner of Police may cause the fortifications to be removed or modified to the extent required by the fortification removal notice.
- (2) The Commissioner of Police may extend the time allowed by the notice if, before the time allowed elapses, application is made to the Commissioner of Police for it to be extended.
- (3) Subsection (1) authorises police officers and agents of the Commissioner of Police, without warrant or further notice, to enter the premises and secure them in order to do anything for the purposes of that subsection, and to use any force and employ any equipment necessary.
- (4) The Commissioner of Police may seize anything that can be salvaged in the course of removing or modifying fortifications under this section, and may sell or dispose of it as the Commissioner of Police considers appropriate.
- (5) The proceeds of any sale under subsection (4) are forfeited to the State and, to the extent that they are

insufficient to meet the costs incurred by the Commissioner of Police under this section, the Commissioner of Police may recover those costs as a debt due from the owner of the premises.

76. Review of fortification removal notice

- (1) If a fortification removal notice relating to premises has been issued, the owner or an interested person may, within 7 days after the day on which the notice is given to the owner of the premises, apply to the Supreme Court for a review of whether, having regard to the submissions, if any, made before the submission period elapsed and any other information that the Commissioner of Police took into consideration, the Commissioner of Police could have reasonably had the belief required by section 72(2) when issuing the notice.
- (2) The Commissioner of Police may identify any information provided to the court for the purposes of the review as confidential if its disclosure might prejudice the operations of the Commissioner of Police, and information so identified is for the court's use only and is not to be disclosed to any other person, whether or not a party to the proceedings, or publicly disclosed in any way.
- (3) An application for review under this section cannot be made if an application has previously been made by any person for the review of the same matter.
- (4) When the application for review is made, the period within which fortifications can be removed or modified in accordance with the fortification removal notice is extended to the seventh day after the day on which the application for review is finally disposed of by the court.

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- (5) The court may decide whether or not the Commissioner of Police could have reasonably had the belief required by section 72(2) when issuing the notice.
- (6) If the court decides that the Commissioner of Police could not have reasonably had the belief required by section 72(2) when issuing the notice, the notice ceases to have effect.
- (7) The decision of the court on an application for review under this section is final but does not prevent the Commissioner of Police from issuing a further notice under this Division relating to the same premises where there is fresh evidence.

77. Hindering removal or modification of fortifications

- (1) A person who does anything intending to prevent, obstruct, or delay, the removal or modification of fortifications in accordance with a fortification removal notice commits a crime.
Penalty: Imprisonment for 5 years and a fine of \$100 000.
- (2) Subsection (1) applies to the removal or modification of fortifications by a person who —
 - (a) is, or is acting for or on the instructions of, the owner or an interested person; or
 - (b) is acting under section 75(3).

78. Planning and other approval issues

- (1) The powers given by this Division may be exercised without regard to whether any statutory or other approval had been given for the fortifications.

- (2) No statutory or other approval is required for the removal or modification of fortifications in accordance with a fortification removal notice.
- (3) Subsection (2) applies to the removal or modification of fortifications by a person who —
 - (a) is, or is acting for or on the instructions of, the owner or an interested person; or
 - (b) is acting under section 75(3).

79. No compensation

- (1) No claim for compensation lies against a person for having approved any fortifications that are, or are required to be, removed or modified because of a notice under this Division.
- (2) No other claim for compensation arises because of the exercise of powers under this Division.
- (3) Subsection (2) does not extend to prevent claims in tort in relation to premises other than those in respect of which the fortification notice is given.

80. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for damage to property at the premises that the person causes, in good faith, in the performance or purported performance of a function under this Division.
- (2) The Crown is also relieved of any liability that it might otherwise have had for a person having caused damage as described in subsection (1).
- (3) The protection given by this section applies even though the damage was caused in the course of doing something that would have been capable of being done whether or not this Division had been enacted.

Division 7 — General matters

81. Part not applicable to juveniles

- (1) None of the powers given under this Part can be exercised in respect of a juvenile.
- (2) In this section —
“**juvenile**” means a person who has not reached 18 years of age.

82. Delegation by Commissioner of Police

- (1) The Commissioner of Police may delegate any power or duty of the Commissioner of Police under another provision of this Part to a police officer whose rank is Assistant Commissioner or higher.
- (2) The delegation must be in writing signed by the Commissioner of Police.
- (3) A police officer exercising or performing a power or duty that has been delegated to the police officer under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) Nothing in this section limits the ability of the Commissioner of Police to perform a function through an officer or a person representing the Commissioner of Police.

83. Judicial supervision excluded

- (1) Except with the consent of the Parliamentary Inspector, a prerogative writ cannot be issued and an injunction or a declaratory judgment cannot be given in respect of the performance of a function for the purposes of this Part and proceedings cannot be brought seeking such a writ, injunction, or judgment.

- (2) Subsection (1) does not apply after the completion of the investigation that it was being sought to facilitate by performing the function.

Part 5 — Reporting

Division 1 — Reports by Commission on specific matters

84. Report to Parliament on investigation or received matter

- (1) The Commission may at any time prepare a report on any matter that has been the subject of an investigation or other action in respect of misconduct, irrespective of whether the investigation or action was carried out by —
- (a) the Commission alone;
 - (b) the Commission in cooperation with an independent agency or appropriate authority; or
 - (c) an appropriate authority alone.
- (2) The Commission may at any time prepare a report on any received matter, irrespective of whether the matter has been the subject of an investigation or other action under this Act or any other law.
- (3) The Commission may include in a report under this section —
- (a) statements as to any of the Commission's assessments, opinions and recommendations; and
 - (b) statements as to any of the Commission's reasons for the assessments, opinions and recommendations.
- (4) The Commission may cause a report prepared under this section to be laid before each House of Parliament or dealt with under section 93.

85. Report to Parliament on further action by appropriate authority

- (1) After considering a report given to the Commission by an appropriate authority under section 40(1) or (4), the Commission may prepare a report on the report of the authority.
- (2) During or after the carrying out of action by an appropriate authority in respect of an allegation referred to the authority under section 37(1), the Commission may prepare a report if the Commission considers that the action is not being, or has not been, properly, efficiently or expeditiously carried out.
- (3) The Commission may include in a report under this section —
 - (a) statements as to any of the Commission's assessments, opinions and recommendations; and
 - (b) statements as to any of the Commission's reasons for the assessments, opinions and recommendations.
- (4) The Commission may cause a report prepared under this section to be laid before each House of Parliament or dealt with under section 93.

86. Contents of reports

Before reporting any matters adverse to a person or body in a report under section 84 or 85, the Commission must give the person or body a reasonable opportunity to make representations to the Commission concerning those matters.

87. Disclosure of matters in report

- (1) If a report under section 84 or 85 is laid before either House of Parliament, a matter included in that report may be disclosed despite section 151.
- (2) If, following the making by the Commission of a report under section 84 or 85 to the Standing Committee or a Minister, the Standing Committee or Minister approves the disclosure of a matter included in the report, that matter may be disclosed despite section 151.

88. Special reports

- (1) The Commission may, at any time prepare a special report on any administrative or general policy matter relating to the functions of the Commission.
- (2) The Commission may cause the special report to be laid before each House of Parliament or dealt with under section 93.

89. Report to the Minister, other Ministers or a Standing Committee

A report of the kind mentioned in section 84, 85 or 88 may be made by the Commission to the Minister, or another Minister or the Standing Committee instead of being laid before each House of Parliament or dealt with under section 93 if, for any reason, the Commission considers it appropriate to do so.

90. Reports concerning police officers and chief executive officers

- (1) Without limiting any other function under this Act, the Commission may prepare a report on information available to the Commission about a person proposed to be appointed as —
 - (a) Commissioner of Police;

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- (b) a commissioned police officer, a non-commissioned police officer, a constable, a special constable or an aboriginal aide under the *Police Act 1892*; or
 - (c) a chief executive officer.
- (2) A report about a person must be given to the person.
- (3) A report about a person proposed to be appointed as Commissioner of Police or a commissioned police officer may be given to —
 - (a) the Minister responsible for the administration of the *Police Act 1892*; and
 - (b) any other Minister that the Minister responsible for the administration of the *Police Act 1892* considers has a relevant interest in the report.
- (4) A report about a person proposed to be appointed as a non-commissioned police officer or a constable may be given to —
 - (a) the Commissioner of Police or the Minister responsible for the administration of the *Police Act 1892* or both of those persons; and
 - (b) if the report is given to the Minister responsible for the administration of the *Police Act 1892*, any other Minister that that Minister considers has a relevant interest in the report.
- (5) A report about a person proposed to be appointed as a special constable or an aboriginal aide may be given to the Commissioner of Police.
- (6) A report about a person proposed to be appointed as a chief executive officer may be given to —
 - (a) the Minister responsible for the administration of the *Public Sector Management Act 1994*; and

- (b) any other Minister that the Minister responsible for the administration of the *Public Sector Management Act 1994* considers has a relevant interest in the report.
- (7) Except as provided in this section, the fact that the Commission has given a report under this section, and any details of a report given under this section, must not be disclosed.

Division 2 — General reports

91. Annual report to Parliament

- (1) The Commission is to prepare, within 3 months after 30 June of each year, a report as to its general activities during that year.
- (2) The report is to include —
 - (a) a description of the types of allegations received or initiated by the Commission;
 - (b) a description of the types of investigations carried out by the Commission;
 - (c) an evaluation of the response of appropriate authorities to recommendations made by the Commission;
 - (d) the general nature and extent of any information furnished under the Act by the Commission to independent authorities;
 - (e) the extent to which investigations carried out by the Commission have resulted in prosecutions of public officers or other persons or disciplinary action against public officers;
 - (f) the number of exceptional powers findings made under section 46;
 - (g) the number of fortification warning notices issued by the Commission under section 68;

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- (h) the number of notices to produce a statement of information issued under section 94;
 - (i) the number of search warrants issued to the Commission under section 101;
 - (j) the number of approvals for the acquisition and use of an assumed identity given by the Commission under section 103;
 - (k) the number of authorities to conduct controlled operations granted by the Commission under section 121;
 - (l) the number of authorities for integrity testing programmes granted by the Commission under section 123;
 - (m) the number of warrants of apprehension issued by the Commission under section 148;
 - (n) the number of warrants and emergency authorisations issued to the Commission under the *Surveillance Devices Act 1998*;
 - (o) the number of warrants issued to the Commission under the *Telecommunications (Interception) Act 1979* of the Commonwealth;
 - (p) a description of the Commission's activities during that year in relation to its prevention and education function; and
 - (q) any recommendations for changes in the laws of the State that the Commission considers should be made as a result of the performance of its functions.
- (3) Nothing in this section requires the Commission to provide operational information in a report under subsection (1).

- (4) The Commission is to cause a copy of a report prepared under this section to be laid before each House of Parliament, or dealt with under section 93, within 21 days of the preparation of the report.
- (5) This section does not limit Part II Division 14 of the *Financial Administration and Audit Act 1985* and the report required under this section may be prepared and dealt with in conjunction with the report required under that Division.

92. Periodical report to Parliament

- (1) Rules of Parliament may require the Commission to report to each House of Parliament or the Standing Committee, as and when prescribed in the Rules, as to the general activities of the Commission.
- (2) The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in accordance with the Rules and Orders of those Houses.
- (3) Rules of Parliament made under this section must be published in the *Gazette*.
- (4) Section 42 of the *Interpretation Act 1984* does not apply to Rules of Parliament made under this section.

Division 3 — General matters

93. Laying documents before House of Parliament that is not sitting

- (1) If a copy of a report of the kind mentioned in section 84, 85 or 88 may be laid before each House of Parliament and a House of Parliament is not sitting, the Commission may transmit a copy of the report to the Clerk of that House.

- (2) If section 91 requires the Commission to cause a copy of a report to be laid before each House of Parliament, or dealt with under this section, within a period and —
 - (a) at the commencement of the period, a House of Parliament is not sitting; and
 - (b) the Commission is of the opinion that the House will not sit during that period,the Commission is to transmit a copy of the report to the Clerk of that House.
- (3) A copy of a report transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (4) The laying of a copy of the text of a document that is regarded as having occurred under subsection (3) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

Part 6 — Powers

Division 1 — Particular powers to require information or attendance

94. Power to obtain statement of information

- (1) For the purposes of an investigation, the Commission may, by written notice served on a public authority or public officer, require the authority or officer to produce a statement of information.
- (2) A notice under this section must —
 - (a) specify or describe the information required;
 - (b) fix a time and date by which the statement of information must be produced; and

- (c) specify the person (being an officer of the Commission) to whom the production is to be made.
- (3) The notice —
 - (a) may provide that the requirement may be satisfied by some other person acting on behalf of the public authority or public officer; and
 - (b) may specify the person or class of persons who may so act.
- (4) The powers conferred by this section may be exercised despite —
 - (a) any rule of law which, in proceedings in a court, might justify an objection to the production of a statement of information on grounds of public interest;
 - (b) any privilege of a public authority or public officer in that capacity which the authority or officer could have claimed in a court of law; or
 - (c) any duty of secrecy or other restriction on disclosure applying to a public authority or public officer.
- (5) A statement of information produced by a person in compliance with a notice served under this section is not admissible in evidence against that person in any civil or criminal proceedings except —
 - (a) contempt proceedings;
 - (b) proceedings for an offence against this Act; or
 - (c) disciplinary action.
- (6) Despite subsection (5), the witness may, in any civil or criminal proceedings, be asked about the statement under section 21 of the *Evidence Act 1906*.

95. Power to obtain documents and other things

- (1) The Commission may, by written notice served on a person, require the person —
 - (a) to attend, at a time and place specified in the notice, before the Commission or an officer of the Commission as specified in the notice; and
 - (b) to produce at that time and place to the person so specified a record or other thing specified in the notice.
- (2) The notice —
 - (a) may provide that the requirement may be satisfied by some other person acting on behalf of the person on whom it was imposed; and
 - (b) may specify the person or class of persons who may so act.

96. Power to summon witnesses to attend and produce things

- (1) The Commission may issue a signed summons and cause it to be served on the person to whom it is addressed.
- (2) Personal service of the summons is required.
- (3) The summons may require the person to whom it is addressed to attend before the Commission at an examination, at a time and place specified in the summons, and then and there to —
 - (a) give evidence;
 - (b) produce any record or other thing in the person's custody or control that is described in the summons; or
 - (c) do both of those things.

97. Witnesses to attend while required

A person who has been served with a summons under section 96 is required, unless excused by the Commission, to attend as specified by the summons and report to the Commission from day to day until released from further attendance by the Commission.

98. Power of Commission in relation to things produced

- (1) The Commission or a person authorised in writing by the Commission may —
 - (a) inspect any document or other thing produced before the Commission or an officer of the Commission;
 - (b) retain the document or other thing for a reasonable period; and
 - (c) take photographs or copies of, or extracts or notes from, anything relevant to the investigation.
- (2) The Commission may make an order about what is to be done with any document or other thing produced before the Commission or an officer of the Commission, and it may be dealt with in accordance with that order.
- (3) The Commission may not order a document to be destroyed except in accord with the *State Records Act 2000*.

99. Notation on notice or summons to restrict disclosure

- (1) In this section —

“official matter” means any of the following (whether past, present or contingent) —

 - (a) the investigation for the purposes of which a notice or summons that includes a notation under this section was issued;

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- (b) an examination before the Commission for the purposes of the investigation;
 - (c) court proceedings.
- (2) A notice under section 94 or 95 or a summons under section 96 may include a notation to the effect that disclosure of information about the notice or summons, or about any official matter connected with it, is prohibited except in the circumstances, if any, specified in the notation.
- (3) The notation cannot be included unless subsection (4) requires it to be included or subsection (5) permits it to be included.
- (4) The notation is required to be included if the Commission is satisfied that failure to do so could reasonably be expected to prejudice —
 - (a) the safety or reputation of a person;
 - (b) the fair trial of a person who has been or may be charged with an offence; or
 - (c) the effectiveness of an investigation.
- (5) The notation may be included if the Commission is satisfied that failure to do so —
 - (a) might prejudice —
 - (i) the safety or reputation of a person;
 - (ii) the fair trial of a person who has been or may be charged with an offence; or
 - (iii) the effectiveness of an investigation;
 - or
 - (b) might otherwise be contrary to the public interest.
- (6) If the notation is included, it must be accompanied by a written statement describing the effect of section 167.

- (7) The notation ceases to have effect if, after the conclusion of the investigation concerned —
 - (a) no evidence of an offence has been obtained;
 - (b) although evidence of an offence or offences has been obtained, it has been decided not to initiate any criminal proceedings in which the evidence would be relevant;
 - (c) evidence of an offence or offences committed by only one person has been obtained and criminal proceedings have been initiated against that person; or
 - (d) evidence of an offence or offences committed by 2 or more persons has been obtained and —
 - (i) criminal proceedings have been initiated against all those persons; or
 - (ii) criminal proceedings have been initiated against all those persons except any of them against whom it has been decided not to initiate criminal proceedings.
- (8) If the notation ceases to have effect because of subsection (7), the Commission must serve a written notice of that fact on each person who was served with the summons or notice containing the notation.
- (9) If the notation is inconsistent with a direction given under section 151(4)(a), the notation has no effect to the extent of the inconsistency.

Division 2 — Entry, search and related matters

100. Power to enter and search public premises

- (1) An officer of the Commission authorised in writing by the Commission may, at any time without a warrant —
 - (a) enter and inspect any premises occupied or used by a public authority or public officer in that capacity;

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- (b) inspect any document or other thing in or on the premises; and
 - (c) take copies of any document in or on the premises.
- (2) The powers conferred by this section must not be exercised other than for the purpose of investigating any conduct of a person that constitutes or involves or may constitute or involve misconduct.
- (3) A public authority or public officer must make available to an officer authorised under subsection (1) such facilities as are necessary to enable the powers conferred by subsection (1) to be exercised.
- (4) The powers conferred by this section may be exercised despite —
 - (a) any rule of law which, in proceedings in a court, might justify an objection to an inspection of the premises or to the production of a document or other thing on grounds of public interest;
 - (b) any privilege of a public authority or public officer in that capacity which the authority or officer could have claimed in a court of law; or
 - (c) any duty of secrecy or other restriction on disclosure applying to a public authority or public officer.

101. Search warrants

- (1) In this section —
 - “authorised person”** means —
 - (a) the named officer of the Commission or named officers of the Commission on whom authority is conferred by a warrant; or
 - (b) a person referred to in subsection (3);

“relevant material” means records or things that are or appear likely to be relevant to the investigation of suspected serious misconduct;

“warrant” means a warrant issued under subsection (2).

- (2) If a Judge of the Supreme Court is satisfied, on the application of the Commission, that there are reasonable grounds for suspecting that there may be relevant material in or on particular premises, the Judge may issue a search warrant authorising a named officer of the Commission or named officers of the Commission —
 - (a) to enter and search the premises; and
 - (b) where the premises comprise a vehicle, vessel, aircraft or the like, to stop and detain and give directions as to the movement of the same.
- (3) The person or persons on whom authority is conferred by a warrant may be accompanied by such other persons as are necessary for the effective exercise of the powers conferred by the warrant and this section.
- (4) In addition to exercising the powers in subsection (2) an authorised person acting under a warrant may —
 - (a) break open and search any thing in or on the premises it is suspected might contain relevant material;
 - (b) seize any relevant material and deliver it to the Commission;
 - (c) secure any relevant material against interference;
 - (d) request any person found in or on the premises to produce any relevant material which at the time of the request is in the possession, under the control, or at the order or disposition, of that

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person whether in or on the premises or elsewhere; and

- (e) take photographs or copies of, or extracts or notes from, any relevant material.
- (5) An authorised person acting under a warrant may use such reasonable force as is necessary.
- (6) The Commission may —
 - (a) retain possession of any relevant material for such reasonable period as it thinks fit; and
 - (b) at any time release any relevant material, whether conditionally or unconditionally, to any person who appears to be entitled to possession of it.
- (7) The law and practice relating to search warrants issued under section 711 of *The Criminal Code* shall apply to an application for a search warrant under this section.
- (8) Before an authorised person acting under a warrant uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable —
 - (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
 - (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,

as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the search permitted by the warrant or would endanger any person.

Division 3 — Assumed identities

102. Terms used in this Division

In this Part —

“chief officer”, of an issuing agency, means the officer in charge (however described) of the issuing agency;

“issuing agency” means —

- (a) a public authority; or
- (b) a person, body or entity that is not a public authority;

“officer”, of an issuing agency, includes a person employed or engaged by the issuing agency;

“register” means a register kept under the *Births, Deaths and Marriages Registration Act 1998*;

“Registrar” means the Registrar of Births, Deaths and Marriages referred to in section 5 of the *Births, Deaths and Marriages Registration Act 1998*.

103. Approval for assumed identity

- (1) The Commission may grant an approval (an **“assumed identity approval”**) for the acquisition and use of an assumed identity by an officer of the Commission.
- (2) The approval must be in writing signed by the Commission.
- (3) A single approval may be given for one or more assumed identities.
- (4) The approval —
 - (a) must specify —
 - (i) the date of the approval;
 - (ii) the details of each assumed identity approved; and

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- (iii) the name of the officer of the Commission to whom the approval applies;
 - and
 - (b) may specify the evidence of each assumed identity that may be acquired under the approval.
- (5) The approval may be granted subject to conditions specified in the approval.
- (6) The Commission may, in writing, vary or cancel the approval.
- (7) Written notice of the variation or cancellation must be given to the officer to whom the approval applies.
- (8) The variation or cancellation of an approval takes effect —
 - (a) on the day the written notice is given to the officer to whom the approval applies; or
 - (b) if a later date of effect is stated in the notice — on the day stated.
- (9) The approval remains in force until it is cancelled.

104. What an approval authorises

- (1) An assumed identity approval authorises the officer of the Commission to whom it applies to acquire and use an assumed identity specified in the approval if the acquisition and use are —
 - (a) in the course of, or incidental to, duty; and
 - (b) in accordance with the assumed identity approval.
- (2) The officer can use an assumed identity under the authority of an assumed identity approval without having actually acquired the identity.

- (3) For the purposes of this Division —
 - (a) an officer acquires an assumed identity by obtaining evidence of the identity under the assumed identity, including by obtaining the making of an entry in any register or other record of information; and
 - (b) an officer uses an assumed identity by —
 - (i) representing it to be the officer's true identity; or
 - (ii) acting in a way that is consistent with such an identity rather than the officer's real identity.
- (4) An assumed identity approval also authorises —
 - (a) the making (by the officer to whom the approval applies or by the Commission) of any false or misleading representation about the officer, for the purposes of or in connection with the acquisition or use of the assumed identity by the officer; and
 - (b) the use by the officer of the assumed identity to obtain evidence of the identity.

105. Issuing evidence of assumed identity

- (1) The Commission may request the chief officer of an issuing agency to —
 - (a) produce evidence of an assumed identity in accordance with an assumed identity approval; and
 - (b) give evidence of an assumed identity to the officer specified in the approval.
- (2) The request must state a reasonable period for compliance with the request.

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- (3) The chief officer of a public authority who receives a request under subsection (1) is authorised and required to comply with the request.
- (4) The chief officer of an issuing agency that is not a public authority who receives a request under subsection (1) is authorised to comply with the request, but does not have to do so.
- (5) For the purpose of complying with a request under this section, the chief officer, and any other officer of the issuing agency acting in accordance with the directions of the officer in charge, are authorised to provide evidence of identity and make an appropriate entry in a register or other record of information in accordance with the request.
- (6) In subsection (5) —
 “appropriate entry”, in respect of an assumed identity, means a written or electronic entry that, either alone or with other entries, is not inconsistent with the assumed identity being a real identity.

106. Court orders as to entries in register

- (1) A Judge of the Supreme Court may order the Registrar to make an entry in a register under the *Births, Deaths and Marriages Registration Act 1998* in relation to the acquisition of an assumed identity under an assumed identity approval.
- (2) The Judge may make the order —
 - (a) on application of the Commission; and
 - (b) if satisfied the order is justified having regard to the nature of the activities to be undertaken by the officer of the Commission under the assumed identity approval.

- (3) The Registrar must give effect to the order —
 - (a) within the period stated in the order; or
 - (b) if no period is stated in the order — within 28 days after the day on which the order is made.

107. Hearing of application

- (1) An application under section 106 or 109 is to be heard in closed court.
- (2) A transcript of the proceedings on the application is not to be made.
- (3) No record of the application or of an order in relation to the application is to be available for search by any person, except by direction of a Judge.
- (4) Nothing in this section prevents a person who was present at an application from giving oral evidence to a court about things that happened at the application.

108. Cancellation of evidence of assumed identity

- (1) The chief officer of an issuing agency who produces evidence of an assumed identity under this Division is to cancel the evidence if directed in writing to do so by the Commission.
- (2) This section does not apply to an entry in a register because of an order under section 106.
- (3) In this section —
“**cancel**” includes delete or alter an entry in a record of information.

109. Cancellation of approval affecting entry in register of births, deaths and marriages

- (1) This section applies if —
 - (a) the Commission cancels an approval for an assumed identity; and
 - (b) there is an entry in relation to that identity in a register because of an order under section 106.
- (2) If this section applies, the Commission must apply for an order under section 110 within 28 days after the approval is cancelled.

110. Cancelling entries in register of births, deaths and marriages

- (1) On application of the Commission, a Judge of the Supreme Court may order the Registrar to cancel an entry that has been made in a register under an order under section 106.
- (2) The Registrar must give effect to the order within 28 days after the day on which the order is made.

111. Protection from liability

- (1) The chief officer, or another officer, of an issuing agency who does something that, apart from this section, would be an offence, is not criminally responsible for the offence if the thing is done to comply with a request under section 105 or 108 or an order under section 106 or 110.
- (2) If an officer of the Commission to whom an assumed identity approval applies does something that, apart from this section, would be an offence, the officer is not criminally responsible for the offence if —
 - (a) the thing is done in the course of acquiring or using an assumed identity in accordance with the approval;

- (b) the thing is done in the course of duty; and
- (c) the thing would not be an offence if the assumed identity were the officer's real identity.

112. Indemnity

- (1) The Commission must indemnify an issuing agency, or an officer of the agency, for any liability incurred by the agency or officer (including reasonable costs) if —
 - (a) the liability is incurred because of something done by the agency or officer to comply with a request under section 105, a direction under section 108 or an order under section 106 or 110 and in the course of duty; and
 - (b) any requirements prescribed by the regulations have been met.
- (2) The Commission must indemnify an officer of the Commission to whom an assumed identity approval applies for any liability incurred by the officer (including reasonable costs) because of something done by the officer if —
 - (a) the thing is done in the course of acquiring or using an assumed identity in accordance with the approval;
 - (b) the thing is done in the course of the officer's duty; and
 - (c) any requirements prescribed under the regulations have been met.

113. Particular skills or qualifications

- (1) Sections 111 and 112 do not apply to anything done by an officer of the Commission to whom an assumed identity approval applies if —
 - (a) a particular skill or qualification is needed to do the thing; and

- (b) the officer does not have that skill or qualification.
- (2) Subsection (1) applies whether or not the officer has acquired, as evidence of the assumed identity, a document that establishes that he or she has that skill or qualification.

114. Identity of certain officers not to be disclosed in legal proceedings

- (1) In this section —
“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- (2) If, in proceedings before a court, the identity of an officer of the Commission in respect of whom an assumed identity approval is or was in force may be disclosed, the court must, unless it considers that the interests of justice otherwise require —
 - (a) ensure that such parts of the proceedings as relate to the real identity of the officer are held in private; and
 - (b) make such orders as to the suppression of evidence given before it as, in its opinion, will ensure that the identity of the officer is not disclosed.
- (3) In particular, the court —
 - (a) may allow an officer in respect of whom an assumed identity approval was or is in force to appear before it under the assumed identity or under a code name or code number; and
 - (b) may make orders prohibiting the publication of any information (including information derived from evidence before it) that identifies, or might facilitate the identification of, any person

who has been or is proposed to be called to give evidence.

- (4) A person who discloses information in contravention of an order in force under this section is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

115. Information not to be disclosed

A person who, either directly or indirectly, makes a record of, or discloses, to another person, any information relating to the provision of evidence of identity or the making of an entry in a register or other record of information under this Division, unless it is necessary to do so for the purposes of this Division, is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

116. Misuse of assumed identity

- (1) An officer of the Commission to whom an assumed identity approval applies must not misuse an assumed identity covered by the approval.

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

- (2) For the purposes of subsection (1), an officer of the Commission misuses an assumed identity covered by an approval if —

- (a) the officer acquires evidence of, or uses, the assumed identity; and
- (b) the acquisition or use is not —
 - (i) in accordance with the approval; and
 - (ii) in the course of duty.

117. Evidence

- (1) A document purporting to be an approval granted by the Commission is admissible in any legal proceedings.
- (2) A certificate signed by the Commission stating that —
 - (a) a person is authorised by this Division to prepare and provide a specified document or make a specified entry; or
 - (b) on a specified date, or during a specified period, a specified officer of the Commission was authorised to acquire and use a specified assumed identity in accordance with specified conditions,

is admissible in any legal proceedings and is conclusive evidence of the matters specified in the certificate.

118. Review

The Commission must review each assumed identity approval at least once every 6 months while the approval is in force.

Division 4 — Controlled operations and integrity testing programmes

119. Terms used in this Division

In this Division —

“authorised operation” means a controlled operation or integrity testing programme for which an authority is in force;

“authority” means an authority in force under this Division, and includes any variation of such an authority;

“civilian participant” in an authorised operation means a participant in the operation who is not an officer of the Commission;

“controlled activity” means an activity for which a person would, but for section 128, be criminally responsible;

“controlled operation” means an operation that —

- (a) is conducted, or intended to be conducted, for the purpose of obtaining or facilitating the obtaining of evidence of misconduct; and
- (b) involves or may involve a controlled activity;

“formal authority” has the meaning given by section 121(2);

“integrity testing programme” has the meaning given by section 123;

“officer participant” in an authorised operation means a participant in the operation who is an officer of the Commission;

“participant” in an authorised operation means a person who is authorised under this Division to engage in controlled activities for the purposes of the operation;

“urgent authority” has the meaning given by section 121(2).

120. Provisions are not to affect certain matters

The provisions of this Division are not intended to limit a discretion that a court has —

- (a) to admit or exclude evidence in any proceedings; or
- (b) to stay criminal proceedings in the interests of justice.

121. Authority to conduct controlled operation

- (1) The Commission may grant an authority to conduct a controlled operation.
- (2) The authority may be granted —
 - (a) by means of a written document signed by the Commission (a **“formal authority”**); or
 - (b) by such other means as are available, including (but not limited to) orally in person, by telephone or by 2-way radio (an **“urgent authority”**).
- (3) The authority must —
 - (a) specify the officer of the Commission responsible for the operation;
 - (b) identify each person who may engage in controlled activities for the purposes of the operation;
 - (c) identify the controlled operation;
 - (d) specify —
 - (i) with respect to officer participants, the nature of the controlled activities that those officers may engage in; and
 - (ii) with respect to civilian participants, the nature of the controlled activities that each participant may engage in;
 - (e) specify a period, not exceeding 6 months, for which the authority is to remain in force; and
 - (f) specify the day on which and time when, the authority is given.
- (4) A person is sufficiently identified for the purposes of subsection (3)(a) or (b) if the person is identified —
 - (a) by an assumed identity under which the person is operating; or

- (b) by a code name or number,
so long as the assumed identity, code name or code number can be matched to the person's identity by reference to documentation kept by the Commission.
- (5) For the purposes of subsection (3)(c) a controlled operation may be identified by reference to a plan of the controlled operation held by the Commission.
- (6) The authority may be granted subject to conditions specified in the authority.
- (7) If the Commission grants an urgent authority, the Commission must —
 - (a) ensure that written notes are kept of the following matters —
 - (i) the date and time when the authority was granted; and
 - (ii) the particulars referred to in subsections (3) and (6);
 - and
 - (b) as soon as practicable prepare a written document that complies with subsection (3) and includes any conditions subject to which the authority was granted.
- (8) Unless it is sooner cancelled, an authority remains in force for the period specified in the authority.

122. Certain matters not to be authorised

- (1) A participant in a controlled operation must not —
 - (a) intentionally induce another person to engage in misconduct that there is no reason to suspect that person has previously engaged in; or

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- (b) engage in conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property.
- (2) An authority to conduct a controlled operation in respect of a matter for which there is not an allegation of misconduct must not be granted unless each person to be investigated under the controlled operation is —
 - (a) a police officer; or
 - (b) a person of a class prescribed by the regulations.
- (3) A person must not be authorised to participate in a controlled operation unless the Commission is satisfied that the person has the appropriate skills to participate in the operation.
- (4) A person who is not an officer of the Commission —
 - (a) must not be authorised to participate in any aspect of a controlled operation unless the Commission is satisfied that it is wholly impracticable for an officer of the Commission to participate in that aspect of the operation; and
 - (b) must not be authorised to engage in a controlled activity unless it is wholly impracticable for the person to participate in the aspect of the controlled operation referred to in paragraph (a) without engaging in that activity.

123. Authority to conduct integrity testing programme

- (1) The Commission may grant an authority for an officer of the Commission or another person to conduct a programme (an “**integrity testing programme**”) to

test the integrity of any particular public officer or class of public officers.

- (2) An integrity testing programme may involve an act or omission (by a person who is participating in the programme) that offers a public officer whose integrity is being tested the opportunity to engage in behaviour, whether lawful or unlawful, in contravention of the principles of integrity required of a public officer.
- (3) The authority must be in writing signed by the Commission.
- (4) The authority must —
 - (a) specify the officer of the Commission responsible for the programme;
 - (b) specify the names of any persons who are authorised to participate in the programme;
 - (c) identify the integrity testing programme;
 - (d) specify the nature of the particular activities in which the persons specified in the authority are authorised to engage;
 - (e) specify a period, not exceeding 6 months, for which the authority is given; and
 - (f) specify a date and time, being not earlier than its signing, when the authority comes into force.
- (5) For the purposes of subsection (4)(c) an integrity testing programme may be identified by reference to a plan of the programme held by the Commission.
- (6) A person is sufficiently identified for the purposes of subsection (4)(a) or (b) if the person is identified —
 - (a) by an assumed identity under which the person is operating; or
 - (b) by a code name or number,

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so long as the assumed identity, code name or code number can be matched to the person's identity by reference to documentation kept by the Commission.

- (7) The authority may be granted subject to conditions specified in the authority.
- (8) An authority to conduct an integrity testing programme in respect of a matter for which there is not an allegation of misconduct must not be granted unless each person to be tested under the integrity testing programme is —
 - (a) a police officer; or
 - (b) a person of a class prescribed by the regulations.
- (9) Unless it is sooner cancelled, an authority remains in force for the period specified in the authority.

124. Variation of authority

- (1) The Commission may vary an authority.
- (2) The variation must —
 - (a) identify the authorised operation for which the authority is in force;
 - (b) specify the date and time when the variation of the authority is granted; and
 - (c) describe the variation.
- (3) A variation of an authority to conduct a controlled operation may be granted —
 - (a) by means of a written document signed by the Commission (a **“formal variation of an authority”**); or
 - (b) by such other means as are available, including (but not limited to) orally in person, by

telephone or by 2-way radio (an **“urgent variation of an authority”**).

- (4) A variation of an authority to conduct an integrity testing programme must be granted by means of a written document signed by the Commission.
- (5) If the Commission grants an urgent variation of an authority, the Commission must —
 - (a) ensure that written notes are kept of the date and time when the variation of authority was granted; and
 - (b) as soon as practicable prepare a written document that complies with subsection (2).

125. Cancellation of authority

- (1) The Commission may, by order in writing, cancel an authority.
- (2) Cancellation of an authority takes effect at the time the order is made or at such later time as may be specified in the order.

126. Effect of authority

While it is in force, an authority for a controlled operation or an integrity testing programme —

- (a) authorises each officer participant to engage in the controlled activities specified in the authority in respect of the officer participants; and
- (b) authorises each civilian participant to engage in the particular controlled activities specified in the authority in respect of that participant.

127. Defect in authority

Any authority or variation of authority is not invalidated by any defect, other than a defect that affects the authority or variation in a material particular.

128. Protection from criminal responsibility

Despite any written or other law, a participant who engages in an activity in an authorised operation in the course of, and for the purposes of the operation, is not, if engaging in that activity is an offence, criminally responsible for the offence, if —

- (a) the activity is authorised by, and is engaged in accordance with, the authority for the operation; and
- (b) in the case of a controlled operation, the activity meets the requirements of section 130.

129. Indemnification of participants against civil liability

- (1) The Commission must indemnify an officer of the Commission against any civil liability (including reasonable costs) the officer incurs because of conduct the officer engages in as an officer participant if —
 - (a) the officer engages in the conduct in the course of, and for the purposes of, an operation authorised by, and in accordance with, the authority for the operation;
 - (b) in the case of a controlled operation, the conduct meets the requirements of section 130; and
 - (c) the requirements specified in the regulations have been met.
- (2) The Commission must indemnify a person who is not an officer of the Commission against any civil liability (including reasonable costs) the person incurs because

of conduct the person engages in as a civilian participant if —

- (a) the person engages in the conduct in the course of, and for the purposes of, an operation authorised by, and in accordance with, the authority for the operation;
- (b) in the case of a controlled operation, the conduct meets the requirements of section 130; and
- (c) the requirements specified in the regulations have been met.

130. Requirements that must be met to obtain protection from criminal responsibility or indemnity

An activity or conduct meets the requirements of this section if —

- (a) the activity or conduct does not involve any participant in the operation intentionally inducing a person to engage in misconduct that there is no reason to suspect that person had previously engaged in; and
- (b) the activity or conduct does not involve any participant in the operation engaging in any conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property.

131. Effect of being unaware of variation or cancellation of authority

- (1) If an authority is varied in a way that limits its scope, this Division continues to apply to any participant in the operation as if the authority had not been varied in that way, for so long as the participant —
 - (a) is unaware of the variation; and

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- (b) is not reckless about the existence of the variation.
- (2) If an authority for a controlled operation is cancelled, this Division continues to apply to any participant in the operation as if the authority had not been cancelled in that way, for so long as the participant —
 - (a) is unaware of the cancellation; and
 - (b) is not reckless about the existence of the cancellation.
- (3) For the purposes of this section, a person is reckless about the existence of the variation or cancellation of an authority if —
 - (a) the person is aware of a substantial risk that the variation or cancellation has happened; and
 - (b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

132. Protection from criminal responsibility for certain ancillary activities

- (1) This section applies to an activity such as aiding and abetting the commission of an offence or of conspiring to commit an offence (an **“ancillary activity”**) for which a person may be criminally responsible because it involves an activity for which the other person would (but for section 128) be criminally responsible (the **“related controlled activity”**).
- (2) Despite any other Act or law, a person who engages in an ancillary activity that is an offence (whether or not that person is a participant in an authorised operation) is not criminally responsible for the offence if at the time the person engaged in the ancillary activity he or she believed the related controlled activity was being engaged in, or would be engaged in, by a participant in an authorised operation.

133. Evidence

- (1) A document purporting to be an authority granted by the Commissioner is admissible in any legal proceedings.
- (2) A certificate signed by the Commission stating that, on a specified date or during a specified period, a specified person was authorised under this Division to participate in a controlled operation or integrity testing programme involving a specified act or omission is admissible in any legal proceedings and is conclusive evidence of the matters specified in the certificate.

134. Identity of certain participants not to be disclosed in legal proceedings

- (1) In this section —
“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- (2) If, in proceedings before a court, the identity of a participant in an authorised operation is in issue or may be disclosed, the court must, unless it considers that the interests of justice otherwise require —
 - (a) ensure that such parts of the proceedings as relate to the real identity of the participant are held in private; and
 - (b) make such orders as to the suppression of evidence given before it as, in its opinion, will ensure that the identity of the participant is not disclosed.
- (3) In particular, the court —
 - (a) may allow a participant in an authorised operation who has been authorised to participate in the operation under an assumed

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name to appear before it under the assumed identity or under a code name or code number; and

- (b) may make orders prohibiting the publication of any information (including information derived from evidence before it) that identifies, or might facilitate the identification of, any person who has been or is proposed to be called to give evidence.

- (4) A person who discloses information in contravention of an order in force under this section is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

Division 5 — General

135. Evidence

Except as otherwise stated in this Act, the Commission is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it thinks fit.

136. Ancillary powers

The powers of the Commission include the power to do anything that is necessary or incidental to the performance of the Commission's functions under this Part.

Part 7 — Examinations and deciding claims of privilege and excuse

Division 1 — Examinations

137. Commission may conduct examinations

The Commission may conduct an examination for the purposes of an investigation under this Act or for the purposes of an investigation in respect of which an

exceptional powers finding has been made under section 46 and an organised crime summons has been issued.

138. Conduct

- (1) Before the Commission conducts an examination for the purposes of an investigation under this Act, the Commission is to inform the witness of the general scope and purpose of the investigation.
- (2) Subsection (1) does not apply if the Commission considers that in the circumstances it would be undesirable to so inform the witness.
- (3) Except as otherwise stated in this Act, the Commission may regulate the conduct of examinations as the Commission thinks fit.

139. Examination to be private unless otherwise ordered

- (1) Except as provided in section 140, an examination is not open to the public.
- (2) The Commission may make an order as to who may be present during the whole or any part of an examination that is not open to the public.
- (3) Nothing in an order given under subsection (2) prevents the presence at an examination, of —
 - (a) a person representing a witness;
 - (b) an officer of the Commission; or
 - (c) a person allowed to be present under section 142(5).
- (4) A person must not be present at an examination, or part of an examination, that is not open to the public unless the person is entitled to be present by reason of an order under subsection (2) or by reason of subsection (3).

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

140. Public examination

- (1) This section does not apply to an organised crime examination.
- (2) The Commission may open an examination to the public if, having weighed the benefits of public exposure and public awareness against the potential for prejudice or privacy infringements, it considers that it is in the public interest to do so.
- (3) A decision to open an examination to the public may be made at any time before or during the examination.
- (4) If the Commission decides to open an examination to the public, the Commission may close the examination for a particular purpose.

141. Power to examine on oath or affirmation

- (1) The Commission may require a witness to take an oath or to make an affirmation.
- (2) The Commissioner may administer an oath or affirmation to a witness.

142. Legal representation

- (1) When appearing at an examination a witness may be legally represented.
- (2) If the Commission has notice that a witness will not have a legal representative present at an examination, the Commission may, if it considers that in the circumstances it would be in the public interest to do so, arrange for the person to be legally represented at the examination.

- (3) A witness may decline to be legally represented as arranged under subsection (2) by the Commission, and in that case the Commission is not obliged to arrange any other legal representation for the witness.
- (4) The Commission may refuse to allow a witness to be represented before the Commission by a person who is already involved in an examination or is involved or suspected to be involved in a matter being investigated.
- (5) The Commission may allow another person to be legally represented at an examination while a witness is giving evidence and being examined if the Commission considers there are special circumstances.
- (6) A legal practitioner, or any other person, appointed by the Commission to assist the Commission may appear before the Commission.

143. Examination

- (1) When a witness is appearing at an examination a legal practitioner, or any other person, appointed by the Commission to assist the Commission may, so far as the Commission thinks proper, examine the witness on any matter that the Commission considers relevant.
- (2) A person representing a witness before the Commission may, so far as the Commission thinks proper, examine that witness on any matter that the Commission considers relevant.
- (3) This section does not prevent the Commission from allowing any other examination that the Commission considers relevant.

Division 2 — Claims of privilege and reasonable excuse

144. Legal professional privilege

- (1) Subject to subsection (2), nothing in this Act prevents a person who is required under this Act to answer questions, give evidence, produce records, things or information or make facilities available from claiming legal professional privilege as a reason for not complying with that requirement.
- (2) Subsection (1) does not apply to any privilege of a public authority or public officer in that capacity.

145. Use of statements obtained

- (1) A statement made by a witness in answer to a question that a Commission requires the witness to answer is not admissible in evidence against the person making the statement in —
 - (a) any criminal proceedings; or
 - (b) proceedings for the imposition of a penalty other than —
 - (i) contempt proceedings;
 - (ii) proceedings for an offence against this Act; or
 - (iii) disciplinary action.
- (2) Despite subsection (1), the witness may, in any civil or criminal proceedings, be asked about the statement under section 21 of the *Evidence Act 1906*.

Division 3 — General

146. Allowances for witnesses

- (1) A person appearing as a witness is entitled to be paid for the expenses of attendance.

- (2) The amount of expenses payable is the amount certified by the Commission in accordance with a scale which may be prescribed or, if a scale is not prescribed, the sum the Commission certifies as reasonable.
- (3) The expenses are payable by the Treasurer of the State.
- (4) For the purposes of this section the Consolidated Fund is, to the extent necessary, appropriated accordingly.

147. Protection of Commission, legal representatives and witnesses

- (1) The Commission has, in the performance of its functions at an examination, the same protection and immunity as a Judge of the Supreme Court.
- (2) A legal practitioner, or other person, when representing a person at an examination or assisting the Commission at an examination has the same protection and immunity as a legal practitioner appearing for a party in a proceeding in the Supreme Court and, if the person is a legal practitioner, is subject to the same liabilities as if appearing before that court.
- (3) A person required to attend or appearing at an examination as a witness has the same protection as a witness in a proceeding in the Supreme Court, and is, in addition to the penalties provided by this Act, subject to the same liabilities in any civil or criminal proceeding, as a witness in any case tried in the Supreme Court.

Part 8 — Arrest warrants

148. Arrest

- (1) Where an investigation relates to serious misconduct or a summons is issued pursuant to an application under section 48, if a person who has been served with a

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summons under section 96 fails to attend as required by the summons and section 97, the Commission may, on proof by a statement verified by statutory declaration that the summons was served, issue a warrant for the apprehension of that person.

- (2) The Commission may issue a warrant for the apprehension of a person whose evidence is desired and is necessary and relevant to the Commission's investigation if the Commission is satisfied by evidence on oath or affirmation that it is probable that the person —
 - (a) will not attend before the Commission to give evidence without being compelled to do so; or
 - (b) is about to or is making preparation to leave the State and the person's evidence will not be obtained by the Commission if the person departs.
- (3) The powers conferred by subsection (2) must not be exercised unless the Commission is satisfied that the evidence of the person concerned is required for the purpose of investigating any conduct that constitutes or involves or may constitute or involve misconduct.
- (4) A warrant may be issued under subsection (2) without or before the issue of a summons to the person whose evidence is desired.
- (5) A warrant may be issued under subsection (2) after the issue of a summons to the person whose evidence is desired, even though the time specified in the summons for the person to attend has not yet passed.
- (6) A warrant issued under this section authorises any person to whom it is addressed —
 - (a) to apprehend the person named in the warrant at any time and bring immediately the person before the Commission; and

- (b) for that purpose, to detain the person named in the warrant in custody until released by order of the Commission or, on review, by order of the Supreme Court.
- (7) The person executing the warrant may —
 - (a) break and enter any place, building, vessel or other thing for the purpose of executing the warrant; and
 - (b) use reasonable force and assistance to apprehend the person named in the warrant.
- (8) Before the person acting under the warrant (the “**authorised person**”) uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable —
 - (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
 - (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,

as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the warrant or would endanger any person.
- (9) The apprehension of a person under this section does not prevent the person from being dealt with under section 159 for contempt.

149. Conditional release from custody

- (1) The release of a person by order of the Commission under section 148(6)(b) may be made subject to one or more of the following conditions —
 - (a) a condition that the person appear and report before the Commission in accordance with the terms of the order unless excused from attendance or until released from further attendance by the Commission;
 - (b) conditions for the purpose of ensuring the further attendance of the person before the Commission (for example, the provision of sureties by the person, the surrender of any passport held by the person, a requirement as to where the person is to live and regular reporting by the person to the Commission);
 - (c) any other condition that the Commission thinks appropriate.
- (2) The Commission may by order amend, revoke or add to those conditions.
- (3) A person who without reasonable excuse fails to comply with a condition to which the release of the person under section 148(6)(b) is subject is guilty of an offence.

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

149A. Provision for overnight detention

If the person is required to be detained overnight, the Commission must arrange for the person to be provided with accommodation and meals to a standard comparable to that generally provided to jurors kept together overnight.

150. Review by Supreme Court

- (1) A person who has not been released by the Commission under section 148(6)(b) or whose release under that provision is subject to one or more conditions may apply to the Supreme Court for a review of the decision not to release the person or of the terms of one or more of those conditions.
 - (2) The Supreme Court may do either or both of the following —
 - (a) affirm or set aside a decision by the Commission not to release the person or any condition imposed by the Commission on the release of the person;
 - (b) make any order that the Commission may make in relation to the detention or release of the person;
 - (c) order the person be brought before the Supreme Court.
 - (3) The Supreme Court may also exercise its powers under subsection (2) where the Commission has not made a decision on the release of the person.
 - (4) An order under subsection (2) is taken to be an order of the Commission.
 - (5) The Commission shall facilitate the person's access to legal representation in order to make an application under subsection (1).
- ”.

18. Section 40 amended

Section 40(2)(d) is amended by deleting “a Standing Committee” and inserting instead —

“ the Standing Committee ”.

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19. Section 42 amended

Section 42(4)(c) is amended by deleting “a Standing Committee” and inserting instead —

“ the Standing Committee ”.

20. Section 43 amended

Section 43(4) is amended by deleting “(2)” and inserting instead —

“ (3) ”.

21. Section 60 amended

- (1) Section 60(1) is amended by deleting “5” and inserting instead —

“ 3 ”.

- (2) After section 60(1) the following subsection is inserted —

- (1a) In addition to any matters that the Minister may determine, the Minister shall also have regard to whether the Act should be amended to include —
- (a) a multi person Commission;
 - (b) the appointment of up to two Assistant Commissioners;
 - (c) jurisdiction over private entities executing public functions;
 - (d) the Commission having an investigative crime function;
 - (e) a public interest monitor;
 - (f) the Commission performing a witness protection function;
 - (g) the Commission taking over the confiscation of proceeds of crime from the Director of Public Prosecutions;

- (h) provision for witness and interpreter fees; and
 - (i) the adoption of the legislative scheme of the *Crime and Misconduct Act 2001*(Qld).
- (3) Section 60(2) is amended by deleting “6” and inserting instead —
- “ 4 ”.

22. Parts 10 and 11 inserted

After Part 3 the following Parts are inserted —

“

Part 10 — Contempt

157. Meaning of “reasonable excuse”

In this Part —

“reasonable excuse”, in relation to a failure to produce any document or other thing, means an excuse that would excuse a similar failure by a witness, or a person summoned as a witness, before the Supreme Court except that it does not include as an excuse for failing to produce any document or other thing, that —

- (a) the production of the document or other thing might incriminate or tend to incriminate the person or render the person liable to a penalty; or
- (b) the production of the document or other thing would be in breach of an obligation of the person not to disclose information, or not to disclose the existence or contents of a document, whether the obligation arose under an enactment or otherwise.

158. Penalty for failing to comply with notice

A person who —

- (a) fails, without reasonable excuse, to comply with a notice served on the person under section 94 or 95; or
- (b) in purported compliance with a notice served on the person or some other person under this section, furnishes information knowing it to be false or misleading in a material particular,

is in contempt of the Commission.

159. Penalty for failing to attend or produce anything

A person who has been served with a summons under section 96 and fails, without reasonable excuse, to —

- (a) attend as required by the summons and section 97; or
- (b) produce any document or other thing as required by the summons,

is in contempt of the Commission.

160. Penalty for failing to be sworn or to give evidence

- (1) A person served with a summons under section 96 requiring the person to attend and give evidence who —

- (a) refuses or fails to be sworn or make an affirmation; or
- (b) fails to answer any question relevant to the investigation that the Commission requires the person to answer,

is in contempt of the Commission.

- (2) Despite sections 147(3) and 163(6), a person required by the Commission to answer a question relevant to the investigation is not excused from the requirement to answer the question on the ground that the answer might incriminate or tend to incriminate the person or render the person liable to a penalty.

161. Penalties in relation to search warrants

- (1) In this section —
“**authorised person**” has the meaning given by section 101(1).
- (2) A person who, without reasonable excuse —
 - (a) prevents or attempts to prevent an authorised person from exercising a power conferred by or under section 101;
 - (b) hinders or obstructs an authorised person in the exercise of a power conferred by or under section 101;
 - (c) fails to comply with a direction or request of an authorised person under section 101(2)(b) or (4)(d); or
 - (d) fails to comply with a condition imposed on the person under section 101(6)(b),is in contempt of the Commission.
- (3) A person who furnishes to an authorised person acting under a warrant issued under section 101 information that is false in a material particular is in contempt of the Commission.

162. Other contempt of Commission

- (1) A person who —
 - (a) insults the Commission while the Commission is conducting an examination;

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- (b) deliberately interrupts an examination conducted by the Commission;
- (c) at an examination conducted by the Commission, contravenes a provision of this Act relating to the examination;
- (d) creates or continues or joins in creating or continuing, a disturbance in or near a place where the Commission is conducting an examination; or
- (e) does anything else at an examination conducted by the Commission or otherwise that would be contempt of court if the Commission were a judge acting judicially,

is in contempt of the Commission.

- (2) The Commission may order that a person who under subsection (1) is in contempt of the Commission at an examination be excluded from the place where the examination is being conducted.
- (3) An officer of the Commission, acting under the Commission's order, may, using necessary and reasonable help and force, exclude the person from the place.

163. Punishment of contempt

- (1) Where a contempt of the Commission is alleged to have taken place, the Commission may present to the Supreme Court a certificate setting out the details of the act or omission that the Commission considers constitutes the alleged contempt.
- (2) A certificate presented under subsection (1) is prima facie evidence of the matters certified in it.

- (3) Where a certificate is presented under subsection (1), the Supreme Court has jurisdiction as if the contempt were a contempt of that Court.
- (4) A person is not liable to be punished for contempt under this section in respect of failure to comply with a notice served under section 95 or a summons served under section 96 if, in the case of a failure without reasonable excuse to produce any document or other thing, the person proves that the document or other thing was not relevant to the investigation.
- (5) Subsection (4) does not apply in respect of failure to comply with an examination summons.
- (6) Except as otherwise provided in this Act, a person required to comply with a notice served under section 94 or 95 or a summons served under section 96 has the same protection, and is subject to the same liabilities in any civil or criminal proceedings, as a witness in any case tried in the Supreme Court.

164. Conduct that is contempt and offence

- (1) An act may be punished as a contempt of the Commission even though it could be punished as an offence.
- (2) An act may be punished as an offence even though it could be punished as a contempt of the Commission.
- (3) If an act constitutes both an offence and a contempt of the Commission the offender is not liable to be punished twice.

Part 11 — Offences

165. Obstructing or hindering the Commission, the Parliamentary Inspector or an officer

A person who wilfully delays, obstructs or otherwise hinders the performance of a function by —

- (a) the Commission;
- (b) an officer of the Commission;
- (c) the Parliamentary Inspector; or
- (d) an officer of the Parliamentary Inspector,

commits an offence.

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

166. Malicious disclosure of false allegation

A person who maliciously discloses that an allegation of misconduct has been or is or may be about to be made to the Commission, knowing the allegation to be false in a material particular, commits an offence.

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

167. Disclosure contrary to notation on summons

- (1) In this section —

“**notation**” means a notation made under section 99 on a notice or summons;

“**notice or summons**” means a notice or summons containing a notation;

“**official matter**” has the meaning given to that term in section 99;

“restricted matter” means any of the following —

- (a) the existence of a notice or summons or any information about it;
 - (b) the existence of any official matter connected with a notice or summons or any information about that official matter.
- (2) This section applies to —
- (a) a person who is served with a notice or summons; or
 - (b) a person to whom restricted matter is disclosed in circumstances referred to in subsection (4).
- (3) Subject to subsection (4), a restricted matter must not be disclosed by a person to whom this section applies.
Penalty: Imprisonment for 3 years and a fine of \$60 000.
- (4) A restricted matter may be disclosed —
- (a) in accordance with the circumstances, if any, specified in the notation;
 - (b) to a legal practitioner for the purpose of obtaining legal advice or representation relating to the notice or summons;
 - (c) to a person for the purpose of obtaining legal aid relating to the notice or summons;
 - (d) to an officer or agent of a body corporate by the body corporate or another officer or agent of the body corporate for the purpose of ensuring compliance with the 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; or
 - (g) by a person referred to in paragraph (c) for the purpose of obtaining legal aid relating to the notice, summons or matter.
- (5) This section ceases to apply if —
 - (a) under section 99(7) the notation ceases to have effect; or
 - (b) a period of 5 years elapses after the issue of the notice or summons.
- (6) Subsection (5) does not affect the operation of section 151 in relation to a restricted matter.
- (7) A reference in this section to disclosing the existence of something includes disclosing information from which a person could reasonably be expected to infer its existence.

168. Giving false testimony

A person who, at an examination before the Commission or an inquiry before the Parliamentary Inspector, gives evidence that the person knows is false or misleading in a material particular is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

169. Bribery of witness

A person who —

- (a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt

to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness before the Commission or the Parliamentary Inspector will give false testimony or withhold true testimony;

- (b) attempts by any means to induce a person called or to be called as a witness before the Commission or Parliamentary Inspector to give false testimony, or to withhold true testimony; or
- (c) asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for that or any other person, upon any agreement or understanding that a witness before the Commission or Parliamentary Inspector will give false testimony or withhold true testimony,

is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

170. Fraud on witness

A person who practises any fraud or deceit on, or knowingly makes or exhibits any false statement, representation, token, or writing to, a person called or to be called as a witness before the Commission or the Parliamentary Inspector with intent to affect the testimony of that person as a witness, is guilty of an offence.

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

171. Destroying evidence

A person who, knowing that a document or other thing is or may be required by the Commission or Parliamentary Inspector, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with the intention of preventing it from being effectively used in evidence, is guilty of an offence.

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

172. Preventing witness from attending

A person who wilfully prevents, or wilfully endeavours to prevent, a person who has been summoned to attend as a witness before the Commission or Parliamentary Inspector from attending as a witness, or from producing anything in evidence, as required by the summons is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

173. Injury or detriment to witness

A person who uses, causes, inflicts, or procures, any violence, punishment, damage, loss, or disadvantage to any other person for or on account of the other person having appeared as a witness before the Commission or Parliamentary Inspector, or for or on account of any evidence given by the other person before the Commission or Parliamentary Inspector, is guilty of a crime.

Penalty: Imprisonment for 5 years and a fine of \$100 000.

174. Dismissal by employer of witness

- (1) An employer who dismisses an employee from employment, or prejudices an employee in employment, for or on account of the employee having appeared as a witness before the Commission or Parliamentary Inspector, or for or on account of the employee having given evidence before the Commission or Parliamentary Inspector, is guilty of a crime.
Penalty: Imprisonment for 5 years and a fine of \$100 000.
- (2) In a proceeding for an offence against subsection (1) it lies upon the employer to prove that the employee shown to have been dismissed or prejudiced was dismissed or prejudiced for a reason other than a reason mentioned in that subsection.

175. Victimisation

A person must not —

- (a) threaten to prejudice the safety or career of any person;
- (b) intimidate or harass, or threaten to intimidate or harass, any person; or
- (c) do an act that is, or is likely to be, to the detriment of any person,

because the person mentioned in paragraph (a), (b) or (c), or someone else, gave evidence to, or helped, the Commission or Parliamentary Inspector in the performance of its, his or her functions.

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

176. Pretending to be officer

A person must not pretend to be an officer of the Commission or an officer of the Parliamentary Inspector.

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

177. Summary conviction of crimes

- (1) Despite an offence against this Act being a crime, a court of summary jurisdiction may hear and determine proceedings in respect of the offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
- (2) Where, in accordance with subsection (1), a court of summary jurisdiction convicts a person of an offence, the penalty that the court may impose is imprisonment for a period not exceeding 3 years and a fine not exceeding \$60 000.

177A. Summary prosecutions may be brought at any time with consent

Despite section 51 of the *Justices Act 1902* a complaint with regard to a simple offence may be made within 36 months from the time that the matter of complaint arose or thereafter at any time with the consent of the Attorney General.

”.

23. Section 185 inserted

After section 30 the following section is inserted —

“

185. Delegation

- (1) Subject to subsection (2), the Commission may delegate to an officer of the Commission any power or

duty of the Commission under another provision of this Act.

- (2) The Commission cannot delegate the following powers and duties —
- (a) the power to initiate a proposition under section 26;
 - (b) the power to conduct examinations on oath;
 - (c) the power to summons a person to attend and produce things;
 - (d) the power to issue a warrant for the apprehension of a person under section 148;
 - (e) the power to make a direction as to publication under section 151;
 - (f) the power to require production of a statement of information under section 94;
 - (g) the power to make an exceptional powers finding under section 46;
 - (h) the power to approve an assumed identity under section 103;
 - (i) the duty to review assumed identity approvals under section 118;
 - (j) the power to authorise the conduct of a controlled operation under section 121;
 - (k) the power to authorise an integrity testing programme under section 123;
 - (l) the power to issue a fortification warning notice under section 68;
 - (m) the power to certify an alleged contempt;
 - (n) the power to make recommendations;
 - (o) the duty of making a report under this Act;
 - (p) the powers of the Commission under the *Surveillance Devices Act 1998*.

s. 24

- (3) The delegation must be in writing executed by the Commission.
- (4) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (5) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the Commission to perform a function through an officer or agent.

”.

24. Section 33 amended

After section 33(3) the following subsection is inserted —

“

- (4) The Parliamentary Inspector is an officer of Parliament and is responsible for assisting the Standing Committee in the performance of its functions.

....”.

25. Section 34 amended

Section 34(1) is amended by deleting subsections (1), (2) and (3) and inserting instead —

“

- (1) The Parliamentary Inspector is to be appointed on the recommendation of the Premier by the Governor by commission under the Public Seal of the State.

- (2) Except in the case of the first appointment, the Premier is to recommend the appointment of a person —
 - (a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and
 - (b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.
- (3) The Parliamentary Inspector is to hold office in accordance with this Act.

”.

26. Section 38 amended

Section 38 is amended by inserting the following subsection after subsection (2) —

“

- (2a) The process for nomination and consultation with regard to the appointment of a person to act in the office of Parliamentary Inspector shall be the same as that for the appointment of the Parliamentary Inspector except that —
 - (a) the process may be carried out prospectively even though the necessity for an appointment has not arisen;
 - (b) it may be carried out with respect to a number of persons each of whom is eligible to be appointed should the necessity arise; and
 - (c) any bipartisan support for a person lapses on the expiration of 12 months from the date of the resolution.

”.

s. 27

27. Section 40 amended

- (1) Section 40(1) is amended as follows —
- (a) before paragraph (a) the following paragraph is inserted —

“

 - (aa) to audit the operation of the Act;

”;
 - (b) before paragraph (c) the following paragraph is inserted —

“

 - (cc) to audit any operation carried out pursuant to the powers conferred or made available by this Act;

”;
 - (c) in paragraph (e) by inserting before “Parliament” —

“ either House of ”;
 - (d) in paragraph (e) by deleting “Standing Committees” and inserting instead —

“ the Standing Committee ”.
- (2) Section 40(2)(d) is amended by inserting before “Parliament” —

“ either House of ”.

28. Sections 196 to 198 and Part 13 Division 3 inserted

After section 40 the following sections and Division 3 are inserted —

“

196. Powers

- (1) In this section —
- “**officers**” means —
- (a) officers of the Commission; or

- (b) officers of the Parliamentary Inspector.
- (2) The Parliamentary Inspector has power to do all things necessary or convenient for the performance of the Parliamentary Inspector's functions.
- (3) Without limiting subsection (2), the Parliamentary Inspector —
 - (a) may investigate any aspect of the Commission's operations or any conduct of officers;
 - (b) is entitled to full access to the records of the Commission and to take or have copies made of any of them;
 - (c) may require officers to supply information or produce documents or other things about any matter, or any class or kind of matters, relating to the Commission's operations or the conduct of officers;
 - (d) may require officers to attend before the Parliamentary Inspector to answer questions or produce documents or other things relating to the Commission's operations or the conduct of officers;
 - (e) may consult, cooperate and exchange information with independent agencies, appropriate authorities and —
 - (i) the Commissioner of the Australian Federal Police;
 - (ii) the Commissioner of a Police Force of another State or Territory;
 - (iii) the CEO of the Australian Crime Commission established by the *Australian Crime Commission Act 2002* of the Commonwealth;

- (iv) the Commissioner of Taxation holding office under the *Taxation Administration Act 1953* of the Commonwealth;
 - (v) the Director-General of Security holding office under the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth;
 - (vi) the Director of the Australian Transaction Reports and Analysis Centre under the *Financial Transaction Reports Act 1988* of the Commonwealth;
 - (vii) any person, or authority or body of this State, the Commonwealth, another State or a Territory that is declared by the Minister to be a person, authority or body to which this paragraph applies;
- (f) may refer matters relating to the Commission or officers to other agencies for consideration or action; and
- (g) may recommend that consideration be given to disciplinary action against, or criminal prosecution of, officers.
- (4) The Commission is to notify the Parliamentary Inspector whenever it receives an allegation that concerns, or may concern, an officer of the Commission and at any time the Parliamentary Inspector may review the Commission's acts and proceedings with respect to its consideration of such an allegation.
- (5) Upon a review under subsection (4), the Parliamentary Inspector may notify the Commission that the matter is to be removed to the Parliamentary Inspector for consideration and determination.

- (6) On receipt of a notice under subsection (5), the Commission is to comply with its terms.
- (7) Upon a removal under subsection (5), the Parliamentary Inspector may —
 - (a) annul the Commission's determination and substitute another; or
 - (b) make any decision the Parliamentary Inspector might otherwise have made had the Parliamentary Inspector exercised an original jurisdiction; or
 - (c) make any ancillary order, whether final or provisional, that is remedial or compensatory.
- (8) Where the Parliamentary Inspector proposes to act under subsection (7)(a), the Commission must be given a reasonable opportunity to show cause why its determination should not be annulled.
- (9) The Parliamentary Inspector must not undertake a review of a matter that arises from, or can be dealt with under, a jurisdiction created by, or that is subject to, the *Industrial Relations Act 1979*.

197. Inquiries

- (1) For the purpose of the Parliamentary Inspector's functions, the Parliamentary Inspector may make or hold an inquiry.
- (2) For the purposes of an inquiry under this section —
 - (a) the Parliamentary Inspector has the powers, protections and immunities of a Royal Commission and the Chairman of a Royal Commission under the *Royal Commissions Act 1968*; and
 - (b) the *Royal Commissions Act 1968* applies to any person summoned by or appearing before the

Parliamentary Inspector in the same way as it applies to a person summoned by or appearing before a Commissioner under that Act.

- (3) Sections 7, 9 to 17, 18(2) to (11), 19(1), 19A to 22, 31(3), 32 and 33 of the *Royal Commissions Act 1968* have effect as if they were enacted in this Act with such modifications as are required and in terms made applicable to an inquiry under this section.
- (4) An inquiry held by the Parliamentary Inspector must not be open to the public.
- (5) Despite subsections (2) and (3), a public authority or public officer who is required under this section to answer questions, give evidence, produce records, things or information or make facilities available is not entitled to claim legal professional privilege as a reason for not complying with that requirement.

198. Parliamentary Inspector not to interfere with Commission's operations

The Parliamentary Inspector is not to interfere with, obstruct, hinder or delay any lawful operation of the Commission.

Division 3 — Reporting

199. Report to Parliament

- (1) The Parliamentary Inspector may at any time prepare a report as to any of the following matters —
 - (a) any matters affecting the Commission, including the operational effectiveness and requirements of the Commission;
 - (b) any administrative or general policy matter relating to the functions of the Parliamentary Inspector.

- (2) The Parliamentary Inspector may cause a report prepared under this section to be laid before each House of Parliament or dealt with under section 206.

200. Contents of report

Before reporting any matters adverse to a person or body in a report under section 199, the Parliamentary Inspector must give the person or body a reasonable opportunity to make representations to the Parliamentary Inspector concerning those matters.

201. Report to a Standing Committee

A report of the kind mentioned in section 199 may be made by the Parliamentary Inspector to the Standing Committee instead of being laid before each House of Parliament or dealt with under section 206 if, for any reason, the Parliamentary Inspector considers it appropriate to do so.

202. Disclosure of matters in report

- (1) If a report under section 199 is laid before either House of Parliament, a matter included in that report may be disclosed despite sections 151 and 207.
- (2) If, following the making by the Parliamentary Inspector of a report under section 199 to the Standing Committee, the Standing Committee approves the disclosure of a matter included in the report, that matter may be disclosed despite sections 151 and 207.

203. Annual report to Parliament

- (1) The Parliamentary Inspector is to prepare, within 3 months after 30 June of each year, a report as to his or her general activities during that year.
- (2) The Parliamentary Inspector is to cause a copy of a report prepared under this section to be laid before each

House of Parliament, or dealt with under section 206, within 21 days of the preparation of the report.

- (3) This section does not limit Part II Division 14 of the *Financial Administration and Audit Act 1985* and the report required under this section may be prepared and dealt with in conjunction with the report required under that Division.

204. Periodical report to Parliament

- (1) Rules of Parliament may require the Parliamentary Inspector to report to each House of Parliament or the Standing Committee, as and when prescribed in the Rules, as to the general activities of the Parliamentary Inspector.
- (2) The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in accordance with the Rules and Orders of those Houses.
- (3) Rules of Parliament made under this section must be published in the *Gazette*.
- (4) Section 42 of the *Interpretation Act 1984* does not apply to Rules of Parliament made under this section.

205. Reports not to include certain information

Without limiting section 208, a report by the Parliamentary Inspector under this Division must not include —

- (a) information that may reveal the identity of a person who has been, is, or is reasonably likely to be investigated by the Commission or has been, is, or is likely to be a witness at an examination or a person who makes an

- allegation to or provides information to, the Commission;
- (b) information that may indicate that a particular investigation has been, is, or is reasonably likely to be, undertaken by the Commission;
 - (c) information that may reveal the identity of a person who has been, is, or is reasonably likely to be investigated by the Police Force or has been, is, or is reasonably likely to be a person who makes an allegation to, or an informant of, the Police Force; or
 - (d) information that may indicate that a particular investigation has been, is, or is reasonably likely to be, undertaken by the Police Force.

206. Laying documents before House of Parliament that is not sitting

- (1) If a copy of a report of the kind mentioned in section 199 may be laid before each House of Parliament and a House of Parliament is not sitting, the Parliamentary Inspector may transmit a copy of the report to the Clerk of that House.
- (2) If section 203 requires the Parliamentary Inspector to cause a copy of a report to be laid before each House of Parliament, or dealt with under this section, within a period and —
 - (a) at the commencement of the period, a House of Parliament is not sitting; and
 - (b) the Parliamentary Inspector is of the opinion that the House will not sit during that period,

the Parliamentary Inspector is to transmit a copy of the report to the Clerk of that House.

s. 29

- (3) A copy of a report transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (4) The laying of a copy of the text of a document that is regarded as having occurred under subsection (3) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

”.

29. Part 13A inserted

After section 50 insert the following new Part —

“

Part 13A — Standing Committee

216A. Standing committee of Houses of Parliament

- (1) The Houses of Parliament are to establish a joint standing committee comprising an equal number of members appointed by each House.
- (2) The functions and powers of the standing committee are determined by agreement between the Houses and are not justiciable.
- (3) The committee established under the name of the Joint Standing Committee on the Anti-Corruption Commission shall —
 - (a) carry on the functions conferred on the standing committee under this Act; and
 - (b) have the same powers with respect to the Commission and the Parliamentary Inspector as it has with respect to the Anti-Corruption Commission,

until such time as the Houses appoint the Standing Committee.

”.

30. Section 51 amended

After section 51(2) the following subsection is inserted —

“

- (3) In contempt proceedings under Part 10, a certificate of the Commission stating any fact relevant to those proceedings is sufficient evidence of the fact stated.

”.

31. Section 57 amended

Section 57 is amended by deleting “53 to 56” and inserting instead —

“ 147 and 219 to 222 ”.

32. Schedule 1 amended

Schedule 1 is amended as follows —

- (a) clause 1 is repealed and the following clause is inserted instead —

“

1. Tenure of office

Subject to this Act, the Commissioner holds office for a period of 5 years and is eligible for reappointment once.

”.

- (b) clauses 4(4) and 4(5) are repealed.

s. 33

33. Schedule 1 inserted

After section 62 the following Schedule is inserted —

“

**Schedule 1 — Offences that may be relevant
for Part 4**

[s. 3, 5]

1. An offence under any of the following enactments —

The Criminal Code

- s. 143
- s. 145
- s. 147
- s. 278
- s. 279
- s. 283 (except if the circumstances of the attempted or intended killing are such that, if it were carried out, the crime committed would be infanticide)
- s. 292
- s. 293
- s. 294
- s. 296
- s. 296A
- s. 298
- s. 332
- s. 393 (except in circumstances in which the maximum penalty that can be imposed is imprisonment for 14 years)
- s. 398 (in circumstances in which the maximum penalty that can be imposed is imprisonment for 20 years)
- s. 451A(1)
- s. 454
- s. 557
- s. 563A

Criminal Property Confiscation Act 2000

- s. 50(1)

2. An offence against regulations made under s. 6(1) of the *Firearms Act 1973* that —
- (a) is committed in respect of 2 or more firearms; or
 - (b) is committed in respect of a firearm and in association with the commission, by the same or any other person, of an offence against s. 65(4aa) of the *Police Act 1892*.
3. An offence referred to in s. 32A(1)(b) of the *Misuse of Drugs Act 1981*.

34. Schedule 2 amended

Schedule 2, clause 1 is deleted and the following clause is inserted instead —

“

1. Tenure of office

Subject to this Act, the Parliamentary Inspector holds office for a period of 5 years and is eligible for reappointment once.

”.

35. Renumbering of provisions of *Corruption and Crime Commission Act 2003*

- (1) The sections of the *Corruption and Crime Commission Act 2003* set out in column 1 of the Table to this section are renumbered as set out opposite those sections in column 2 of the Table.

Table

Column 1	Column 2
Section number in <i>Corruption and Crime Commission Act 2003</i>	Renumbered section number in <i>Corruption and Crime Commission Act 2003 as amended by this Act</i>
4	6
5	7
6	8
7	9
8	10
9	11
10	12
11	13
12	14
13	15
14	16
15	17
16	19
17	20
18	151
19	152
20	153
21	154
22	155
23	156
24	178
25	179
26	180
27	181
28	182
29	183
30	184
31	186
32	187
33	188
34	189
35	190
36	191
37	192
38	193

39	194
40	195
41	207
42	208
43	209
44	210
45	211
46	212
47	213
48	214
49	215
50	216
51	217
52	218
53	219
54	220
55	221
56	222
57	223
58	224
59	225
60	226
61	227

- (2) Part 3 is renumbered as Part 9.
- (3) Part 4 is renumbered as Part 12.
- (4) Part 5 is renumbered as Part 13.
- (5) Division 3 of Part 5 is renumbered as Division 4.
- (6) Division 4 of Part 5 is renumbered as Division 5.
- (7) Division 5 of Part 5 is renumbered as Division 6.
- (8) Part 6 is renumbered as Part 14.
- (9) Part 7 is renumbered as Part 15.
- (10) Schedule 1 is renumbered as Schedule 2.
- (11) Schedule 2 is renumbered as Schedule 3.

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- (12) Schedule 3 is renumbered as Schedule 4.
- (13) The provisions of the *Corruption and Crime Commission Act 2003* are amended as set out in the Table to this section.

Table

section 3 definition of “Commissioner”	delete “12(1)(a)” and insert instead “14(1)(a)”
section 3 definition of “officer of the Commission”	delete “25” and insert instead “179” delete “27” and insert instead “181” delete “28” and insert instead “182”
section 3 definition of “officer of the Parliamentary Inspector”	delete “44” and insert instead “210” delete “46” and insert instead “212” delete “47” and insert instead “213”
section 3 definition of “Parliamentary Inspector”	delete “38(1)(a)” and insert instead “193(1)(a)”
section 9	delete “1” and insert instead “2”
section 12	delete “11” and insert instead “13”
section 18(5)	delete “19” in both places where it occurs and insert instead “152” delete “42” in both places where it occurs and insert instead “208”
section 18(6)	delete “20 or 43” in the 3 places where it occurs and insert instead “153 or 209”
section 20(2)	delete “19(4)” and insert instead “152(4)”
section 21	delete “18(7), 19(2) and 20(3)” and insert instead “151(7), 152(2) and 153(3)”
section 26(1) and (3)	delete “25” in the 3 places where it occurs and insert instead “179”
section 31(3)(b)	delete “27” and insert instead “181”
section 32	delete “31” and insert instead “186”
section 36	delete “2” and insert instead “3”

section 38(1)(c)	delete “40(3)” and insert instead “195(3)”
section 41	delete “18” and insert instead “151”
section 43(2)	delete “42(4)” and insert instead “208(4)”
section 45(1) and (3)	delete “44” in the 3 places where it occurs and insert instead “210”
section 49(3)(b)	delete “46” and insert instead “212”
section 50	delete “49” and insert instead “215”
section 62	delete “3” and insert instead “4”
Schedule 1	delete “[s. 9]” and insert instead “[s. 11]”
Schedule 1 clause 7(e)	delete “10” and insert instead “12”
Schedule 2	delete “[s. 36]” and insert instead “[s. 191]”
Schedule 2 clause 7(d)	delete “37” and insert instead “192”
Schedule 3	delete “[s. 62]” and insert instead “[s. 228]”
Schedule 3 clause 8(5)	delete “18, 19 or 20” and insert instead “151, 152 or 153”
Schedule 3 clause 8(7)(c) and (8)(b)	delete “19 or 20” in both places where it occurs and insert instead “152 or 153”
Schedule 3 clause 10(2)	delete “25” and insert instead “179” delete “27” and insert instead “181” delete “28” and insert instead “182” delete “44” and insert instead “210” delete “46” and insert instead “212” delete “47” and insert instead “213”

- (14) In the first reprint of the *Corruption and Crime Commission Act 2003* (the “**principal Act**”) as amended by this Act provisions of the principal Act as reprinted may be renumbered or redesignated in arithmetical or alphabetical order and, if that occurs, relevant cross-references in the principal Act as reprinted are to be adjusted.

Part 3 — Repeals, transitional and savings provisions, and consequential amendments

Division 1 — General

36. Application of *Interpretation Act 1984*

- (1) The provisions of the *Interpretation Act 1984* about the repeal of written laws and the substitution of other written laws for those so repealed (for example, section 16(1), 36 and 38) apply to the repeals effected by sections 39 and 54 as if the *Corruption and Crime Commission Act 2003* effected those repeals.
- (2) The provisions of Division 2 and Division 3 Subdivision 2 are additional to the provisions applied to the provisions applied by subsection (1).

37. Meaning of terms used in this Part

In this Part —

“**CCC**” means the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*.

Division 2 — *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002*

38. Meaning of terms used in this Division

In this Division —

“**commencement**” means the day on which section 39 comes into operation;

“**repealed Act**” means the *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002*.

39. *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002 repealed*

The *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002* is repealed.

40. *Things done under repealed Act*

On and after the commencement —

- (a) any application made under the repealed Act to a special commissioner but not finally dealt with by the special commissioner is transferred to the CCC;
- (b) anything ordered, decided, or otherwise done by a special commissioner under the repealed Act becomes of the same effect as if, and enforceable as if, it were ordered, decided, or done by the CCC under the provisions of the *Corruption and Crime Commission Act 2003* authorising the CCC to order, decide, or do corresponding things; and
- (c) anything decided or otherwise done by the Police Commissioner under the repealed Act becomes of the same effect as if, and enforceable as if, it were decided or done by the Police Commissioner under the provisions of the *Corruption and Crime Commission Act 2003* authorising the Police Commissioner to decide or do corresponding things.

41. *Offences*

- (1) Proceedings for an offence against the repealed Act may be continued, or started, despite the Act having been repealed and section 11 of *The Criminal Code* and for the purposes of section 10 of the *Sentencing Act 1995*, the statutory penalty for the offence immediately before the commencement continues to have effect.

- (2) Sections 32, 33, 39 and 40 of the repealed Act continue to have effect, with any necessary modifications, as if they had not been repealed.

42. Transfer of records

- (1) On the commencement all records in the possession of a special commissioner under the repealed Act are to be transferred to the CCC, become the records of the CCC and may be dealt with accordingly.
- (2) In this section —
 “records” includes —
 - (a) evidence in any form; and
 - (b) information and other things.

43. Continuing protection of witnesses

- (1) An arrangement in force under section 27 of the repealed Act immediately before the repeal of that Act under section 39 continues in force despite that repeal.
- (2) After the commencement of this section —
 - (a) section 156 of the *Corruption and Crime Commission Act 2003* applies to an arrangement made under section 27 of the repealed Act and the CCC may vary or revoke the arrangement; and
 - (b) the CCC may make an arrangement in respect of a person under section 156 of the *Corruption and Crime Commission Act 2003* that could have been made under section 27 of the repealed Act, irrespective of whether an arrangement was in force in respect of the person under the repealed Act.

Division 3 — *Anti-Corruption Commission Act 1988*

Subdivision 1 — Amendments to the *Anti-Corruption Commission Act 1988*

44. The Act amended

The amendments in this Subdivision are to the *Anti-Corruption Commission Act 1988**.

[* Reprinted as at 6 July 2001.]

45. Long title replaced

The long title is repealed and the following long title is inserted instead —

“

An Act to provide for the way in which allegations received or initiated by the Anti-Corruption Commission before the coming into operation of section 48 of the *Corruption and Crime Commission Amendment and Repeal Act 2003* are to be inquired into, investigated or otherwise dealt with; and for related purposes.

”.

46. Section 3 amended

(1) Section 3(1) is amended as follows:

- (a) by deleting the definition of “allegation” and inserting instead —

“

“allegation” means an allegation received or initiated by the Commission under this Act before the coming into operation of section 48 of the *Corruption and Crime Commission Amendment and Repeal Act 2003*;

”.

Corruption and Crime Commission Amendment and Repeal Act 2003

Part 3 Repeals, transitional and savings provisions, and consequential amendments

Division 3 Anti-Corruption Commission Act 1988

s. 47

- (b) by deleting the definitions of “corrupt conduct”, “criminal conduct” and “criminal involvement”.

- (2) After section 3(2) the following subsection is inserted —

“

- (3) For the purposes of this Act “corrupt conduct”, “criminal conduct” and “criminal involvement” have the same meaning as they had before the coming into operation of section 46 of the *Corruption and Crime Commission Amendment and Repeal Act 2003* as if section 13 of this Act were not repealed.

”.

47. Section 5A inserted

After section 5 the following section is inserted —

“

5A. Constitution of Commission after 31 December 2003

- (1) Despite section 5, after 31 December 2003 the Commission shall consist of the 3 members appointed under section 5(3) who held office immediately before that date.
- (2) If the office of a member of the Commission referred to in subsection (1) becomes vacant under section 5(11) —
 - (a) section 5(5), (6) and (7) shall not apply; and
 - (b) the Governor may appoint a person who is eligible for appointment, and who is nominated by the Solicitor General, to that office.

”.

48. Section 12 amended

- (1) Section 12(1)(a) is deleted.
- (2) Section 12(2) is repealed.

49. Part II Division 3 repealed

Part II Division 3 is repealed.

50. Section 17 amended

Section 17(2)(b) is amended by deleting “, in the case of an allegation under section 13(1)(a), (b) or (c),”.

51. Section 19 amended

Section 19 is amended by deleting “under section 13(1)(a), (b) or (c)”.

52. Section 48A inserted

Before section 49 the following section is inserted in Part V —

“

48A. Referral of allegations to the Corruption and Crime Commission

(1) In this section —

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

“**record**” includes —

- (a) anything that is a document as defined in section 79B of the *Evidence Act 1906*;
- (b) evidence in any form; and
- (c) information and other things.

(2) The Commission may at any time refer an allegation to the CCC.

(3) The CCC may by notice in writing direct the Commission to refer an allegation to the CCC.

(4) When an allegation is referred to the CCC under subsection (2) or (3), the allegation is to be treated by

the CCC as if it were an allegation made under the *Corruption and Crime Commission Act 2003* and that Act applies to and in relation to that reference accordingly.

- (5) The Commission must not take any further action in relation to an allegation that is referred to the CCC under subsection (2) or (3) except by arrangement with the CCC.
- (6) When the CCC receives an allegation referred under subsection (2) or (3) —
 - (a) any record of the Commission for the purposes of or in relation to the allegation is to be transferred to the CCC, becomes a record of the CCC and may be dealt with accordingly;
 - (b) any notice or request issued under this Act in relation to the allegation is taken to be a notice or request validly issued under the *Corruption and Crime Commission Act 2003* and continues in force with necessary changes;
 - (c) anything done under this Act in relation to the allegation may be continued by the CCC so far as the doing of that thing is within the functions of the CCC; and
 - (d) any warrant issued under section 13, 14 or 17 of the *Surveillance Devices Act 1998*, and any emergency authorisation issued under section 21 of that Act, in relation to the investigation of that allegation continues in force, subject to any condition or limitation on its issue and with necessary changes, as if it were issued to an officer of the CCC.

- (7) The CCC —
- (a) is entitled to full access to the records of the Anti-Corruption Commission and to take or have copies made of any of them; and
 - (b) may by notice in writing direct the Commission or an officer of the Commission to disclose information or produce records or other things about any allegation or other matter, or any class or kind of allegation or other matter, relating to the Commission's functions to the CCC.
- (8) The Commission and any officer of the Commission must comply with a direction given to it, him or her under subsection (3) or (7)(b).

”.

Subdivision 2 — Repeal of the *Anti-Corruption Commission Act 1988* and transitional and savings provisions

53. Meaning of terms used in this Division

In this Division —

“**commencement**” means the day on which section 54 comes into operation;

“**A-CC Act**” means the *Anti-Corruption Commission Act 1988*.

54. *Anti-Corruption Commission Act 1988* repealed

The *Anti-Corruption Commission Act 1988* is repealed.

55. References to repealed Act and former titles

In any written law or document, a reference to the A-CC Act may, if the context permits, be taken as a reference to the *Corruption and Crime Commission Act 2003*.

56. Transfer of assets and liabilities to Commission

On and after the commencement —

- (a) the assets and rights of the A-CC vest in the CCC by force of this section;
- (b) the liabilities of the A-CC become, by force of this section, the liabilities of the CCC;
- (c) any agreement or instrument relating to the assets, rights and liabilities referred to in paragraphs (a), and (b) has effect, by force of this section, as if the CCC were substituted for the A-CC in the agreement or instrument;
- (d) the CCC is a party to any proceedings by or against the A-CC commenced before the commencement;
- (e) any proceeding or remedy that might have been commenced by or available against or to the A-CC in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) may be commenced by or is available, by or against or to the CCC; and
- (f) any act, matter or thing done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the commencement by, to or in respect of the A-CC (to the extent that that act, matter or thing has any force or effect) is to be taken to have been done or omitted by, to or in respect of the CCC.

57. Notices and requests

A notice or request issued under the A-CC Act and in force immediately before the commencement is taken to be a notice or request validly issued under the *Corruption and Crime Commission Act 2003* and continues in force, with necessary changes.

58. Proceedings

A proceeding that could have been started or continued by, or against the A-CC may be started or continued by, or against the CCC.

59. Continuation of allegations

- (1) This section applies if an allegation made to the A-CC under the A-CC Act before the commencement has not been finally dealt with under that Act on the commencement.
- (2) The allegation must be dealt with as if it had been made under the *Corruption and Crime Commission Act 2003*.
- (3) If the allegation was made by a person under section 13(1)(a), (b) or (c) of the A-CC Act, section 35 of the *Corruption and Crime Commission Act 2003* applies as if the allegation were made under section 25 or 28(2), as the case requires, of that Act.

60. Offences

- (1) Proceedings for an offence against the A-CC Act may be continued, or started, despite the A-CC Act having been repealed and section 11 of *The Criminal Code* and for the purposes of section 10 of the *Sentencing Act 1995*, the statutory penalty for the offence immediately before the commencement continues to have effect.
- (2) Despite section 54, sections 52 to 54 of the A-CC Act continue to have effect, with any necessary modifications, as if they had not been repealed.

61. Completion of things done

Anything commenced to be done by the A-CC under the A-CC Act before the commencement may be continued by the CCC so far as the doing of that thing is within the functions of the CCC after the commencement.

62. Continuing effect of things done

Any act, matter or thing done or omitted to be done before the commencement by, to or in respect of the A-CC, to the extent that that act, matter or thing has any force is to be taken to have been done or omitted by, to or in respect of the CCC so far as the act, matter or thing is relevant to the CCC.

63. Warrants and emergency authorisations continued in force

- (1) Any warrant issued under section 13, 14 or 17 of the *Surveillance Devices Act 1998* to an Anti-Corruption Commission officer and in force immediately before the commencement continues in force, subject to any condition or limitation on its issue and with necessary changes, as if it were issued to an officer of the CCC.
- (2) Any emergency authorisation issued under section 21 of the *Surveillance Devices Act 1998* to an Anti-Corruption Commission officer and in force immediately before the commencement continues in force, subject to any condition or limitation on its issue and with necessary changes, as if it were issued to an officer of the CCC.

64. Transfer of records

- (1) On the commencement all records in the possession of the A-CC immediately before the commencement are to be transferred to the possession of the CCC, become the records of the CCC and may be dealt with accordingly.
- (2) In this section —
“**records**” includes —
 - (a) evidence in any form;
 - (b) information and other things.

65. A-CC officers

(1) In this section —

“A-CC officer” means a person who, immediately before becoming an officer of the Commission within the meaning of the *Corruption and Crime Commission Act 2003*, was an officer of the Commission as that term is defined in the A-CC Act;

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

“officer of the Parliamentary Inspector” has the meaning given to that term by the *Corruption and Crime Commission Act 2003*.

(2) If, on or before the commencement, an A-CC officer becomes an officer of the Commission or an officer of the Parliamentary Inspector, that person is entitled to retain all his or her existing and accruing rights as an A-CC officer, including any rights under the *Superannuation and Family Benefits Act 1938* and any rights that had been retained under section 6(4) of the A-CC Act, as if his or her service as an officer of the Commission or an officer of the Parliamentary Inspector were a continuation of his or her service as an A-CC officer.

(3) Despite the repeal of the A-CC Act under section 54, section 6(6), (7), (8) and (9) of the A-CC Act continue to apply to and in relation to a person —

(a) who was, immediately before the commencement, an officer of the Commission as that term is defined in the A-CC Act;

(b) who is a former public employee as that term is defined in section 6(5) of the A-CC Act; and

(c) who —
(i) on the commencement is not employed or engaged as an officer of the Commission or an officer of the Parliamentary Inspector; or

- (ii) having become an officer of the Commission or an officer of the Parliamentary Inspector, subsequently ceases to be such an officer otherwise than in circumstances described in section 6(7) of the A-CC Act.
- (4) Nothing in this Act precludes the CCC from exercising its discretion to employ or engage as an officer of the Commission a person who before the commencement was —
 - (a) an officer of the Commission;
 - (b) a seconded officer;
 - (c) a service provider; or
 - (d) a special investigator,as those terms are defined in the A-CC Act.

66. Financial reporting

- (1) In this section —
 - “FAA Act”** means the *Financial Administration and Audit Act 1985*;
 - “final period”** means the period starting at the beginning of 1 July last preceding the commencement;
 - “reporting officer”** means the person appointed under section 65A(2) of the FAA Act as applied by subsection (2).
- (2) Section 65A of the FAA Act applies in relation to the preparation and submission of a final report in respect of the A-CC as if —
 - (a) references in that section to a department were references to the A-CC; and
 - (b) references in that section to provisions of sections 62 to 65 of the FAA Act were references to the equivalent provisions of sections 66 to 70 of the FAA Act,

except that the period to which the final report is to relate is the final period and the references in sections 66(1), 68 and 70(1) to the end of the financial year are to be read as references to the end of the final period.

- (3) If at the commencement, any duty imposed by Part II Division 14 of the FAA Act on the accountable authority of the A-CC has not been complied with in relation to the A-CC for any financial year that expired before the commencement, that duty subsists and is to be performed by the reporting officer as if the reporting officer were the accountable authority.
- (4) The time within which the reporting officer is to perform a duty referred to in subsection (3) is extended until the end of the day that is 2 months after the day on which the reporting officer is appointed, but this subsection does not prevent the time from being extended again under section 70 of the FAA Act.
- (5) The CCC is to give the reporting officer access to the records referred to in section 64 for the purposes of this section.

Division 4 — *Royal Commission (Police) Act 2002*

67. Powers of CCC regarding matters related to Police Royal Commission

- (1) The CCC may perform any of its functions under the *Corruption and Crime Commission Act 2003* in relation to anything done by, to or in relation to the Police Royal Commission.
- (2) Without limiting subsection (1) or any other power of the CCC, the CCC may continue any investigation or other matter commenced but not completed by the Police Royal Commission, and may for this purpose adopt any evidence taken or assessments made by the Police Royal Commission.
- (3) Accordingly, the *Corruption and Crime Commission Act 2003* has effect, for the purposes of this section, with any necessary adaptations and with such modifications as may be prescribed by the regulations.

68. Warrants and emergency authorisations continued in force

- (1) In this section —
“**commencement**” means the commencement of this Division.
- (2) Any warrant issued under section 13, 14 or 17 of the *Surveillance Devices Act 1998* to an officer of the Police Royal Commission and in force immediately before the commencement continues in force, subject to any condition or limitation on its issue and with necessary changes, as if it were issued to an officer of the CCC.
- (3) Any emergency authorisation issued under section 21 of the *Surveillance Devices Act 1998* to an officer of the Police Royal Commission and in force immediately before the commencement continues in force, subject to any condition or limitation on its issue and with necessary changes, as if it were issued to an officer of the CCC.

69. Assumed identity approvals continue in force

Any assumed identity approval granted under section 22 of the *Royal Commission (Police) Act 2002* and applying to an officer of the Police Royal Commission immediately before the end of the Police Royal Commission continues in force as if it were granted to an officer of the CCC under Part 6 Division 3 of the *Corruption and Crime Commission Act 2003* and that Division applies to and in relation to the approval as if the officer to whom it applies were an officer of the CCC.

70. Records

- (1) In this section —
“**records**” includes —
- (a) evidence in any form; and
 - (b) information and other things.
- (2) At the end of the Police Royal Commission (as determined under section 3(2) of the *Royal Commission (Police) Act 2002*)

all records in the possession of the Police Royal Commission not transferred to the CCC under section 19(4) of the *Corruption and Crime Commission Act 2003* —

- (a) are to be transferred to the CCC; and
- (b) become records of the CCC and may be dealt with accordingly.

71. *Royal Commission (Police) Act 2002* amended

- (1) The amendments in this section are to the *Royal Commission (Police) Act 2002**.

[* *Act No. 10 of 2002.*]

- (2) Section 3(2) is repealed and the following subsection is inserted instead —

“

- (2) For the purposes of this Act the Commission is taken to have ended on a day fixed by order of the Governor published in the *Gazette*.

”.

Division 5 — *Parliamentary Commissioner Act 1971*

72. *Parliamentary Commissioner Act 1971* amended

- (1) The *Parliamentary Commissioner Act 1971* is amended as set out in Schedule 1 Division 1.
- (2) The *Parliamentary Commissioner Act 1971* is amended as set out in Schedule 2 Division 1.

73. Parliamentary Commissioner must refer certain investigations to CCC

- (1) In this section —
“**records**” includes —
 - (a) evidence in any form; and
 - (b) information and other things.
- (2) On the commencement of this Division the Parliamentary Commissioner must —
 - (a) cease any investigation referred to in section 14(1a) of the *Parliamentary Commissioner Act 1971*;
 - (b) refer the investigation to the CCC; and
 - (c) transfer to the CCC any records in the possession of the Parliamentary Commissioner immediately before the commencement of this Division that relate to an investigation referred to in section 14(1a) of the *Parliamentary Commissioner Act 1971*.
- (3) Records transferred under subsection (1) become the records of the CCC and may be dealt with accordingly.

Division 6 — Consequential amendments to other Acts

74. Other Acts amended

- (1) Schedule 1 Division 2 has effect.
- (2) Schedule 2 Division 2 has effect.

Division 7 — General

75. Further transitional provisions may be made

- (1) In this section —
“**commencement day**” means the day on which this section comes into operation;
“**specified**” means specified or described in the regulations;

“transitional matter” means a matter that needs to be dealt with for the purpose of —

- (a) effecting the transition from the provisions of an Act repealed by this Act to the provisions of the *Corruption and Crime Commission Act 2003*;
- (b) effecting the transition from the provisions of an Act amended by this Act as in force before this Act comes into operation to the provisions of that Act as in force after this Act comes into operation; or
- (c) effecting the transition from the provisions of an Act amended by the *Corruption and Crime Commission Act 2003* as in force before this Act comes into operation to the provisions of that Act as in force after the *Corruption and Crime Commission Act 2003* comes into operation,

and includes a saving or application matter.

- (2) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations under the *Corruption and Crime Commission Act 2003* may include any provision that is required, or that is necessary or convenient, for dealing with the transitional matter.
- (3) Regulations made under subsection (2) may provide that specified provisions of this Act or the *Corruption and Crime Commission Act 2003* or an Act amended by this Act —
 - (a) do not apply; or
 - (b) apply with specified modifications,

to or in relation to any matter.

- (4) If regulations made under subsection (2) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

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Division 7 General

s. 75

- (5) Regulations referred to in subsection (2) cannot be made more than 12 months after the commencement day.
- (6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as to —
 - (a) affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the day of publication of those regulations; or
 - (b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

**Schedule 1 — Amendments to other Acts as a consequence
of enactment and amendment of the *Corruption and Crime
Commission Act 2003***

[s. 72(1), 74(1)]

Division 1 — *Parliamentary Commissioner Act 1971* amended

1. The Act amended

The amendments in this Division are to the *Parliamentary
Commissioner Act 1971**.

[*Reprinted as at 16 March 2001.]

2. Long title amended

The long title is amended by deleting “, for the investigation of any
action taken by a member of the Police Force or Police Department”.

3. Section 4 amended

Section 4 is amended by inserting in the appropriate alphabetical
positions the following definitions —

“

“**Corruption and Crime Commission**” has the
meaning given to “Commission” under the
Corruption and Crime Commission Act 2003;

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

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

Schedule 1 Amendments to other Acts as a consequence of enactment and amendment of the Corruption and Crime Commission Act 2003

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

”.

4. Section 14 amended

Section 14(1a), (1b) and (1c) are repealed.

5. Section 22A amended

Section 22A(1) is amended by inserting before “the Inspector” —
“ the Corruption and Crime Commission, ”.

6. Section 22B amended

Section 22B is amended as follows:

- (a) by deleting “or” after paragraph (aa);
- (b) in paragraph (b) by deleting “either” and inserting instead —

“

the Corruption and Crime Commission, the
Parliamentary Inspector,

”;

- (c) at the end of paragraph (b) by deleting the full stop and inserting a semicolon instead;

- (d) after paragraph (b) by inserting —

“

- (c) is disclosed to —

- (i) the Corruption and Crime Commission;
or

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

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

- (d) is disclosed to a person who is —
- (i) the Parliamentary Inspector of the
Corruption and Crime Commission; or
 - (ii) an officer of the Parliamentary Inspector
of the Corruption and Crime
Commission authorised for the purposes
of this subparagraph by the
Parliamentary Inspector,

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

”.

7. Schedule 1 amended

Schedule 1 is amended by inserting before the item relating to the
Director of Public Prosecutions the following items —

“

The Corruption and Crime Commission under the
Corruption and Crime Commission Act 2003.

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

”.

Division 2 — Amendments to other Acts

8. Surveillance Devices Act 1998 amended

- (1) The amendments in this clause are to the *Surveillance Devices
Act 1998**.

[* *Act No. 56 of 1998*.

*For subsequent amendments see Western Australian Legislation
Information Tables for 2002, Table 1, p. 385.*]

Schedule 1 Amendments to other Acts as a consequence of enactment and amendment of the Corruption and Crime Commission Act 2003

(2) Section 3(1) is amended as follows:

- (a) 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*;

”;

- (b) in the definition of “authorized person” by inserting after paragraph (a) —

“

- (aa) in the case of the Corruption and Crime Commission, an officer of the Corruption and Crime Commission authorized for that purpose by the Commission; and

”;

- (c) in the definition of “emergency authorization” by inserting after “of the State,” —

“

an officer of the Corruption and Crime Commission,

”;

- (d) in the definition of “law enforcement officer” by inserting after paragraph (a) —

“

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

”.

- (3) Section 4B(2) is amended as follows:
- (a) in paragraph (a) by deleting “Anti-Corruption Commission” and inserting instead —
“ Corruption and Crime Commission ”;
 - (b) in paragraph (b) by deleting “an Anti-Corruption Commission officer, other than in the definitions in section 3(1) of “Anti-Corruption Commission Officer”” and inserting instead —
“
an officer of the Corruption and Crime Commission, other than in the definitions in section 3(1) of “officer of the Corruption and Crime Commission”
”;
 - (c) in the Table by deleting “ “Anti-Corruption Commission” ” and inserting instead —
“ “Corruption and Crime Commission” ”.
- (4) Section 4B(8) is amended by deleting “chairman of the Anti-Corruption Commission” and inserting instead —
“ Corruption and Crime Commission ”.
- (5) Section 9(2)(a)(iii) is amended by inserting after “Police,” —
“ the Corruption and Crime Commission, ”.
- (6) Section 11 is amended by inserting after “State,” —
“ an officer of the Corruption and Crime Commission, ”.
- (7) After section 15(1)(a) the following is inserted —
“
(aa) an officer of the Corruption and Crime Commission; or
”.

Schedule 1 Amendments to other Acts as a consequence of enactment and amendment of the Corruption and Crime Commission Act 2003

(8) After section 15(3)(a) the following paragraph is inserted —

“

(aa) in the case of an application by an officer of the Corruption and Crime Commission, is required to attach an authorisation of the Corruption and Crime Commission for the action proposed;

”.

(9) Section 15(3)(f)(i) is amended by inserting after “State,” —

“ an officer of the Corruption and Crime Commission, ”.

(10) Section 16(4) is amended by inserting after “State,” —

“ an officer of the Corruption and Crime Commission, ”.

(11) Section 17(2)(d)(ii) is amended by inserting after “State,” —

“ officer of the Corruption and Crime Commission, ”.

(12) After section 18 the following section is inserted —

“

18A. Enhanced powers concerning surveillance devices

(1) In this section —

“**section 5 offence**” has the meaning given by section 5 of the *Corruption and Crime Commission Act 2003*.

(2) This section has effect if —

- (a) a police officer applies under section 15 or 16 for a warrant and the offence concerned is a section 5 offence; or
- (b) an officer of the Corruption and Crime Commission applies under section 15 or 16 for a warrant.

- (3) The effects of this section are that —
- (a) instead of the court having to be satisfied that there are reasonable grounds for believing anything described in section 13(1)(a) or 17(1)(a), it is sufficient that the court be satisfied that there are reasonable grounds for suspecting it;
 - (b) in the case of an application referred to in subsection (2)(a) the court to which the application is made is to regard the fact that the offence concerned is a section 5 offence as justifying investigative powers in addition to those that it might otherwise regard as being in the public interest;
 - (c) in the case of an application referred to in subsection (2)(b), the court to which the application is made is to regard the fact that the application is made by the Corruption and Crime Commission or an officer of the Corruption and Crime Commission as justifying investigative powers in addition to those that it might otherwise regard as being in the public interest; and
 - (d) anything that the warrant may authorise to be done if there is a reasonable belief as to any matter may be authorised by the warrant to be done also if there is a reasonable suspicion as to the matter.

”.

- (13) Section 20 is amended as follows:

- (a) by inserting after “State,” —

“

an officer of the Corruption and Crime Commission,

”;

Schedule 1 Amendments to other Acts as a consequence of enactment
and amendment of the Corruption and Crime Commission
Act 2003

- (b) by inserting after “member of the police force,” —
“
the officer of the Corruption and Crime Commission,
”.
- (14) After section 21(1)(c)(i) the following subparagraph is inserted —
“
(ia) an offence punishable by 2 or more
year’s imprisonment has been or may
have been, is being or is about to be, or
is likely to be, committed;
”.
- (15) Section 23(3) is amended by inserting after “publication of any” —
“
matter contrary to section 151 of the *Corruption and
Crime Commission Act 2003*, or any
”.
- (16) After section 31(3)(b)(i) the following subparagraphs are inserted —
“
(ia) the Corruption and Crime Commission;
(ib) the Parliamentary Inspector of the
Corruption and Crime Commission;
”.
- (17) Section 33(3) is amended by inserting after “publication of any” —
“
matter contrary to section 151 of the *Corruption and
Crime Commission Act 2003*, or any
”.
- (18) Section 40(3) is amended by inserting after “State,” —
“ any officer of the Corruption and Crime Commission, ”.

-
- (19) Section 41(1), (2) and (3) are amended by inserting after “Police,” in each case —
- “ the Corruption and Crime Commission, ”.
- (20) Section 41(1)(a) is amended by inserting after “State,” —
- “ an officer of the Corruption and Crime Commission, ”.
- (21) Section 41(3) is amended by deleting “Anti-Corruption Commission” and inserting instead —
- “ Corruption and Crime Commission ”.
- (22) After section 43(1) the following subsection is inserted —
- “
- (1a) The Corruption and Crime Commission must, as soon as practicable after 30 June, but in any event not later than 31 August, in each year, furnish to the Attorney General a report on behalf of the Corruption and Crime Commission in respect of the year ending on that 30 June, containing information relating to —
- (a) applications for warrants and extensions of warrants, including the number of such applications and the orders made in respect of such applications;
- (b) applications for emergency authorisations, including the number of such applications and the authorisations issued in respect of such applications; and
- (c) such other matters relating to the use of surveillance devices and the administration of this Act as the Attorney General may direct.
- ”.
- (23) Section 43(4) is amended by inserting after “Police,” —
- “ the Corruption and Crime Commission, ”.

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and amendment of the Corruption and Crime Commission
Act 2003

- (24) Section 44(1)(f) is amended by inserting after “Police,” —
“ the Corruption and Crime Commission, ”.

**9. *Telecommunications (Interception) Western Australia Act 1996*
amended**

- (1) The amendments in this clause are to the *Telecommunications
(Interception) Western Australia Act 1996**.

[* *Act No. 44 of 1996.*

*For subsequent amendments see Western Australian Legislation
Information Tables for 2002, Table 1, p. 388.]*

- (2) The long title is amended by inserting after “enable” —
“ **the Corruption and Crime Commission,** ”.

- (3) Section 3(1) is amended as follows:

- (a) in the definition of “agency” by inserting after
paragraph (a) —

“

- (aa) the Corruption and Crime Commission;

”;

- (b) in the definition of “certifying officer” by inserting before
paragraph (a) —

“

- (aa) in relation to the Corruption and Crime
Commission, the Commissioner as defined
in section 3 of the *Corruption and Crime
Commission Act 2003*; or

”;

- (c) in the definition of “chief officer” by inserting before
paragraph (a) —

“

- (aa) in relation to the Corruption and Crime
Commission, the Commissioner as defined

in section 3 of the *Corruption and Crime
Commission Act 2003*; or

”;

- (d) after the definition of “Commonwealth Minister” by inserting
the following definition —

“

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

”;

- (e) in the definition of “eligible authority” by inserting after
“means” —

“ the Corruption and Crime Commission, ”;

- (f) in the definition of “officer” by inserting before
paragraph (a) —

“

- (aa) in relation to the Corruption and Crime
Commission, an officer of the Commission
as defined in section 3 of the *Corruption and
Crime Commission Act 2003*; or

”;

- (g) in the definition of “responsible Minister” by inserting before
paragraph (a) —

“

- (aa) in relation to the Corruption and Crime
Commission, the Attorney General; or

”.

- (4) Section 3A(d) is amended by inserting after “means” —

“ the Corruption and Crime Commission, ”.

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and amendment of the Corruption and Crime Commission
Act 2003

(5) After section 5(1)(b) the following paragraph is inserted —

“

- (ba) in relation to each Part VI warrant whose authority is exercised by the authority, particulars of —
 - (i) the warrant;
 - (ii) the day on which, and the time at which, each interception under the warrant began;
 - (iii) the duration of each such interception;
 - (iv) the name of the person who carried out each such interception; and
 - (v) in relation to a named person warrant — each service to or from which communications have been intercepted under the warrant;

”.

(6) After section 5(1) the following subsection is inserted —

“

- (1a) If a Part VI warrant is a named person warrant, the particulars referred to in subsection (1)(ba)(ii) must indicate the service in respect of which each interception occurred.

”.

**Schedule 2 — Amendments to other Acts as a consequence
of repeal of the *Anti-Corruption Commission Act 1988***

[s. 72, 74]

Division 1 — *Parliamentary Commissioner Act 1971* amended

1. The Act amended

The amendments in this Division are to the *Parliamentary Commissioner Act 1971**.

[* Reprinted as at 16 March 2001.]

2. Section 4 amended

Section 4 is amended by deleting the definition of “Anti-Corruption Commission”.

3. Section 22A amended

Section 22A(1) is amended by deleting “the Anti-Corruption Commission,”.

4. Section 22B amended

Section 22B is amended as follows:

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting “the Anti-Corruption Commission”.

5. Schedule 1 amended

Schedule 1 is amended by deleting the item relating to the Anti-Corruption Commission.

Division 2 — Amendments to other Acts

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

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

[* Reprinted as at 13 July 2001.]

Schedule 2 Amendments to other Acts as a consequence of repeal of the Anti-Corruption Commission Act 1988

- (2) Section 38(l) is amended by deleting “the *Anti-Corruption Commission Act 1988*,”.

7. 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).*

For subsequent amendments see Acts Nos. 25, 28 and 30 of 2003.]

- (2) Section 570(1) is amended as follows:
- (a) by deleting the definition of “Anti-Corruption Commission official”;
 - (b) in the definition of “interview” —
 - (i) by deleting “or” after paragraph (a); and
 - (ii) by deleting paragraph (b).
- (3) Section 570B(1) is amended in the definition of “authorised person” by deleting paragraph (da).
- (4) Section 570B(3a)(b) is deleted.
- (5) Section 570B(4) is amended by deleting “or an Anti-Corruption Commission official acting in the course of duty,”.
- (6) Section 570B(5) is amended by deleting “(da),”.
- (7) Section 570D(1) is amended in the definition of “admission” by deleting “or an Anti-Corruption Commission official”.
- (8) Section 570GA(1), (2) and (3) are each amended by deleting “the Anti-Corruption Commission or”.
- (9) Section 570GA(4) is amended in the definition of “interview” by deleting “or an Anti-Corruption Commission official”.
- (10) Section 570H(2)(ba) is deleted.

8. *Financial Administration and Audit Act 1985* amended

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

[* *Reprinted as at 16 September 2002.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 139 and Act No. 31 of 2003.]

- (2) Schedule 1 is amended by deleting the item relating to the Anti-Corruption Commission.

9. *Freedom of Information Act 1992* amended

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

[* *Reprinted as at 3 March 2000.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 151 and Acts Nos. 28 and 29 of 2003.]

- (2) Schedule 2 is amended by deleting the item relating to the Anti-Corruption Commission.

10. *Juries Act 1957* amended

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

[* *Reprinted as at 3 July 2000.*

For subsequent amendments see Act No. 25 of 2003.]

- (2) Section 56B(2)(c) is deleted.

- (3) Section 56C(2)(c) is deleted.

11. *Prisons Act 1981* amended

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

[* *Reprinted as at 22 December 2000.*

Schedule 2 Amendments to other Acts as a consequence of repeal of the Anti-Corruption Commission Act 1988

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 311 and Act No. 29 of 2003.]

- (2) Section 15C(1) is amended by deleting “the *Anti-Corruption Commission Act 1988*,”.
- (3) Section 109I(5)(b) and “or” after it is deleted.
- (4) Section 109O(1) is amended by deleting “the Anti-Corruption Commission,”.
- (5) Section 109P(a) is deleted.
- (6) Section 109P(b) is amended by deleting “, the Anti-Corruption Commission”.

12. *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 deleting the definition of “Anti-Corruption Commission”.
- (3) Section 5(3)(a) is amended by deleting “or to the Anti-Corruption Commission”.
- (4) Section 11(2) is repealed.
- (5) Section 12(1) is amended by deleting “Anti-Corruption Commission, the” in both places where it occurs.
- (6) Section 12(2)(a) and “or” after it are deleted.
- (7) Section 16(1)(d) and (e) and “or” after paragraph (d) are deleted.
- (8) Section 16(3)(e) and (f) and “or” after paragraph (e) are deleted.

13. *Salaries and Allowances Act 1975* amended

- (1) The amendment in this clause is to the *Salaries and Allowances Act 1975**.

[* *Reprinted as at 8 September 2000.*

*For subsequent amendments see Western Australian Legislation
Information Tables for 2002, Table 1, p. 348.]*

- (2) Section 7(1) is amended by deleting “and members of the
Anti-Corruption Commission established under the *Anti-Corruption
Commission Act 1988*,”.

14. *Spent Convictions Act 1988* amended

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

[* *Reprinted as at 1 September 2000.*

*For subsequent amendments see Western Australian Legislation
Information Tables for 2002, Table 1, p. 362.]*

- (2) The Table to Schedule 3 is amended by deleting item 11.

15. *Surveillance Devices Act 1998* amended

- (1) The amendments in this clause are to the *Surveillance Devices
Act 1998**.

[* *Act No. 56 of 1998.*

*For subsequent amendments see Western Australian Legislation
Information Tables for 2002, Table 1, p. 385.]*

- (2) Section 3(1) is amended as follows:

- (a) by deleting the definitions of “Anti-Corruption Commission”
and “Anti-Corruption Commission officer”;
- (b) in the definition of “authorized person” by deleting
paragraph (b) and “and” after it;
- (c) in the definition of “emergency authorization” by deleting
“, an Anti-Corruption Commission officer”;
- (d) by deleting paragraph (b) of the definition of “law
enforcement officer”.

- (3) Section 9(2)(a)(iii) is amended by deleting “, the chairman or any
2 members of the Anti-Corruption Commission”.

- (4) Section 11 is amended by deleting “, an Anti-Corruption Commission
officer”.

Schedule 2 Amendments to other Acts as a consequence of repeal of
the Anti-Corruption Commission Act 1988

- (5) Section 15(1)(b) and “or” after it is deleted.
- (6) Section 15(3)(b) is deleted.
- (7) Section 15(3)(f)(i) is amended by deleting “, Anti-Corruption Commission officer”.
- (8) Section 16(4) is amended by deleting “, an Anti-Corruption Commission officer”.
- (9) Section 17(2)(d)(ii) is amended by deleting “, the Anti-Corruption Commission officer”.
- (10) Section 20 is amended as follows:
 - (a) by deleting “, an Anti-Corruption Commission officer”;
 - (b) by deleting “, the Anti-Corruption Commission officer”.
- (11) Section 21(1)(c)(i) is deleted.
- (12) Section 23(3) is amended by deleting “, or any information or allegation contrary to section 54 of the *Anti-Corruption Commission Act 1988*”.
- (13) Section 31(3)(b)(ii) is deleted.
- (14) Section 33(3) is amended by deleting “, or any information or allegation contrary to section 54 of the *Anti-Corruption Commission Act 1988*”.
- (15) Section 40(3) is amended by deleting “, any Anti-Corruption Commission officer”.
- (16) Section 41(1), (2) and (3) are amended by deleting “, the Anti-Corruption Commission” in each place it occurs.
- (17) Section 41(1)(a) is amended by deleting “, an Anti-Corruption Commission officer”.
- (18) Section 43(2) is repealed.
- (19) Section 43(4) is amended by deleting “, the chairman of the Anti-Corruption Commission”.
- (20) Section 44(1)(f) is amended by deleting “, the chairman of the Anti-Corruption Commission”.

**16. *Telecommunications (Interception) Western Australia Act 1996*
 amended**

- (1) The amendments in this clause are to the *Telecommunications (Interception) Western Australia Act 1996**.

[* *Act No. 44 of 1996.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 388.]

- (2) The long title is amended by deleting “, the Anti-Corruption Commission”.
- (3) Section 3(1) is amended as follows:
- (a) in the definition of “agency” by deleting paragraph (ba);
 - (b) by deleting the definition of “Anti-Corruption Commission”;
 - (c) in the definition of “certifying officer” by deleting paragraph (a) and “or” after it;
 - (d) in the definition of “chief officer” by deleting paragraph (a) and “or” after it;
 - (e) in the definition of “eligible authority” by deleting “, the Anti-Corruption Commission”;
 - (f) in the definition of “officer” by deleting paragraph (a) and “or” after it;
 - (g) in the definition of “responsible Minister” by deleting paragraph (a) and “or” after it.
- (4) Section 3A(d) is amended by deleting “the Anti-Corruption Commission,”.

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