South Australia

Ombudsman Act 1972

An Act to provide for the appointment of an Ombudsman to investigate the exercise of the administrative powers of certain agencies and allegations of misconduct or maladministration in public administration; to provide for the powers, functions and duties of the Ombudsman; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Ombudsman Act 1972*.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

act includes—

(a) an omission;

(b) a decision, proposal or recommendation (including a recommendation made to a Minister of the Crown),

and the circumstances surrounding an act;

administrative act means—

(a) an act relating to a matter of administration on the part of an agency to which this Act applies or a person engaged in the work of such an agency; or

(b) an act done in the performance of functions conferred under a contract for services with the Crown or an agency to which this Act applies,

but does not include—

(c) an act done in the discharge of a judicial authority; or

(d) an act done by a person in the capacity of legal adviser to the Crown or an agency to which this Act applies; or

(e) an act of a class declared by the regulations not to be an administrative act for the purposes of this definition;

administrative unit means an administrative unit of the Public Service;

agency to which this Act applies means—

(a) a person who holds an office established by an Act; or

(b) an administrative unit; or

(c) a council; or

(ca) an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*; or

(d) an incorporated or unincorporated body—

(i) established or continued in existence for a public purpose by an Act; or

(ii) established or continued in existence for a public purpose under an Act (other than an Act providing for the incorporation of companies or associations, co-operatives, societies or other voluntary organisations); or

(iii) subject to control or direction by the Governor, a Minister of the Crown or other instrumentality or agency of the Crown or a council (whether or not the body is established or continued in existence by or under an Act); or

(e) a person or body declared by the regulations to be an agency to which this Act applies,

but does not include an inquiry agency, the Office for Public Integrity or a person or body declared by the regulations to be an agency to which this Act does not apply;

complainant in relation to an investigation means the person or persons whose complaint or report gave rise to that investigation;

complaint in relation to public administration, means a complaint that gives rise, or may give rise, to an investigation into an administrative act or other act in the course of public administration;

council means a council within the meaning of the *Local Government Act 1999*;

inquiry agency means—

(a) the Independent Commission Against Corruption; or

(b) the Ombudsman; or

(c) the Judicial Conduct Commissioner;

investigation means an investigation by the Ombudsman under this Act in relation to an administrative act or other act in the course of public administration;

maladministration in public administration—see section 4;

misconduct in public administration—see section 4;

officer of the Ombudsman means—

(a) a person employed in the Public Service and assigned to work in the office of the Ombudsman; or

(b) a person employed under section 12;

OPI means the Office for Public Integrity established under the *Independent Commission Against Corruption Act 2012*;

principal officer in relation to an agency to which this Act applies means—

(a) if the agency consists of a single person (including a corporation sole but not any other body corporate)—that person;

(b) if the agency is a council—the principal member of the council;

(c) if the agency consists of an unincorporated board or committee—the presiding officer;

(d) in any other case—the chief executive officer of the agency or a person declared by the regulations to be the principal officer of the agency;

public administration—without limiting the acts that may comprise public administration, an administrative act will be taken to be carried out in the course of public administration;

public authority has the same meaning as in the *Independent Commission Against Corruption Act 2012*;

public officer has the same meaning as in the *Independent Commission Against Corruption Act 2012*;

report means a report to the Ombudsman of a kind referred to in section 12D;

responsible Minister in relation to an agency to which this Act applies means—

(a) if the agency is an administrative unit—the Minister responsible for that administrative unit;

(b) if the agency is a council—the Minister responsible for the administration of the *Local Government Act 1999*;

(c) if the agency is a body established by or under an Act—the Minister responsible for the administration of that Act;

(d) in any other case—the Minister declared by the regulations to be the responsible Minister for the agency or, in the absence of such a declaration, the Minister responsible for the administration of this Act;

Statutory Officers Committee means the committee of that name established under the *Parliamentary Committees Act 1991*;

the Ombudsman includes a person acting in the office of the Ombudsman.

(2) For the purposes of this Act—

(a) a person engaged or employed in the administration of, or in the performance of functions in or on behalf of, an agency to which this Act applies will be taken to be engaged in the work of that agency; and

(b) deputy sheriffs and sheriff's officers will be taken to be engaged in the work of the sheriff and the sheriff will be regarded as an employer in relation to deputy sheriffs and sheriff's officers.

(3) The Governor may, by regulation—

(a) declare a person or body to be an agency to which this Act applies; or

(b) declare a person or body to be an agency to which this Act does not apply; or

(c) declare a person to be the principal officer of an agency to which this Act applies; or

(d) declare a Minister to be the responsible Minister for an agency to which this Act applies.

(4) A regulation under subsection (3)(a) cannot take effect unless it has been laid before both Houses of Parliament and—

(a) no motion for disallowance of the regulation is moved within the time for such a motion; or

(b) every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.

(5) A regulation under subsection (3)(b) may declare part of an administrative unit to be part of an administrative unit to which this Act does not apply.

4—Misconduct and maladministration

(1) ***Misconduct in public administration*** means an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.

(2) ***Maladministration in public administration***—

(a) means—

(i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or

(ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

(b) includes conduct resulting from impropriety, incompetence or negligence; and

(c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

(3) Without limiting or extending the conduct that may comprise misconduct or maladministration in public administration, this Act applies to conduct that—

(a) occurred before the commencement of this section; or

(b) occurs outside this State; or

(c) comprises a failure to act; or

(d) is conduct of a person who was a public officer at the time of its occurrence but who has since ceased to be a public officer; or

(e) is conduct of a person who was not a public officer at the time of its occurrence but who has since become a public officer.

(4) A reference in subsection (1) to a code of conduct does not include any statement of principles applicable in relation to the conduct of members of Parliament.

4A—Parliamentary privilege unaffected

Nothing in this Act affects the privileges, immunities or powers of the Legislative Council or House of Assembly or their committees or members and powers under this Act may not be exercised in relation to any matter to which parliamentary privilege applies.

5—Non-application of Act

(1) This Act does not apply to or in relation to any Commission or tribunal for the time being declared by proclamation to be a Commission or tribunal to which this Act does not apply.

(2) This Act does not apply to or in relation to—

(a) any complaint to which the *Police (Complaints and Disciplinary Proceedings) Act 1985* applies; or

(b) any matter to which that Act would apply if the matter were the subject of a complaint under that Act.

(3) This Act does not apply to or in relation to—

(a) any complaint to which the *Judicial Conduct Commissioner Act 2015* applies; or

(b) any matter to which that Act would apply if the matter were the subject of a complaint under that Act.

Part 2—The Ombudsman

5A—Functions

There is to be an Ombudsman with the following functions:

(a) to receive, assess and investigate or otherwise deal with complaints made or referred to the Ombudsman about public administration;

(b) to receive, assess and investigate or otherwise deal with reports about misconduct and maladministration in public administration made or referred to the Ombudsman;

(c) to assist agencies to identify and deal with inappropriate or improper administrative acts;

(d) to give directions or guidance to public authorities in dealing with misconduct and maladministration in public administration, as the Ombudsman considers appropriate;

(e) to evaluate the practices, policies and procedures of public authorities with a view to advancing comprehensive and effective systems for preventing or minimising misconduct and maladministration in public administration;

(f) to conduct or facilitate the conduct of educational programs or the publication or distribution of educational materials designed to prevent or minimise misconduct and maladministration in public administration;

(g) to perform other functions conferred on the Ombudsman by this or any other Act.

6—Appointment of Ombudsman

(1) The Governor may, on a recommendation made by resolution of both Houses of Parliament, appoint a person to be the Ombudsman.

(1a) On a vacancy occurring in the office of the Ombudsman, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee.

(2) The terms and conditions of appointment and employment (including salary and allowances) of the Ombudsman shall be as determined from time to time by the Governor.

(3) This section is, without further appropriation, sufficient authority for the payment of the salary and allowances of the Ombudsman out of the General Revenue of the State.

7—Ombudsman not to engage in any remunerative employment

The Ombudsman must not, without the consent of the Minister, engage in any remunerative employment or undertaking outside official duties.

8—Acting Ombudsman

(1) If for any reason—

(a) the Ombudsman is temporarily unable to perform official duties; or

(b) the office of the Ombudsman is temporarily vacant,

the Governor may, by notice published in the Gazette, appoint a person to act in the office of the Ombudsman and a person so appointed has, while so acting, all the powers, functions and duties of the Ombudsman.

(1a) A person who is a Public Service employee may be appointed under this section to act in the office of the Ombudsman while remaining a Public Service employee for a term not exceeding three months and may, on the expiration of that term, be reappointed (provided that the terms of appointment do not exceed six months in aggregate in any period of 12 months).

(2) Subject to this Act, the terms and conditions of appointment and employment (including the salary and allowances) of the person appointed under subsection (1) shall be as determined, from time to time, by the Governor.

(3) This section is, without further appropriation, sufficient authority for the payment of the salary and allowances of an acting Ombudsman out of the General Revenue of the State.

9—Delegation

(1) The Ombudsman may, by instrument in writing, delegate powers or functions under this or any other Act (except this power of delegation) to any person.

(2) The Ombudsman may by instrument in writing revoke or vary any delegation given under subsection (1).

(3) The exercise or performance of any power or function by a delegate pursuant to subsection (1) does not affect the exercise or performance of that power or function by the Ombudsman.

10—Term of office of the Ombudsman etc

(1) The Ombudsman shall be appointed for a term expiring on the day on which he or she attains the age of 65 years.

(2) The Governor may remove the Ombudsman from office upon the presentation of an address from both Houses of Parliament seeking the Ombudsman's removal.

(3) The Governor may suspend the Ombudsman from office on the ground of incompetence or misbehaviour and, in that event—

(a) a full statement of the reason for the suspension must be laid before both Houses of Parliament within seven days of the suspension if Parliament is then in session or, if not, within seven days of the commencement of the next session of Parliament; and

(b) if, at the expiration of one month from the date on which the statement was laid before Parliament, an address from both Houses of Parliament seeking the Ombudsman's removal has not been presented to the Governor, the Ombudsman must be restored to office.

(4) The office of Ombudsman becomes vacant if the Ombudsman—

(a) dies; or

(b) attains the age of 65 years; or

(c) resigns by written notice delivered to the Governor; or

(d) is removed from office by the Governor under subsection (2); or

(e) becomes bankrupt or applies as a debtor to take the benefit of the laws relating to bankruptcy; or

(f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or

(g) becomes a member of the Parliament of this State or any other State of the Commonwealth or of the Commonwealth or becomes a member of a Legislative Assembly of a Territory of the Commonwealth; or

(h) becomes, in the opinion of the Governor, mentally or physically incapable of carrying out satisfactorily the duties of office.

(5) Except as is provided by this section, the Ombudsman shall not be removed or suspended from office, nor shall the office of the Ombudsman become vacant.

11—Ombudsman is not a Public Service employee

(1) The Ombudsman is not a Public Service employee.

(2) If an Ombudsman was, immediately before appointment as such, employed in the Public Service, the Ombudsman retains existing and accruing rights in respect of leave.

12—Officers of Ombudsman

(1) The Ombudsman's staff consists of—

(a) Public Service employees assigned to work in the office of the Ombudsman; and

(b) if appointments have been made under subsection (3)—the persons holding those appointments.

(2) The Minister may, by notice in the Gazette—

(a) exclude Public Service employees on the Ombudsman's staff from specified provisions of the *Public Sector Act 2009*; and

(b) if the Minister thinks that certain provisions should apply to such employees instead of those from which they are excluded under paragraph (a)—determine that those provisions will so apply,

and such a notice has effect in accordance with its terms.

(2a) While a Public Service employee is assigned to work in the office of the Ombudsman, directions given to the employee by the Ombudsman prevail over directions given to the employee by the chief executive of the administrative unit of the Public Service in which the employee is employed to the extent of any inconsistency.

(3) The Ombudsman may, with the consent of the Minister, appoint staff for the purposes of this Act.

(4) The terms and conditions of employment of a person appointed under subsection (3) will be determined by the Governor and such a person is not a Public Service employee.

Part 2A—Receiving and assessing complaints and reports

12A—Complaints system

(1) A system for the receipt of complaints about public administration is to be established by the Ombudsman.

(2) The system must permit the making of complaints relating to matters that are (in the opinion of the Ombudsman) sensitive, complex or of significant public interest to be made in person to an officer of the Ombudsman.

(3) The system must ensure that the Ombudsman gives consideration to the motives of a complainant and that complaints that are apparently made in bad faith, for an improper purpose, are vexatious or that otherwise amount to an abuse of the complaints system are not received for consideration by the Ombudsman.

12B—Persons who may make complaints

(1) A complaint about public administration may be made—

(a) if the complaint relates to alleged misconduct or maladministration in public administration—by any person; or

(b) in any other case—

(i) by a person or body of persons directly affected by the acts to which the complaint relates; or

(ii) in accordance with subsection (4).

(2) If the person by whom a complaint might have been made has died or is unable to make the complaint personally, the complaint may be made by a person who is, in the Ombudsman's opinion, a suitable representative of that person.

(3) A complaint in respect of an act that could, apart from this subsection, be made by a person or body of persons may, with the consent of that person or body, be made on behalf of that person or body by a member of either House of Parliament and with the consent of that person or body that member may act on behalf of that person or body in and in connection with all matters relating to the matter of complaint.

(4) A complaint may be made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* despite the fact that they are not directly affected by the acts to which the complaint relates.

(5) Notwithstanding any enactment prohibiting or restricting, or authorising the imposition of prohibitions or restrictions on, communication, a person having the care or custody of another person must not refuse or fail to take all steps necessary to facilitate any communication by that other person necessary for or incidental to a complaint under this Act and to ensure the privacy of that communication.

Maximum penalty: $2 000.

12C—Time within which complaints may be made

(1) Subject to this section, a complaint under this Act must not be entertained by the Ombudsman if it is made after 12 months from the day on which the complainant first had notice of the matters alleged in the complaint unless the Ombudsman is of the opinion that, in all the circumstances of the case, it is proper to entertain the complaint.

(2) For the purposes of this section a complainant will be presumed to have had notice of the matters alleged in the complaint at the time they might reasonably be expected to have had such notice.

(3) This section does not apply in relation to a complaint made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

12D—Reporting system for misconduct and maladministration

(1) The Ombudsman must prepare directions and guidelines governing reporting to the Ombudsman of matters that an inquiry agency, public authority or public officer reasonably suspects involves misconduct or maladministration in public administration.

(2) The directions and guidelines—

(a) must include guidance as to how matters may be reported; and

(b) must be made available free of charge on the Internet, and at premises established for the receipt of complaints or reports by the Ombudsman, for inspection by members of the public.

(3) A public authority or public officer may report to the Ombudsman any matter that the authority or officer reasonably suspects involves misconduct or maladministration in public administration.

(4) The Attorney-General may, in any event, report such matters to the Ombudsman for consideration as the Attorney-General considers appropriate.

12E—Referral of matter by OPI

If a matter is referred to the Ombudsman under the *Independent Commission Against Corruption Act 2012*, the matter must be dealt with under this Act as if a complaint or report had been made under this Act and—

(a) if the matter was the subject of a complaint or report under that Act—as if the person who made the complaint or report under that Act was the complainant under this Act; or

(b) if the matter was identified by the Independent Commission Against Corruption in the course of performing functions under that Act—as if the Commissioner under that Act was the complainant under this Act.

12F—Obstruction of complaint or report

A person must not—

(a) prevent another person from making a complaint or report under this Act; or

(b) hinder or obstruct another person in making such a complaint or report.

Maximum penalty: $10 000 or imprisonment for 2 years.

12G—False or misleading statements in complaint or report etc

A person must not—

(a) make a statement knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided in a complaint or report; or

(b) make a complaint or report knowing that there are no grounds for the making of the complaint or report.

Maximum penalty: $10 000 or imprisonment for 2 years.

12H—Assessment of complaint or report

(1) On receipt by the Ombudsman of a complaint or report, the matter must be assessed as to whether—

(a) it raises an issue that should be investigated under this Act; or

(b) it raises some other issue that should be referred to a law enforcement agency, another inquiry agency, a public authority or a public officer; or

(c) it is trivial, vexatious or frivolous, it has previously been dealt with by an inquiry agency or a public authority and there is no reason to reexamine it or there is other good reason why no action should be taken in respect of it,

and a determination made as to whether or not action should be taken to investigate or refer the matter.

(2) The Ombudsman may, for the purpose of assessing a matter, by written notice, require a public authority or public officer—

(a) to produce a specified document or a document relating to a specified matter; or

(b) to produce a written statement of information about a specified matter or to answer specified questions, within a specified period and in a specified form, verified if the written notice so requires by statutory declaration.

(3) A person must not refuse or fail to comply with a requirement of a notice under subsection (2).

Maximum penalty: $10 000 or imprisonment for 2 years.

Part 3—Investigations

13—Matters subject to investigation

(1) Subject to this Act, the Ombudsman may investigate any administrative act or any suspected misconduct or maladministration in public administration.

(2) The Ombudsman may make such an investigation either on receipt of a complaint or report or on the Ombudsman's own initiative and, where a complaint or report is made, the Ombudsman may investigate any act in the course of public administration notwithstanding that, on the face of it, the complaint or report may not appear to relate to that act.

(2a) Despite any other provision of this Act, if the Ombudsman becomes aware that—

(a) an investigation under the *Independent Commission Against Corruption Act 2012* or other criminal investigation is being conducted in relation to a matter that is the subject of a complaint or is otherwise being investigated under this Act; or

(b) a person has been or is to be charged with a criminal offence in relation to such a matter,

the Ombudsman may not proceed to investigate or otherwise deal with the matter under this Act until the criminal investigation has been completed or the proceedings for the offence have been disposed of, withdrawn or permanently stayed.

(3) The Ombudsman must not investigate any administrative act where—

(a) the complainant is provided in relation to that administrative act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or

(b) the complainant had a remedy by way of legal proceedings,

unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy or that it is in the public interest to continue the investigation under this Act.

(3a) The ability to lay a complaint for disciplinary action against a person is to be disregarded for the purposes of subsection (3).

(3b) Despite subsection (3), the Ombudsman may investigate a prescribed child protection complaint.

(3c) To avoid doubt, subsection (3b) applies whether the prescribed child protection complaint—

(a) is made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*; or

(b) is referred to the Ombudsman by the Commissioner under section 28A of the *Health and Community Services Complaints Act 2004*; or

(c) is made under this Act.

(3d) Without limiting any other provision of this Act, the Ombudsman, in respect of an investigation under subsection (3b), has any additional powers that the Health and Community Services Complaints Commissioner would have under the *Health and Community Services Complaints Act 2004* if the Commissioner were investigating such a complaint under that Act.

(3e) Without limiting any other provision of this Act, the Ombudsman must, in the course of an investigation under subsection (3b)—

(a) have regard, and seek to give effect, to the Health and Community Services Rights Charter under the *Health and Community Services Complaints Act 2004*, as in force from time to time;

(b) where appropriate, have regard to any code of conduct prescribed under section 56A of the *Health and Community Services Complaints Act 2004*.

(4) The Ombudsman may investigate any administrative act, notwithstanding any enactment that provides that that administrative act is final or not to be appealed against, challenged, reviewed, quashed or called into question.

(5) A reference in this or any other provision of this Act to an administrative act will be taken to include a reference to the service, activity or omission to which a prescribed child protection complaint relates.

(6) In this section—

at risk has the same meaning as in the *Children and Young People (Safety) Act 2016*;

prescribed child protection complaint has the same meaning as in section 28A of the *Health and Community Services Complaints Act 2004*.

14—Parliament may refer matter for investigation

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

(2) The Ombudsman must carry out an investigation into any matter referred to him or her under this section and, following that investigation, must submit a report on the matter to—

(a) if the matter was referred to the Ombudsman by the Legislative Council or a committee of the Legislative Council—the President of the Legislative Council;

(b) if the matter was referred to the Ombudsman by the House of Assembly or a committee of the House of Assembly—the Speaker of the House of Assembly;

(c) if the matter was referred to the Ombudsman by a joint committee of both Houses of Parliament—the President of the Legislative Council and the Speaker of the House of Assembly.

(3) If—

(a) the person affected by an administrative act is provided in relation to that act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or

(b) the person affected by an administrative act had a remedy by way of legal proceedings; or

(c) 12 months have elapsed since the person affected by an administrative act had notice of the administrative act,

the administrative act is not to be referred to the Ombudsman by a House of Parliament or committee under this section unless the House or committee resolves that, in all the circumstances of the case, the administrative act warrants investigation by the Ombudsman despite the availability of that appeal, reference, review or remedy or the passage of time since the person affected had notice of the administrative act.

14A—Administrative audits

(1) If the Ombudsman considers it to be in the public interest to do so, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which this Act applies.

(2) The provisions of this Act apply in relation to a review under subsection (1) as if it were an investigation of an administrative act under this Act, subject to such modifications as may be necessary, or as may be prescribed.

17A—Conciliation

(1) The Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation.

(2) The Ombudsman may, in attempting conciliation under this section, act personally or through some other person.

(3) The Ombudsman may, if satisfied that the subject of a complaint has been properly resolved by conciliation under this section, determine that the complaint should not be investigated or further investigated under this Act.

18—Procedure on investigations

(1a) The Ombudsman must, before proceeding with a full investigation under this Act, inform the principal officer of the relevant agency or the relevant public authority of the decision to proceed with such an investigation.

(2) Every investigation under this Act must be conducted in private.

(3) The Ombudsman—

(a) is not required to hold a hearing for the purposes of an investigation;

(b) may obtain information from such persons and in such manner as the Ombudsman thinks fit;

(c) may determine whether any person to whom an investigation relates may have legal or other representation.

(4) Before making a report affecting an agency to which this Act applies or a public officer or public authority the Ombudsman must allow the principal officer of the relevant agency or the relevant public officer or public authority a reasonable opportunity to comment on the subject matter of the report.

(5) The Ombudsman must report any evidence of misconduct or maladministration in public administration to the relevant public authority.

(6) Subject to this Act, the procedure to be adopted in relation to an investigation will be as determined by the Ombudsman.

19—Ombudsman to have powers of a Royal Commission

For the purposes of an investigation the Ombudsman has the powers of a commission as defined in the *Royal Commissions Act 1917* and that Act applies as if—

(a) the Ombudsman were a commission as so defined; and

(b) the subject matter of the investigation were set out in a commission of inquiry issued by the Governor under that Act.

19A—Ombudsman may issue direction in relation to administrative act

(1) If the Ombudsman is of the opinion that an administrative act by an agency is—

(a) likely to prejudice an investigation or proposed investigation or the effect or implementation of a recommendation that the Ombudsman might make as a result of an investigation or proposed investigation; or

(b) likely to cause serious hardship to a person,

the Ombudsman may, by notice in writing, direct an agency to which this Act applies to refrain from performing the administrative act as specified in the notice for any period specified in the notice.

(2) However—

(a) a notice must not be issued if compliance with the notice by the agency would result in the agency breaching a contract or other legal obligation or cause any third parties undue hardship; and

(b) a notice or notices issued under this section must not require an agency to refrain from performing an administrative act for more than 45 days in aggregate.

(3) The Ombudsman may, at any time, revoke a notice and must do so if of the opinion that the notice should not have been issued.

(5) If, following receipt of a notice under this section, the agency is of the opinion that, in the circumstances, failure to comply with the terms of the notice would be reasonable and justifiable, the agency may determine not to comply with the notice (in which case it must advise the Ombudsman of that determination, in writing, as soon as practicable).

(6) If an agency that has received a notice under this section fails to comply with the terms of the notice, the following provisions apply:

(a) the principal officer of the agency must, at the request of the Ombudsman, report to the Ombudsman within the time allowed in the request on the reasons for the agency's failure to comply with the notice;

(b) if, following receipt of the principal officer's report, the Ombudsman is of the opinion that the agency's failure to comply with the notice was unjustified or unreasonable, the Ombudsman may make a report on the matter to the Premier;

(c) the Ombudsman may forward copies of any report to the Premier to the Speaker of the House of Assembly and the President of the Legislative Council with a request that they be laid before their respective Houses.

(8) This section does not apply in relation to the sheriff.

20—No obligation on persons to maintain secrecy

No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the service of the Crown or an agency to which this Act applies, whether imposed by any enactment or by a rule of law applies to the disclosure of information for the purposes of an investigation by the Ombudsman and, except as is provided in this Act, the Crown or an agency to which this Act applies is not entitled, in relation to any such investigation, to privilege in respect of the production of documents or the giving of evidence.

20A—Injunction to refrain from conduct pending investigation

(1) The Supreme Court may, on application made by the Ombudsman (in a case where section 19A does not apply or the Ombudsman does not consider it appropriate to issue a notice under that section), grant an injunction restraining a person from engaging in conduct that is the subject of, or affects the subject matter of, an investigation or proposed investigation by the Ombudsman.

(2) The Supreme Court must not grant an injunction under this section unless it is satisfied—

(a) that the conduct sought to be restrained is likely to impede the investigation or proposed investigation; or

(b) that it is necessary in the public interest to do so.

21—Protection for proceedings in Cabinet

(1) No person shall be required or authorised by virtue of this Act—

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

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

(2) For the purposes of this section a certificate issued under the hand of the Minister certifying that any information or question or any document or part of a document relates to the proceedings referred to in subsection (1) is conclusive evidence of the fact so certified.

23—Entry and inspection

For the purposes of an investigation, the Ombudsman or a person authorised by the Ombudsman may enter and inspect any premises or place occupied by an agency to which this Act applies and anything in or on those premises or that place.

24—Obstruction

A person shall not—

(a) without lawful excuse obstruct, hinder or resist the Ombudsman or other person in the exercise or performance of powers or functions conferred by or under this Act; or

(b) without lawful excuse fail or refuse to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(c) wilfully make any statement that is false or untrue in a material particular to the Ombudsman or any other person acting in the exercise of powers under this Act.

Maximum penalty: $2 000.

25—Proceedings on completion of investigation

(1a) This section does not apply to an investigation conducted under section 14.

(2) If, on completion of an investigation, the Ombudsman is of the opinion—

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

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

(c) that the practice in accordance with which the act was done should be varied; or

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

(e) that the reason for any act should be given; or

(f) that any other steps should be taken,

the Ombudsman must report that opinion and the reasons for it to the principal officer of the relevant agency or to the relevant public authority and may make such recommendations as the Ombudsman thinks fit.

(3) The Ombudsman must send a copy of any report or recommendation made under subsection (2) to the responsible Minister and, in the case of a report or recommendation relating to the sheriff, to the State Courts Administration Council.

(4) The principal officer or public authority in relation to which a recommendation is made under subsection (2) must, at the request of the Ombudsman, report to the Ombudsman within a time allowed in the request on what steps have been taken to give effect to the recommendation and, if no such steps have been taken, the reason for the inaction.

(5) If it appears to the Ombudsman that appropriate steps have not been taken to give effect to a recommendation made under this section, the Ombudsman may make a report on the matter (containing a copy of the earlier report and the recommendation) to the Premier.

(6) Where the Ombudsman reports to the Premier under subsection (5), the Ombudsman may forward copies of the report to the Speaker of the House of Assembly and the President of the Legislative Council with a request that they be laid before their respective Houses.

26—Report on investigation

The Ombudsman may, if of the opinion that it is in the public interest to do so, cause a report on an investigation, or a statement about an investigation, or a decision not to investigate or to discontinue an investigation, to be published in such manner as the Ombudsman thinks fit.

27—Report to complainant

(1) The Ombudsman must inform a complainant of the result of an investigation made on the complaint or report.

(2) If—

(a) a complaint or report is investigated; and

(b) the Ombudsman makes a recommendation under this Act in relation to the subject matter of the complaint or report; and

(c) the Ombudsman is of the opinion that reasonable steps have not been taken to implement the recommendation within a reasonable time,

the Ombudsman must inform the complainant of that opinion and may make any further comments on the matter that appear appropriate in the circumstances.

28—Determination of the Ombudsman's jurisdiction

Where—

(a) an investigation has been commenced or is proposed under this Act; and

(b) a question arises as to whether the Ombudsman has jurisdiction to conduct the investigation,

the Supreme Court may, on the application of the Ombudsman, an agency to which this Act applies or the principal officer of such an agency or a public officer or public authority, determine the question and make any orders necessary to give effect to the determination.

28A—Directions following misconduct or maladministration referral

(1) If the Ombudsman is satisfied that a matter involves misconduct or maladministration in public administration and the matter is referred to a public authority under this Act, the Ombudsman may issue directions to the public authority doing 1 or both of the following:

(a) recommending action that should be taken by the authority and the period within which it should be taken;

(b) requiring that the authority submit a report or reports on action taken in respect of the matter.

(2) The Ombudsman may at any time revoke or vary directions under this section or give further directions.

(3) If—

(a) directions under this section included a requirement that the public authority submit a report or reports on action taken in respect of the matter; and

(b) the Ombudsman is not satisfied that the authority has duly and properly taken action in relation to the matter,

the Ombudsman must inform the authority of the grounds of the Ombudsman's dissatisfaction and give the authority an opportunity to comment within a specified time.

(4) If, after considering any comments received from the public authority within the specified time, the Ombudsman is still not satisfied, the Ombudsman may submit a report to the responsible Minister for the authority setting out the grounds of dissatisfaction, together with any comments from the authority.

(5) If, after considering any comments received from the responsible Minister within 21 days after the report was submitted to the Minister, the Ombudsman is still not satisfied, the Ombudsman may provide to the President of the Legislative Council and the Speaker of the House of Assembly a report setting out the grounds of dissatisfaction.

(6) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after receiving a report, lay it before their respective Houses.

Part 4—Miscellaneous

29—Reviews

(1) The Inspector appointed under Schedule 4 of the *Independent Commission Against Corruption Act 2012* must conduct the following reviews in accordance with this section:

(a) annual reviews examining the operations of the Ombudsman during each financial year;

(b) reviews relating to relevant complaints received by the Inspector;

(c) other reviews on the Inspector's own motion or at the request of the Attorney-General or the Crime and Public Integrity Policy Committee established under the *Parliamentary Committees Act 1991*.

(2) Without limiting the matters that may be the subject of a review, the Inspector—

(a) must, in the case of an annual review, consider the following in relation to the financial year to which the review relates:

(i) whether the powers under this Act were exercised in an appropriate manner (including whether undue prejudice to the reputation of any person was caused);

(ii) whether the practices and procedures of the Ombudsman were effective and efficient;

(iii) whether the Ombudsman carried out the functions of the Ombudsman under this Act in a manner that was likely to assist in the proper exercise of administrative powers in the State; and

(b) may examine any particular exercises of power by the Ombudsman; and

(c) may make any recommendations to the Ombudsman or to the Attorney-General that the Inspector thinks fit.

(3) For the purpose of conducting a review under this section, the Inspector (and any person assisting the Inspector) has the same powers as the Inspector has in conducting a review under the *Independent Commission Against Corruption Act 2012*.

(4) Before commencing an annual review, the Inspector must publish a notice calling for public submissions to be made (within a specified period of not less than 1 month and in a manner specified in the notice) in relation to the operations of the Ombudsman during the financial year to which the annual review is to relate.

(5) A notice under subsection (4) must be published on the Inspector's website and in the Gazette and may be published in any additional manner determined by the Inspector.

(6) The Ombudsman must ensure that the Inspector is provided with such information as the Inspector may require for the purpose of conducting a review.

(7) A review conducted at the request of the Crime and Public Integrity Policy Committee must be completed within any period specified by the Committee (which must be reasonable) and the Attorney-General must ensure that the Inspector is provided with any assistance required to complete the review within that period.

(8) On completing a review, or at any time during a review, the Inspector may do any of the following:

(a) refer a matter to a law enforcement agency for further investigation and potential prosecution;

(b) refer a matter to an inquiry agency or a public authority for further investigation and potential disciplinary action against a public officer for whom the agency or authority is responsible;

(c) if the Inspector finds that undue prejudice to the reputation of any person was caused by the Ombudsman, the Inspector may—

(i) publish any statement or material that the Inspector thinks will help to alleviate that prejudice; or

(ii) recommend that the Ombudsman pay an amount of compensation to the person.

(9) Before referring a matter under subsection (8), the Inspector must notify the Ombudsman of the proposed referral unless the Inspector is of the opinion that it would be inappropriate to do so in the circumstances of the case.

(10) On referral of a matter to another agency or authority, the Inspector may disclose to the agency or authority any evidence or information that the Inspector has in respect of the matter.

(11) Subject to subsection (12), a report on an annual review must—

(a) specify how many relevant complaints were made during the financial year to which the report relates; and

(b) specify how many reviews were conducted by the Inspector in relation to relevant complaints during the financial year to which the report relates; and

(c) describe the types of relevant complaints made during the financial year to which the report relates (in terms of the type of conduct being complained of) and specify how many complaints of each such type were made and describe the outcome of those complaints.

(12) The Inspector—

(a) must, in preparing a report on a review, consider the effect of the proposed report on any complaint, report, assessment, investigation or referral under this Act; and

(b) must not include information in a report if publication of the information would constitute an offence against section 29A.

(13) A report on a review must be delivered to the President of the Legislative Council and the Speaker of the House of Assembly—

(a) in the case of an annual review examining the operations of the Ombudsman and relevant complaints received during a financial year—on or before 30 September in the following financial year; or

(b) in any other case—as soon as practicable after completion of the review.

(14) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after receiving a report, lay it before their respective Houses.

29A—Confidentiality

(1) Except as required or authorised by this Act or by the Ombudsman, a person who is or has been engaged in the administration of this Act must not, directly or indirectly, disclose information in relation to or connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under this Act.

Maximum penalty: $2 500 or imprisonment for 6 months.

(2) Despite subsection (1), a person engaged in the administration of this Act may disclose information—

(a) for the purposes of the administration or enforcement of this Act; or

(b) for the purposes of referring a matter in accordance with this Act to a law enforcement agency, inquiry agency, public authority or public officer; or

(c) for the purposes of a criminal proceeding or a proceeding for the imposition of a penalty; or

(d) for the performance of the functions of the Ombudsman under another Act; or

(e) as otherwise required or authorised by this or another Act.

(3) A person who receives information knowing that the information is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under this Act must not disclose that information unless—

(a) the person is authorised in writing by the Ombudsman or by a person approved by the Ombudsman under this section to give an authorisation; or

(b) the disclosure of that information is for the purpose of—

(i) dealing with a matter under this Act; or

(ii) a criminal proceeding, a proceeding for the imposition of a penalty or disciplinary action; or

(iii) a person obtaining legal advice or legal representation or for the purposes of determining whether a person is entitled to an indemnity for legal costs; or

(iv) a person obtaining medical or psychological assistance from a medical practitioner or psychologist; or

(v) a person advising their employer; or

(vi) a person advising their business partners or others with whom a relevant fiduciary relationship exists; or

(vii) the management of a workers compensation claim; or

(c) the information relates to the person and is disclosed by the person to a close family member of the person.

Maximum penalty: $2 500 or imprisonment for 6 months.

(4) An authorisation to disclose information must be granted under subsection (3)(a) on application by a person—

(a) if—

(i) the information relates to the applicant; and

(ii) the person determining the application is satisfied that disclosure of the information would not reasonably be expected to prejudice any further action in respect of the matter; or

(b) if—

(i) the information was disclosed to the applicant by a close family member; and

(ii) the information relates to the close family member; and

(iii) the close family member is deceased or is otherwise no longer able to apply for authorisation to disclose the information; and

(iv) the person determining the application is satisfied that disclosure of the information would not reasonably be expected to prejudice any further action in respect of the matter.

(5) For the purposes of this section, a person is a ***close family member*** of another person if—

(a) 1 is a spouse of the other or is in a close personal relationship with the other; or

(b) 1 is a parent or grandparent of the other (whether by blood or by marriage); or

(c) 1 is a brother or sister of the other (whether by blood or by marriage); or

(d) 1 is a guardian or carer of the other.

(6) A person must not, except as authorised in writing by the Ombudsman or a person approved by the Ombudsman under this section to give an authorisation, or by a court hearing proceedings for an offence against this Act, publish, or cause to be published—

(a) information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under this Act; or

(b) information that might enable a person who has made a complaint or report under this Act to be identified or located; or

(c) the fact that a person has made or may be about to make a complaint or report under this Act; or

(d) information that might enable a person who has given or may be about to give information or other evidence under this Act to be identified or located; or

(e) the fact that a person has given or may be about to give information or other evidence under this Act; or

(f) any other information or evidence publication of which is prohibited by the Ombudsman.

Maximum penalty:

(a) in the case of a body corporate—$150 000;

(b) in the case of a natural person—$30 000.

(7) A person does not however commit an offence against this section by publishing—

(a) any information the disclosure of which has been authorised under subsection (3)(a); or

(b) a report of anything said in any proceedings to which parliamentary privilege applies.

29B—Annual report and other public reports

(1) The Ombudsman must, before 30 September in each year, prepare a report on the work of the Ombudsman's office during the preceding financial year.

(2) The Ombudsman may, at any time, prepare a report setting out—

(a) recommendations, formulated in the course of the performance of the Ombudsman's functions, for the amendment or repeal of a law; or

(b) findings or recommendations resulting from completed investigations by the Ombudsman; or

(c) other matters arising in the course of the performance of the Ombudsman's functions that the Ombudsman considers to be in the public interest to disclose.

(3) The Ombudsman must not prepare a report under this section setting out findings or recommendations resulting from a completed investigation that identifies any person involved in the particular matter or matters the subject of the investigation unless—

(a) the person consents; or

(b) the Ombudsman is satisfied (after complying with subsection (4)) that the public interest in identifying the person outweighs any potential damage to the person's reputation or other damage to the person.

(4) If the Ombudsman proposes to identify any person in a report, the Ombudsman must, using whatever procedure the Ombudsman may determine, be satisfied that the person has been consulted in relation to that proposal, is aware of the context in which they are to be identified in the report and has had an opportunity to make representations to the Ombudsman in relation to the proposal.

(5) A copy of a report under this section must be provided—

(a) in the case of a report of a kind referred to in subsection (2)(b)—to the principal officer of any agency to which this Act applies that is the subject of a finding or recommendation and to the responsible Minister for the agency; and

(b) in any case—to the Attorney-General, the President of the Legislative Council and the Speaker of the House of Assembly.

(6) The President of the Legislative Council and the Speaker of the House of Assembly must lay a report received under this section before their respective Houses—

(a) in the case of an annual report under subsection (1)—on the first sitting day after receiving the report; or

(b) in the case of any other report—on the first sitting day after 28 days (or such shorter number of days as the Attorney-General approves) have passed after receiving the report.

29C—Legal assistance

(1) Despite any other Act or law but subject to subsection (2), the Attorney-General must determine a claim for a relevant payment in respect of legal expenses incurred after the commencement of this section in accordance with the policy set out in Schedule 1.

(2) This section does not prevent the Attorney-General making any payment to a person in excess of the amount that would be payable in accordance with the policy set out in Schedule 1 or in circumstances other than those referred to in that Schedule.

(3) In this section—

relevant payment means a payment as reimbursement of costs associated with the engagement of an independent legal practitioner by a public officer who has been the subject of, or required to participate in, an investigation under this Act involving allegations of misconduct or maladministration in public administration.

30—Immunity from liability

(1) No liability attaches to the Ombudsman or any member of the Ombudsman's staff for any act or omission in good faith in the exercise or purported exercise of powers or functions under this or any other Act.

(2) Except for the purposes of an application under section 28, neither the Ombudsman nor any member of the Ombudsman's staff can be called to give evidence before any court in any judicial proceedings, on a matter coming to his or her notice in the course of exercising powers or functions under this or any other Act.

(3) In this section—

member of the Ombudsman's staff includes any person to whom powers or functions have been delegated under this Act.

31—Use of evidence or information

(1) Subject to this Act (but despite any other Act or law) evidence or information obtained (whether before or after the commencement of this section) by the lawful exercise of powers in relation to a matter—

(a) may be used for the purposes of any other investigation under this Act; and

(b) may be provided to, and may be received and used by—

(i) law enforcement agencies and prosecution authorities for the purposes of any criminal investigation or proceedings or proceedings for the imposition of a penalty; and

(ii) agencies to which this Act applies for the purposes of any disciplinary investigation or action,

whether the investigation, proceedings or action relate to, or arise from, the same matter or a different matter; and

(c) is not inadmissible in proceedings before a court merely because the evidence or information was not obtained for the purposes of those proceedings.

(2) For the purposes of subsection (1), evidence or information will be taken to be obtained by a lawful exercise of powers in relation to a matter notwithstanding a jurisdictional error in the exercise of those powers.

(3) No civil or criminal liability lies against a person in respect of any use of evidence or information permitted by this section.

31A—Victimisation

(1) A person who causes detriment to another on the ground, or substantially on the ground, that the other person or a third person has made or intends to make a complaint or report under this Act or has provided, or intends to provide, information or other assistance to the Ombudsman in connection with an investigation under this Act commits an act of victimisation.

(2) Causing detriment on the ground that a person—

(a) has made a false allegation; or

(b) has not acted in good faith,

does not constitute an act of victimisation.

(3) An act of victimisation under this Act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, the victim cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, the victim cannot subsequently commence proceedings in a court seeking a remedy in tort.

(4) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(5) In proceedings against a person seeking a remedy in tort for an act of victimisation committed by an employee or agent of the person, it is a defence to prove that the person exercised all reasonable diligence to ensure that the employee or agent would not commit an act of victimisation.

(6) A person who personally commits an act of victimisation under this Act is guilty of an offence.

Maximum penalty: $20 000 or imprisonment for 2 years.

(7) Proceedings for an offence against subsection (6) may only be commenced by a police officer or a person approved by either the Commissioner of Police or the Director of Public Prosecutions.

(8) In this section—

detriment includes—

(a) loss or damage (including damage to reputation); or

(b) injury or harm (including psychological harm); or

(c) intimidation or harassment; or

(d) discrimination, disadvantage or adverse treatment in relation to a person's employment; or

(e) threats of reprisal.

(9) For the purposes of this section, a ***threat*** of reprisal may be—

(a) express or implied; or

(b) conditional or unconditional,

and in any proceedings dealing with an act of victimisation (including proceedings for an offence against subsection (6)) it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

32—Use of word "Ombudsman" by agencies to which Act applies in describing internal reviews prohibited

An agency to which this Act applies must not use the word "Ombudsman" in describing a process or procedure by which the agency investigates and resolves complaints against the agency, or in describing a person responsible for carrying out such a process or procedure.

33—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Schedule 1—Reimbursement of Legal Fees Policy

1—Interpretation

In this Policy, unless the contrary intention appears—

Government Board appointee means a member of a full-time or part-time board, committee, tribunal, trust, commission, council, authority, panel, taskforce, forum, working party or group—

(a) established by or under an Act of Parliament of South Australia (excluding the *Local Government Act 1999*) and having a majority of members appointed by either a Minister or the Governor; or

(b) established by a Minister or legal instrument such as a constitution or charter, having a majority of members appointed by either a Minister or the Governor,

and includes a former Government Board appointee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government Board appointee;

Government employee means—

(a) a public sector employee as defined by the *Public Sector Act 2009*; or

(b) a person who is appointed to any office under an Act; or

(c) a volunteer within the meaning of the *Volunteers Protection Act 2001* where the work carried out by the volunteer is directed or coordinated by a public authority,

and includes a former Government employee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government employee;

Member of Parliament or ***Member*** includes a former Member where the investigation concerns conduct that occurred at a time when that person was a Minister of the Crown;

relevant investigation means an investigation under this Act involving allegations of misconduct or maladministration in public administration.

2—Who can claim for reimbursement

(1) A Government employee, Government Board appointee, Minister or Member of Parliament is to be reimbursed for costs they have incurred associated with their engagement of an independent legal practitioner where—

(a) the Government employee, Government Board appointee, Minister or Member of Parliament has been the subject of, or required to participate in, a relevant investigation; and

(b) the additional criteria for reimbursement set out in clause 3 are satisfied.

(2) A Government employee's union or professional association that has paid legal costs on behalf of the Government employee in respect of their participation in a relevant investigation may seek reimbursement in accordance with this Policy subject to the same restrictions and conditions as if the Government employee had made the claim.

3—Additional criteria for reimbursement

The additional criteria for reimbursement are—

(a) no material adverse finding against the Government employee, Government Board appointee, Minister or Member of Parliament has been made as a result of the relevant investigation; and

(b) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing—

(i) advised the Government employee, Government Board appointee, Minister or Member of Parliament that they will not be represented by the Crown Solicitor for the purposes of responding to or participating in the relevant investigation (or the Crown Solicitor considers that it was appropriate in all the circumstances for the Government employee, Government Board appointee, Minister or Member of Parliament not to approach the Crown Solicitor before obtaining legal representation); and

(ii) agreed that the legal representation of the Government employee, Government Board appointee, Minister or Member of Parliament for the purposes of responding to or participating in the proceedings or investigation is or was reasonably required; and

(c) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing, certified that the costs to be reimbursed are reasonable; and

(d) the Government employee, Government Board appointee, Minister or Member of Parliament is not indemnified in relation to those costs (including by the State of South Australia (through SAICorp or another agency), or under a policy of insurance) and is not entitled to assistance pursuant to the Department of Health Professional Indemnity (Medical Malpractice) Program; and

(e) the Government employee, Government Board appointee, Minister or Member of Parliament has assigned to the Crown in the right of the State of South Australia any right to recover the costs to be reimbursed from any other party.

4—Reasonable costs

(1) The Crown Solicitor (or some other person authorised by the Crown Solicitor) will only certify that costs to be reimbursed are reasonable where satisfied that—

(a) the costs claimed have been reasonably incurred in order to allow the Government employee, Government Board appointee, Minister or Member of Parliament to appropriately respond to or participate in the relevant investigation; and

(b) the costs claimed have been calculated consistently with the applicable Crown Solicitor's rates for private solicitor fees as published on the Attorney-General's Department website from time to time; and

(c) in the case of costs associated with the briefing of Senior Counsel or Queen's Counsel, and including where costs associated with the briefing of junior counsel in the same matter are also sought, the exceptional circumstances of the matter justify such expenditure; and

(d) in the case of costs associated with any review or appeal proceedings arising out of the relevant investigation instigated or joined by the Government employee, Government Board appointee, Minister or Member of Parliament, the exceptional circumstances of the matter justify such expenditure; and

(e) any costs or expenses recovered by the Government employee, Government Board appointee, Minister or Member of Parliament from other sources have been appropriately deducted from the costs claimed; and

(f) the Government employee, Government Board appointee, Minister or Member of Parliament has provided all information reasonably requested to allow the costs claimed to be assessed in accordance with this Policy.

(2) The amount to be reimbursed under this Policy shall include GST on the legal costs to be reimbursed if the Government employee, Government Board appointee, Minister or Member of Parliament or, in the case of a Government employee, their union or professional association, is not able to recover the GST as an input tax credit.

5—Procedure for reimbursement

(1) In the event that it is necessary for the Ombudsman to authorise the provision of information to another person for the purposes of this Policy, the Government employee, Government Board appointee, Minister or Member of Parliament will seek that authorisation as appropriate.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking reimbursement of legal fees in accordance with this Policy must—

(a) obtain as soon as practicable the necessary written agreement from the Crown Solicitor as required by clause 3(b); and

(b) await the finalisation of the relevant investigation (unless seeking an interim payment in accordance with this Policy); and

(c) submit a written claim for certification of the reasonableness of the costs for reimbursement to the Crown Solicitor, including—

(i) an assignment of rights (as contemplated by clause 3(e)) in a form approved by the Crown Solicitor; and

(ii) all relevant information in support of the eligibility of the claim pursuant to this Policy, including any additional information reasonably requested by the Crown Solicitor.

(3) If the costs claimed (or part thereof) are certified as reasonable, the Crown Solicitor will forward the claim to the Attorney-General (or their nominee) for finalisation of the claim.

6—Interim payments

(1) Prior to the finalisation of a relevant investigation, a Government employee, Government Board appointee, Minister or Member of Parliament may be reimbursed on an interim basis for costs they have incurred associated with their engagement of an independent legal practitioner, where—

(a) the Government employee, Government Board appointee, Minister or Member of Parliament enters into a legally enforceable agreement with appropriate security for repayment of any reimbursement in the event that a material adverse finding against the Government employee, Government Board appointee, Minister or Member of Parliament is later made as a result of the relevant proceedings or investigation; and

(b) the criteria for reimbursement set out in this Policy are otherwise satisfied.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking an interim payment of legal fees must do so in accordance with the procedure for reimbursement set out in this Policy.

(3) A refusal by the Attorney-General (or their nominee) to approve an interim payment does not prevent a Government employee, Government Board appointee, Minister or Member of Parliament from seeking reimbursement in accordance with this Policy following the finalisation of the relevant investigation.

(4) If the Crown Solicitor certifies that costs in excess of $100 000 are likely to be incurred by a Government employee, Government Board appointee, Minister or Member of Parliament in respect of a relevant investigation, the Attorney-General must not refuse to approve interim payments on the making of an application in accordance with the requirements of this clause.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1972	115	*Ombudsman Act 1972*	23.11.1972	14.12.1972 (*Gazette 14.12.1972 p2629*)
1974	14	*Ombudsman Act Amendment Act 1974*	4.4.1974	4.4.1974
1984	5	*Ombudsman Act Amendment Act 1984*	19.4.1984	19.4.1984
1985	24	*Ombudsman Act Amendment Act 1985*	28.3.1985	1.9.1985 (*Gazette 29.8.1985 p604*): s 2
1985	59	*Statutes Amendment (Remuneration) Act 1985*	30.5.1985	13.6.1985 (*Gazette 13.6.1985 p2132*)
1986	103	*Ombudsman Act Amendment Act 1986*	18.12.1986	10.3.1987 (*Gazette 5.2.1987 p248*)
1988	56	*Ombudsman Act Amendment Act 1988*	8.9.1988	8.9.1988
1990	18	*Statutes Repeal and Amendment (Remuneration) Act 1990*	19.4.1990	19.4.1990 (*Gazette 19.4.1990 p1136*)
1996	52	*Ombudsman (Miscellaneous) Amendment Act 1996*	1.8.1996	4.11.1996 (*Gazette 24.10.1996 p1416*)
1997	22	*Electoral (Miscellaneous) Amendment Act 1997*	27.3.1997	28.8.1997 (*Gazette 28.8.1997 p456*)
1999	88	*Statutes Amendment (Universities) Act 1999*	2.12.1999	Pt 3 (s 5)—23.12.1999 (*Gazette 23.12.1999 p3670*)
2000	49	*Statutes Amendment and Repeal (Security and Order at Courts and Other Places) Act 2000*	20.7.2000	Pt 4 (ss 18—22)—29.9.2000 (*Gazette 28.9.2000 p2221*)
2002	36	*Ombudsman (Honesty and Accountability in Government) Amendment Act 2002*	28.11.2002	1.7.2004 (*Gazette 1.7.2004 p2399*)
2006	15	*Development (Panels) Amendment Act 2006*	29.6.2006	Sch 1 (cl 2)—23.11.2006 (*Gazette 23.11.2006 p4078*)
2009	84	*Statutes Amendment (Public Sector Consequential Amendments) Act 2009*	10.12.2009	Pt 102 (ss 248 & 249)—1.2.2010 (*Gazette 28.1.2010 p320*)

2012	52	*Independent Commissioner Against Corruption Act 2012*	6.12.2012	Sch 3 (cll 48—55)—1.9.2013 (*Gazette 23.5.2013 p2006*)
2015	34	*Judicial Conduct Commissioner Act 2015*	5.11.2015	Sch 1 (cl 16)—5.12.2016 (*Gazette 29.11.2016 p4525*)
2016	48	*Children and Young People (Oversight and Advocacy Bodies) Act 2016*	27.10.2016	Sch 1 (cll 9—11)—18.12.2017 (*Gazette 5.12.2017 p4840*)
2016	54	*Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2016*	24.11.2016	Sch 1 (cl 3)—16.12.2016 (*Gazette 15.12.2016 p4988*)
2017	5	*Statutes Amendment (Planning, Development and Infrastructure) Act 2017*	28.2.2017	Pt 22 (s 66)—1.7.2019 (*Gazette 27.6.2019 p2322*)
2021	35	*Children and Young People (Oversight and Advocacy Bodies) (Commissioner for Aboriginal Children and Young People) Amendment Act 2021*	30.9.2021	Sch 1 (cll 4 to 6)—21.10.2021 (*Gazette 21.10.2021 p3788*)—(amendments to ss 15(3b) and 16(3) purportedly made by Sch 1 Pt 4 are of no effect because of amendments made by 38/2021 that came into operation on 7.10.2021)
2021	**38**	***Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021***	**7.10.2021**	**Sch 1 (cll 26 to 42, 70, 71, 73 & 76)—7.10.2021: s 2; Sch 1 (cl 40) insofar as it substitutes s 29 came into operation on 5.12.2022 being the day on which s 59 of 38/2021 commenced: Sch 1 (cl 73)**

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837-1975 at page 710.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 10 March 1987. A Schedule of these alterations was laid before Parliament on 31 March 1987.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 36/2002 s 3	1.7.2004
	amended by 38/2021 Sch 1 cl 26	7.10.2021
Pt 1		
s 2	*deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted*	
s 3		
s 3(1)		
administrative act	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 49/2000 s 18(a)	29.9.2000
	substituted by 36/2002 s 4(a)	1.7.2004

	amended by 52/2012 Sch 3 cl 48(1)	1.9.2013
administrative unit	inserted by 36/2002 s 4(a)	1.7.2004
	amended by 84/2009 s 248	1.2.2010
act	inserted by 103/1986 s 4 (Sch)	10.3.1987
agency to which this Act applies	inserted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 52/1996 s 3(a)	4.11.1996
	substituted by 36/2002 s 4(a)	1.7.2004
	amended by 15/2006 Sch 1 cl 2	23.11.2006
	amended by 52/2012 Sch 3 cl 48(2), (3)	1.9.2013
	amended by 5/2017 s 66	1.7.2019
	amended by 38/2021 Sch 1 cl 27(1)	7.10.2021
authority	*substituted by 103/1986 s 3*	*10.3.1987*
	amended by 52/1996 s 3(b)	*4.11.1996*
	amended by 88/1999 s 5	*23.12.1989*
	amended by 49/2000 s 18(b)	*29.9.2000*
	deleted by 36/2002 s 4(a)	*1.7.2004*
Committee	*inserted by 52/1996 s 3(c)*	*4.11.1996*
	deleted by 22/1997 Sch 3 cl 2(a)	*28.8.1997*
complainant	amended by 38/2021 Sch 1 cl 27(2)	7.10.2021
complaint	substituted by 38/2021 Sch 1 cl 27(3)	7.10.2021
council	substituted by 36/2002 s 4(b)	1.7.2004
department	*substituted by 103/1986 s 4 (Sch)*	*10.3.1987*
	deleted by 36/2002 s 4(b)	*1.7.2002*
inquiry agency	inserted by 38/2021 Sch 1 cl 27(4)	7.10.2021
investigation	amended by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 27(5)	7.10.2021
maladministration in public administration	inserted by 38/2021 Sch 1 cl 27(6)	7.10.2021
misconduct in public administration	inserted by 38/2021 Sch 1 cl 27(6)	7.10.2021
officer of the Ombudsman	substituted by 103/1986 s 4 (Sch)	10.3.1987
OPI	inserted by 38/2021 Sch 1 cl 27(7)	7.10.2021
principal officer	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 52/1996 s 3(d), (e)	4.11.1996
	substituted by 36/2002 s 4(c)	1.7.2004
proclaimed council	*deleted by 52/1996 s 3(f)*	*4.11.1996*
public administration	inserted by 38/2021 Sch 1 cl 27(8)	7.10.2021
public authority	inserted by 38/2021 Sch 1 cl 27(8)	7.10.2021
public officer	inserted by 38/2021 Sch 1 cl 27(8)	7.10.2021

report	inserted by 38/2021 Sch 1 cl 27(8)	7.10.2021
responsible Minister	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 52/1996 s 3(g)	4.11.1996
	substituted by 36/2002 s 4(c)	1.7.2004
Statutory Officers Committee	inserted by 36/2002 s 4(c)	1.7.2004
Ombudsman	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 3(2)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	substituted by 49/2000 s 18(c)	29.9.2000
s 3(3)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	(d) deleted by 52/1996 s 3(h)	4.11.1996
	substituted by 36/2002 s 4(d)	1.7. 2004
s 3(4) and (5)	inserted by 36/2002 s 4(d)	1.7.2004
ss 4 and 4A	deleted by 103/1986 s 4 (Sch)	10.3.1987
	inserted by 38/2021 Sch 1 cl 28	7.10.2021
s 5		
s 5(2)	substituted by 24/1985 s 3	1.9.1985
s 5(3)	inserted by 34/2015 Sch 1 cl 16	5.12.2016
Pt 2		
s 5A	inserted by 38/2021 Sch 1 cl 29	7.10.2021
s 6		
s 6(1)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 52/1996 s 4(a)	4.11.1996
	substituted by 22/1997 Sch 3 cl 2(b)	28.8.1997
s 6(1a)	inserted by 52/1996 s 4(b)	4.11.1996
	substituted by 22/1997 Sch 3 cl 2(b)	28.8.1997
	amended by 36/2002 s 5	1.7.2004
s 6(2)	substituted by 59/1985 s 13	13.6.1985
	amended by 18/1990 s 17(a)	19.4.1990
s 6(2a)	*inserted by 59/1985 s 13*	*13.6.1985*
	deleted by 18/1990 s 17(b)	*19.4.1990*
s 6(3)	amended by 103/1986 s 4 (Sch)	10.3.1987
s 7	amended by 103/1986 s 4 (Sch)	10.3.1987
s 8		
s 8(1)	amended by 103/1986 s 4 (Sch)	10.3.1987
s 8(1a)	inserted by 52/1996 s 5	4.11.1996
s 8(3)	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 9		
s 9(1)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 49/2000 s 19	29.9.2000
s 10		
s 10(3) and (4)	substituted by 103/1986 s 4 (Sch)	10.3.1987

s 11	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 12	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 12(2)	amended by 52/1996 s 6	4.11.1996
	amended by 84/2009 s 249	1.2.2009
s 12(2a)	inserted by 52/2012 Sch 3 cl 49	1.9.2013
Pt 2A	inserted by 38/2021 Sch 1 cl 30	7.10.2021
Pt 3		
s 13		
s 13(1)	amended by 38/2021 Sch 1 cl 31(1)	7.10.2021
s 13(2)	amended by 103/1986 s 4 (Sch)	10.3.1987
	substituted by 38/2021 Sch 1 cl 31(2)	7.10.2021
s 13(2a)	inserted by 38/2021 Sch 1 cl 31(2)	7.10.2021
s 13(3)	amended by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 31(3)	7.10.2021
s 13(3a)	inserted by 52/2012 Sch 3 cl 50	1.9.2013
s 13(3b)	inserted by 48/2016 Sch 1 cl 9(1)	18.12.2017
s 13(3c)	inserted by 48/2016 Sch 1 cl 9(1)	18.12.2017
	amended by 35/2021 Sch 1 cl 4	21.10.2021
s 13(3d) and (3e)	inserted by 48/2016 Sch 1 cl 9(1)	18.12.2017
s 13(4)	amended by 103/1986 s 4 (Sch)	10.3.1987
s 13(5) and (6)	inserted by 48/2016 Sch 1 cl 9(2)	18.12.2017
s 14	deleted by 103/1986 s 4 (Sch)	10.3.1987
	inserted by 52/1996 s 7	4.11.1996
s 14A	inserted by 36/2002 s 6	1.7.2004
s 14B	*inserted by 54/2016 Sch 1 cl 3*	*16.12.2016*
	deleted by 38/2021 Sch 1 cl 32	*7.10.2021*
s 15 before deletion by 38/2021		
s 15(1)	*amended by 103/1986 s 4 (Sch)*	*10.3.1987*
s 15(2)	*substituted by 103/1986 s 4 (Sch)*	*10.3.1987*
s 15(3a)	*inserted by 103/1986 s 4 (Sch)*	*10.3.1987*
s 15(3b)	*inserted by 48/2016 Sch 1 cl 10*	*18.12.2017*
	amendment to s 15(3b) purportedly made by Sch 1 cl 5 of 35/2021 is of no effect because that section was repealed before the amendments came into operation	
s 15(4)	*amended by 103/1986 s 4 (Sch)*	*10.3.1987*
	amended by 56/1988 s 2	*8.9.1988*
s 15	*deleted by 38/2021 Sch 1 cl 32*	*7.10.2021*
s 15A	*inserted by 56/1988 s 3*	*8.9.1988*
	deleted by 38/2021 Sch 1 cl 32	*7.10.2021*
s 16 before deletion by 38/2021		
s 16(3)	*inserted by 48/2016 Sch 1 cl 11*	*18.12.2017*

	amendment to s 16(3) purportedly made by Sch 1 cl 6 of 35/2021 is of no effect because that section was repealed before the amendments came into operation	
s 16	*deleted by 38/2021 Sch 1 cl 32*	*7.10.2021*
s 17 before deletion by 38/2021		
s 17(1) and (3)	*substituted by 103/1986 s 4 (Sch)*	*10.3.1987*
s 17	*deleted by 38/2021 Sch 1 cl 32*	*7.10.2021*
s 17A	inserted by 52/1996 s 8	4.11.1996
s 18		
s 18(1)	*substituted by 5/1984 s 2*	*19.4.1984*
	amended by 103/1986 s 4 (Sch)	*10.3.1987*
	deleted by 38/2021 Sch 1 cl 33(1)	*7.10.2021*
s 18(1a)	inserted by 5/1984 s 2	19.4.1984
	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 33(2)	7.10.2021
s 18(3)	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 18(4)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 33(3)	7.10.2021
s 18(5)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 33(4)	7.10.2021
s 18(6)	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 19	amended by 103/1986 s 4 (Sch)	10.3.1987
s 19A	inserted by 52/1996 s 9	4.11.1996
s 19A(1)—(3)	substituted by 52/2012 Sch 3 cl 51(1)	1.9.2013
s 19A(4)	*deleted by 52/2012 Sch 3 cl 51(1)*	*1.9.2013*
s 19A(7)	*deleted by 52/2012 Sch 3 cl 51(2)*	*1.9.2013*
s 19A(8)	inserted by 49/2000 s 20	29.9.2000
s 20	amended by 103/1986 s 4 (Sch)	10.3.1987
	amended by 52/2012 Sch 3 cl 52	1.9.2013
s 20A	inserted by 38/2021 Sch 1 cl 34	7.10.2021
s 22 before deletion by 52/2012		
s 22(2)	*amended by 56/1988 s 4*	*8.9.1988*
s 22	*deleted by 52/2012 Sch 3 cl 53*	*1.9.2013*
s 23	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 24	amended by 103/1986 s 4 (Sch)	10.3.1987
	amended by 56/1988 s 5	8.9.1988
s 25		
s 25(1)	*deleted by 38/2021 Sch 1 cl 35(1)*	*7.10.2021*
s 25(1a)	inserted by 52/1996 s 10	4.11.1996
s 25(2)	amended by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 35(2)—(5)	7.10.2021

s 25(3)	amended by 49/2000 s 21	29.9.2000
s 25(4)	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 35(6)	7.10.2021
s 25(5)	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 25(6)	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 26	substituted by 103/1986 s 4 (Sch)	10.3.1987
	substituted by 52/2012 Sch 3 cl 54	1.9.2013
	substituted by 38/2021 Sch 1 cl 36	7.10.2021
s 27	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 27(1)	amended by 38/2021 Sch 1 cl 37	7.10.2021
s 27(2)	amended by 38/2021 Sch 1 cl 37	7.10.2021
s 28	substituted by 103/1986 s 4 (Sch)	10.3.1987
	amended by 38/2021 Sch 1 cl 38	7.10.2021
s 28A	inserted by 38/2021 Sch 1 cl 39	7.10.2021
s 29	substituted by 103/1986 s 4 (Sch)	10.3.1987
	substituted by 38/2021 Sch 1 cl 40	**5.12.2022**
ss 29A—29C	inserted by 38/2021 Sch 1 cl 40	7.10.2021
s 30	substituted by 103/1986 s 4 (Sch)	10.3.1987
s 30(1)	amended by 49/2000 s 22(a)	29.9.2000
s 30(2)	amended by 49/2000 s 22(b)	29.9.2000
s 30(3)	inserted by 52/1996 s 11	4.11.1996
s 31	substituted by 36/2002 s 7	1.7.2004
	deleted by 52/2012 Sch 3 cl 55	1.9.2013
	inserted by 38/2021 Sch 1 cl 41	7.10.2021
s 31A	inserted by 38/2021 Sch 1 cl 41	7.10.2021
ss 32 and 33	inserted by 36/2002 s 7	1.7.2004
Sch	*inserted by 52/1996 s 12 (Sch)*	*4.11.1996*
	deleted by 22/1997 Sch 3 cl 2(c)	*28.8.1997*
Sch 1	inserted by 38/2021 Sch 1 cl 42	7.10.2021

Transitional etc provisions associated with Act or amendments

Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021, Sch 1 Pt 21—Savings and transitional provisions

70—Investigations etc to continue

(1) Subject to this clause, the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continues to apply in relation to any complaint or report made under that Act on or before 25 August 2021, or any investigation commenced under that Act before 25 August 2021.

(2) The following provisions of the *Independent Commission Against Corruption Act 2012* as amended by this Act apply in relation to a matter referred to in subclause (1):

(a) section 6;

(b) section 59A and Schedule 5 (but only in respect of legal expenses incurred after commencement of section 59A and, in relation to a matter involving suspected misconduct or maladministration in public administration, as if Schedule 1 of the *Ombudsman Act 1972*, as inserted by this Act and with any necessary modifications, applied instead of Schedule 5).

(3) If a matter that continues to be dealt with under the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act in accordance with subclause (1) is not completed within 12 months after the commencement of this clause, the matter must be discontinued (but nothing prevents the matter being the subject of a further complaint or report under the *Independent Commission Against Corruption Act 2012*, or the *Ombudsman Act 1972*, as amended by this Act).

71—Complaints and reporting system

(1) The complaints system established under section 19, and the reporting system established under section 20, of the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continue as the complaints system under section 18A and the reporting system under section 18B (respectively) of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act until new systems can be established under those sections (subject to any modifications that are necessary or are prescribed by the regulations).

(2) Section 18A(3) of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act does not apply for the period of 3 months after the commencement of this Act.

(3) The complaints system established under section 19, and the reporting system established under section 20, of the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act may be adopted, on the commencement of this Act, by the Ombudsman as the complaints system under section 12A and the reporting system under section 12D (respectively) of the *Ombudsman Act 1972* as in force after the commencement of this Act until new systems can be established under those sections (subject to any modifications that are necessary or are prescribed by the regulations).

(4) Section 12A(3) of the *Ombudsman Act 1972* as in force after the commencement of this Act does not apply for the period of 3 months after the commencement of this Act.

73—Inspector under *Ombudsman Act 1972*

The operation of section 29 of the *Ombudsman Act 1972* (as inserted by this Act) is suspended until the day on which section 59 of this Act comes into operation.

76—Savings and transitional regulations

Regulations may be made under any Act amended by this Act (including under the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act) to make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act.

Historical versions

Reprint—10.3.1987

Reprint No 1—19.4.1990

Reprint No 2—4.11.1996

Reprint No 3—28.8.1997

Reprint No 4—23.12.1999

Reprint No 5—29.9.2000

1.7.2004

23.11.2006

1.2.2010

1.9.2013

5.12.2016

16.12.2016

18.12.2017

1.7.2019

7.10.2021

21.10.2021