South Australia

Independent Commission Against Corruption Act 2012

An Act to establish the Independent Commission Against Corruption and the Office for Public Integrity; 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 *Independent Commission Against Corruption Act 2012*.

3—Primary objects

(1) The primary objects of this Act are—

(a) to establish the Independent Commission Against Corruption with functions designed to further—

(i) the identification and investigation of corruption in public administration; and

(ii) the prevention or minimisation of corruption in public administration, including through referral of potential issues, education and evaluation of practices, policies and procedures; and

(b) to establish the Office for Public Integrity to manage complaints about public administration with a view to—

(i) the identification of corruption, misconduct and maladministration in public administration; and

(ii) ensuring that complaints about public administration are dealt with by the most appropriate person or body; and

(c) to achieve an appropriate balance between the public interest in exposing corruption, misconduct and maladministration in public administration and the public interest in avoiding undue prejudice to a person's reputation (recognising that the balance may be weighted differently in relation to corruption in public administration as compared to misconduct or maladministration in public administration).

(2) Whilst any potential issue of corruption, misconduct or maladministration in public administration may be the subject of a complaint or report under this Act and may be assessed and referred to a relevant body in accordance with this Act, it is intended—

(a) that the Commission will exercise its functions only in relation to corruption in public administration; and

(b) that matters raising potential issues of misconduct or maladministration in public administration will be referred to another inquiry agency or to a public authority.

4—Interpretation

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

Australian Parliament means—

(a) the Parliament of this State or any other State of the Commonwealth; or

(b) the Parliament of the Commonwealth; or

(c) a Legislative Assembly of a Territory of the Commonwealth;

Commission means the Independent Commission Against Corruption;

Commissioner means the person holding or acting in the office of the Independent Commissioner Against Corruption;

complaint about public administration includes—

(a) a complaint alleging corruption, misconduct or maladministration in public administration; and

(b) any complaint about a public authority or public officer;

contract work means work performed by a person as a contractor or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor;

contravention includes failure to comply;

corruption in public administration—see section 5;

Director of OPI means the person holding or acting in the office of the Director of OPI under Part 3;

disciplinary action includes any process for termination of employment or dismissal from office;

document includes a written record that reproduces in an understandable form information stored by computer, microfilm or other process;

examiner—see section 14;

inquiry agency means—

(a) the Commission;

(b) the Ombudsman;

(c) the Judicial Conduct Commissioner;

investigator—see section 14;

judicial body means a court, tribunal, body or person invested by law with judicial or quasi-judicial powers;

Judicial Conduct Commissioner means the person for the time being holding or acting in the office of Judicial Conduct Commissioner under the *Judicial Conduct Commissioner Act 2015*;

judicial officer means a person who alone or with others constitutes a judicial body;

law enforcement agency means—

(a) the Australian Crime Commission; or

(b) the Australian Federal Police; or

(c) the Australian Commission for Law Enforcement Integrity; or

(d) South Australia Police; or

(f) the police force of another State or a Territory of the Commonwealth; or

(g) in relation to New South Wales—the Crime Commission, the Independent Commission Against Corruption, the Inspector of the Independent Commission Against Corruption, the Police Integrity Commission or the Inspector of the Police Integrity Commission; or

(h) in relation to Queensland—the Crime and Corruption Commission; or

(i) in relation to Tasmania—the Integrity Commission; or

(j) in relation to Victoria—the Office of Police Integrity, the Independent Broad-based Anti-corruption Commission or the Independent Broad-based Anti-corruption Commission Committee; or

(k) in relation to Western Australia—the Corruption and Crime Commission or the Parliamentary Inspector of the Corruption and Crime Commission; or

(l) a Royal Commission of the Commonwealth, the State or another State or a Territory of the Commonwealth; or

(m) a person or body declared by regulation to be a law enforcement agency;

local government body means a council or a subsidiary of a council established under the *Local Government Act 1999*;

maladministration in public administration—see section 5;

Minister responsible for a public authority—see Schedule 1;

Minister responsible for an inquiry agency means the Minister responsible for administration of the Act under which the agency is constituted or, if some other Minister is declared by regulation to be responsible for the agency, that Minister;

misconduct in public administration—see section 5;

Office means the Office for Public Integrity;

personal details of a person means—

(a) the person's full name; and

(b) the person's date of birth; and

(c) the address of where the person is living; and

(d) the address of where the person usually lives; and

(e) the person's business address;

prescribed offence means corruption in public administration or an offence against this Act;

public administration—without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration;

public authority—see Schedule 1;

public officer—see Schedule 1;

public sector agency has the same meaning as in the *Public Sector Act 2009*;

public sector employee has the same meaning as in the *Public Sector Act 2009*;

publish means publish by—

(a) newspaper, radio or television; or

(b) internet or other electronic means of creating and sharing content with the public or participating in social networking with the public; or

(c) any similar means of communication to the public;

seconded—a police officer or special constable is seconded to assist the Commissioner for the purposes of this Act if the police officer or special constable is employed in accordance with an arrangement whereby the police officer or special constable is granted leave without pay in relation to his or her appointment under the *Police Act 1998* for the purpose of being engaged as an employee under section 12 of this Act;

statement of information—see section 28;

vehicle means a vehicle, vessel or aircraft and includes a caravan, trailer and anything attached to a vehicle.

5—Corruption, misconduct and maladministration

(1) ***Corruption in public administration*** means conduct that constitutes—

(a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

(i) bribery or corruption of public officers;

(ii) threats or reprisals against public officers;

(iii) abuse of public office;

(iv) demanding or requiring benefit on basis of public office;

(v) offences relating to appointment to public office; or

(b) an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or

(ba) an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or

(d) any of the following in relation to an offence referred to in a preceding paragraph:

(i) aiding, abetting, counselling or procuring the commission of the offence;

(ii) inducing, whether by threats or promises or otherwise, the commission of the offence;

(iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;

(iv) conspiring with others to effect the commission of the offence.

(3) In this Act—

maladministration in public administration has the same meaning as in the *Ombudsman Act 1972*; and

misconduct in public administration has the same meaning as in the *Ombudsman Act 1972*.

6—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.

Note—

Examples of material that falls within this section include statements made or documents or material tabled or received in the course of the proceedings of the Parliament or a committee of the Parliament.

Part 2—Independent Commission Against Corruption

7—Establishment and functions of Commission

(1) There is to be an Independent Commission Against Corruption with the following functions:

(a) to identify corruption in public administration and to—

(i) investigate and refer it to a law enforcement agency for any further investigation and prosecution; or

(ii) refer it to a law enforcement agency for investigation and prosecution;

(b) to evaluate the practices, policies and procedures of inquiry agencies and public authorities with a view to advancing comprehensive and effective systems for preventing or minimising corruption in public administration;

(c) to conduct or facilitate the conduct of educational programs designed to prevent or minimise corruption in public administration;

(d) if, in the course of performing functions in relation to potential corruption in public administration, any suspected misconduct or maladministration or any offences (not being offences that constitute the potential corruption in public administration) are identified—to report the matter to the Office or the Ombudsman for assessment or refer the matter to a law enforcement agency, the Ombudsman or a public authority or public officer, as the Commission considers appropriate.

(2) The Commission is not subject to the direction of any person in relation to any matter, including—

(a) the manner in which functions are carried out or powers exercised under this or any other Act; and

(b) the priority that the Commission gives to a particular matter in carrying out functions under this or any other Act.

(4) The Commission is to perform its functions in a manner that—

(a) is as open and accountable as is practicable, while recognising, in particular, that examinations relating to corruption in public administration must be conducted in private; and

(b) deals as expeditiously as is practicable with allegations of corruption in public administration; and

(c) as far as is practicable, deals with any allegation against a Member of Parliament or member of a council established under the *Local Government Act 1999* before the expiry of his or her current term of office.

(5) For the purposes of exercising its functions under subsection (1)(b) or (c), the Commission—

(a) may conduct a public inquiry; and

(b) may regulate the conduct of the inquiry as the Commission thinks fit,

(and, for the avoidance of doubt, the inquiry will not be a proceeding for the purposes of section 55).

(6) The Commission—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

(c) is capable of suing and being sued in its corporate name.

8—Commissioner

(1) The Commissioner will be the principal officer of the Commission and is to be appointed by the Governor for a term not exceeding 7 years and on conditions determined by the Governor.

(2) A person appointed to be the Commissioner is, at the end of a term of appointment, eligible for reappointment but cannot hold office for terms (including any term as Deputy Commissioner or Acting Commissioner) that exceed 10 years in total.

(3) A person is only eligible for appointment as the Commissioner if the person—

(a) is a legal practitioner of at least 7 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State) or a former judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court or any other court of a State or Territory of the Commonwealth; and

(b) is not a judicial officer or member of an Australian Parliament.

(4) Before a person is appointed to be the Commissioner, the Attorney-General must ensure that the position is advertised in a newspaper or newspapers circulating in each State and Territory.

(5) A person may only be appointed to be the Commissioner if, following referral by the Attorney-General of the proposed appointment to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*—

(a) the appointment has been approved by the Committee; or

(b) the Committee has not, within 7 days of the referral, or such longer period as is allowed by the Attorney-General, notified the Attorney-General in writing that it does not approve the appointment.

(6) Despite the *Parliamentary Committees Act 1991*, the Statutory Officers Committee must not report on, or publish material in relation to, matters referred to the Committee under subsection (5) except to the extent allowed by the Attorney-General (but this subsection does not derogate from section 15I(2) of the *Parliamentary Committees Act 1991*).

(7) If a person is a judicial officer immediately before being appointed to be the Commissioner—

(a) the conditions of the appointment should not be less favourable to the person than the conditions of his or her judicial office (when viewed from an overall perspective); and

(b) for the purposes of determining the person's entitlement to recreation leave, sick leave, long service leave or any other kind of leave under this or another Act, the appointment may, at the option of the person, be taken to be a continuation of his or her service as a judicial officer.

(8) The Commissioner must not, without the consent of the Attorney-General, engage in any remunerated employment or undertaking outside official duties.

(9) The Governor may, on the address of both Houses of Parliament, remove the Commissioner from office.

(10) The Governor may suspend the Commissioner from office for—

(a) contravention of a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official duties satisfactorily; or

(d) failure to provide information to the Attorney-General as required under section 49.

(11) If the Governor suspends the Commissioner from office, a full statement of the reason for the suspension must be laid before both Houses of Parliament within 7 days after the suspension if Parliament is then in session or, if not, within 7 days after the commencement of the next session of Parliament.

(12) If, at the end of 20 sitting days after the statement is laid before Parliament, neither House of Parliament has presented an address to the Governor requiring the Commissioner to be restored to office, the Commissioner is removed from office.

(13) If within 20 sitting days after the statement is laid before Parliament either House of Parliament presents an address to the Governor requiring the Commissioner to be restored to office, the Commissioner is restored to office.

(14) The office of Commissioner becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

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

(d) is appointed to judicial office; or

(e) is nominated for election as a member of an Australian Parliament; or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(g) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or

(h) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(i) is removed from office by the Governor under this section.

(15) Except as is provided by this section, the Commissioner may not be removed or suspended from office, nor will the office of the Commissioner become vacant.

(16) The Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

9—Deputy Commissioner

(1) There is to be a Deputy Commissioner responsible for assisting the Commissioner as directed by the Commissioner.

(2) The Deputy Commissioner is to be appointed by the Governor for a term not exceeding 7 years and on conditions determined by the Governor.

(3) A person appointed to be the Deputy Commissioner is, at the end of a term of appointment, eligible for reappointment but cannot hold office for terms (including any term as Commissioner or Acting Commissioner) that exceed 10 years in total.

(4) A person is only eligible for appointment as the Deputy Commissioner if the person—

(a) is a legal practitioner of at least 7 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State) or a former judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court or any other court of a State or Territory of the Commonwealth; and

(b) is not a judicial officer or member of an Australian Parliament.

(5) The Deputy Commissioner must not, without the consent of the Attorney-General, engage in any remunerated employment or undertaking outside official duties.

(6) The Deputy Commissioner may—

(a) act as the Commissioner during any period for which—

(i) no person is for the time being appointed as the Commissioner; or

(ii) the Commissioner is absent from, or unable to discharge, official duties; and

(b) when not so acting, perform functions or exercise powers at the direction of the Commissioner.

(7) The Governor may remove the Deputy Commissioner from office for—

(a) contravention of a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official duties satisfactorily.

(8) The office of Deputy Commissioner becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

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

(d) is appointed to judicial office; or

(e) is nominated for election as a member of an Australian Parliament; or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(g) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or

(h) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(i) is removed from office by the Governor under subsection (7).

(9) Except as is provided by this section, the Deputy Commissioner may not be removed from office, nor will the office of the Deputy Commissioner become vacant.

(10) The Deputy Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

10—Pension rights

(1) The Governor may, by instrument in writing made at the time a person is appointed to be the Commissioner or Deputy Commissioner, apply the *Judges' Pensions Act 1971* to or in relation to the Commissioner or Deputy Commissioner as if the Commissioner or Deputy Commissioner were a Judge as defined in that Act and service as the Commissioner or Deputy Commissioner were judicial service as defined in that Act.

(2) The instrument may—

(a) impose conditions on the application of the *Judges' Pensions Act 1971* (including a condition that the Act will only apply if the person is made a Judge following his or her term of office as Commissioner or Deputy Commissioner); and

(b) apply the *Judges' Pensions Act 1971* subject to any modifications specified in the instrument.

(3) Unless the Governor otherwise directs, no pension is to be payable under the *Judges' Pensions Act 1971* if the Commissioner or Deputy Commissioner vacates the office due to insolvency or conviction or sentencing for an offence or is removed from office.

(4) If a person who is or has been the Commissioner or Deputy Commissioner is appointed as a Judge as defined in the *Judges' Pensions Act 1971* and was, immediately before being so appointed, in receipt of a pension under that Act, that pension ceases on the appointment.

11—Acting Commissioner

(1) The Governor may appoint a person (who may be a Public Service employee) to act as the Commissioner during any period for which—

(a) no person is for the time being appointed as the Commissioner or the Commissioner is absent from, or unable to discharge, official duties; and

(b) no person is for the time being appointed as the Deputy or the Deputy is absent from, or unable to discharge, official duties.

(2) The terms and conditions of appointment are to be determined by the Governor, except that the person may not act as the Commissioner for more than 6 months in aggregate in any period of 12 months.

(3) A person appointed to act as the Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

12—Employees

(1) The Commission may engage employees on terms and conditions determined by the Commissioner.

(2) The employees are not Public Service employees but are to be taken to be public sector employees, employed by the Commission, for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* and section 74 of the *Public Sector Act 2009*.

13—Use of services or staff of other government entities

(1) The Commission may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

(2) The Commission may, under an arrangement established by the Commissioner of Police, make use of members of South Australia Police, special constables or the services of South Australia Police.

(3) The Commission may, under an arrangement established by the Director of Public Prosecutions, make use of the services or staff of the Office of the Director of Public Prosecutions.

14—Examiners and investigators

(1) The Commissioner may appoint suitable persons to be examiners or investigators for the purposes of this Act.

(2) An appointment may be made subject to conditions specified in the instrument of appointment.

(3) The Commissioner may, at any time, revoke an appointment of a person or vary or revoke a condition of appointment or impose a further condition of appointment.

(4) A police officer or special constable seconded to assist the Commission is an investigator.

(4a) Unless otherwise agreed, by instrument in writing, between the Commissioner and the Commissioner of Police, a police officer or special constable seconded to assist the Commission may continue to exercise all powers and authorities vested in the person by or under the *Police Act 1998*, or another Act or law, as a member of South Australia Police or constable in the exercise of functions and powers under this Act during the period of secondment (and section 67(3) of the *Police Act 1998* does not apply in relation to the secondment).

(5) An investigator who is not a police officer or special constable must be issued with an identity card—

(a) containing the person's name and a photograph of the person; and

(b) stating that the person is an investigator under this Act.

(6) If the powers of an investigator have been limited by conditions, the identity card issued to the investigator must indicate those limitations.

(7) An investigator must, at the request of a person in relation to whom the investigator intends to exercise powers under this Act, produce for the inspection of the person—

(a) in the case of an investigator who is a police officer or special constable and is not in uniform—an official card, document or badge identifying the person as a police officer or special constable; or

(b) in the case of an investigator appointed under this Act—his or her identity card.

15—Cooperation with law enforcement agencies

The Commission is to cooperate with other law enforcement agencies insofar as that is consistent with the proper conduct of its functions.

16—Delegation

(1) Subject to subsection (1a), the Commissioner may delegate to a person (including a person for the time being performing particular duties or holding or acting in a specified position) a function or power under this or any other Act.

(1a) The Commissioner—

(a) may only delegate a function or power under section 31 to an examiner; and

(b) may not delegate a prescribed function or power.

(2) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

(a) must be by instrument in writing; and

(b) may be absolute or conditional; and

(c) does not derogate from the power of the delegator to act in a matter; and

(d) is revocable at will.

Part 3—Office for Public Integrity

Division 1—Establishment and functions

17—Establishment of Office and functions

(1) The Office for Public Integrity continues in existence with the following functions:

(a) to receive and assess complaints about public administration from members of the public;

(b) to receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;

(c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section.

(2) The Office is to be comprised of—

(a) the Director of OPI; and

(b) Public Service employees assigned to the Office.

(3) While a Public Service employee is assigned to the Office, directions given to the employee by the Director of OPI 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.

18—Director of OPI

(1) There is to be a Director of OPI appointed by the Governor for a term not exceeding 7 years and on conditions determined by the Governor.

(2) A person appointed to be the Director of OPI is, at the end of a term of appointment, eligible for reappointment.

(3) A person is only eligible for appointment as the Director of OPI if the person—

(a) is a legal practitioner of at least 7 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State) or a former judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court or any other court of a State or Territory of the Commonwealth; and

(b) is not a judicial officer or member of an Australian Parliament.

(4) The Director of OPI must not, without the consent of the Attorney-General, engage in any remunerated employment or undertaking outside official duties.

(5) The Governor may remove the Director of OPI from office for—

(a) contravention of a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official duties satisfactorily.

(6) The office of Director of OPI becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

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

(d) is appointed to judicial office; or

(e) is nominated for election as a member of an Australian Parliament; or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(g) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding subparagraph; or

(h) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(i) is removed from office by the Governor under subsection (5).

(7) Except as is provided by this section, the Director of OPI may not be removed from office, nor will the office of the Director of OPI become vacant.

(8) The Director of OPI is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

Division 2—Complaints and reports

18A—Complaints system

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

(2) The system must permit the making of complaints relating to matters that are (in the opinion of the Director of OPI) sensitive, complex or of significant public interest to be made in person to a member of the Office.

(3) The system must ensure that the Office 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 Office.

18B—Reporting system

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

(2) The directions and guidelines—

(a) must include provisions specifying the matters required to be reported and guidance as to how they should be reported; and

(b) may require matters to be reported even if the matter has been referred to the inquiry agency, public authority or public officer under another Act; and

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

(3) The directions and guidelines must not require—

(a) a public officer to report to the Office any information that is subject to legal professional privilege or parliamentary privilege; or

(b) a judicial officer to report to the Office any information that has been received by the judicial officer in the exercise of their judicial functions; or

(c) a member of Parliament to report to the Office any information that has been received by the member in the exercise of their functions as a member of Parliament.

(4) An inquiry agency, public authority or public officer—

(a) must make reports to the Office in accordance with the directions; and

(b) may report to the Office any matter that the agency, authority or officer reasonably suspects involves corruption in public administration.

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

18C—Obstruction of complaint or report

A person must not—

(a) prevent another person from making a complaint or report under this Act about a matter that may involve corruption in public administration; or

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

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

18D—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.

Division 3—Assessment

18E—Assessment of complaint or report

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

(a) it raises a potential issue of corruption in public administration that could be the subject of a prosecution and should be referred to the Commission; or

(b) it raises some other issue that should be referred to another inquiry agency; 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 refer the matter to a law enforcement agency or an inquiry agency.

(2) An inquiry agency may also require the Office to assess, according to the criteria set out in subsection (1), any other matter identified by them in the course of performing functions under any Act.

(3) The Office 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.

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

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

Division 4—Referrals

18F—Action that may be taken following assessment

(1) Following an assessment the Office may take action in relation to a matter as follows:

(a) if the matter is assessed as raising a potential issue of corruption in public administration that could be the subject of a prosecution, the matter must be referred to the Commission;

(b) if the matter is assessed as raising other issues that should be dealt with by an inquiry agency, the matter must be referred, or the complainant or reporting agency advised to refer the matter, to the agency.

(2) The same matter, or different aspects of the same matter, may be dealt with contemporaneously under more than 1 paragraph of subsection (1).

(3) The making of an assessment, and whether action is taken, and what action is taken, by the Office in respect of the assessment is at the absolute discretion of the Director of OPI.

(4) A matter may be dealt with under this section even if it is a matter referred to an inquiry agency or a public authority under another Act.

(5) Subject to subsection (6) and any directions by the Director of OPI, reasonable steps must be taken to ensure that a complainant or reporting agency receives an acknowledgment of the complaint or report and is informed as to the action, if any, taken in respect of the matter.

(6) If the Office has determined that no action should be taken in relation to a complaint in accordance with section 18E(1)(c), the Office must notify the complainant of that determination as soon as practicable after the determination is made.

18G—Referral to inquiry agency

The Office must, before referring a matter to an inquiry agency, take reasonable steps to obtain the views of the agency as to the referral.

Part 4—Procedures and powers of Commission

Division 2—Investigations

24—Action that may be taken

(1) If a matter is assessed as raising a potential issue of corruption in public administration that could be the subject of a prosecution and is referred to the Commission, the matter must be—

(a) investigated by the Commission; or

(b) referred to South Australia Police or other law enforcement agency.

(2) Whether action is taken, and what action is taken, in respect of a matter that has been referred to the Commission is at the absolute discretion of the Commissioner.

(3) Subject to any directions of the Commissioner, reasonable steps must be taken to ensure that a complainant or reporting agency is informed as to the action, if any, taken by the Commission in respect of the matter.

25—Public statements

(1) The Office must not make any public statement that discloses, or contains information from which a person could infer, that a particular matter is, is proposed to be or was the subject of a complaint or report under this Act.

(2) The Commission must not make any public statement that discloses, or contains information from which a person could infer, that a particular matter is being or is proposed to be investigated under this Act.

(3) After an investigation of a particular matter under this Act has concluded—

(a) if the matter has been referred to any law enforcement agency, inquiry agency or public authority—the Commission must not make any public statement that discloses, or contains information from which a person could infer, that the matter has been the subject of an investigation under this Act (except in a report that complies with section 42); or

(b) in any other case—if the Commissioner is satisfied that no criminal proceedings, proceedings for the imposition of a penalty or disciplinary action will be commenced as a result of the investigation, the Commission may make a public statement in relation to the matter.

(4) The Commission must, before making any public statement under subsection (3)(b), have regard to the following:

(a) the benefits that might be derived from making the statement;

(b) whether the statement is necessary in order to allay public concern or to prevent or minimise the risk of prejudice to the reputation of a person;

(c) the risk of prejudicing the reputation of a person by making the statement;

(d) if an allegation against a person has been made public and, in the opinion of the Commissioner following an investigation, the person is not implicated in corruption in public administration—whether the statement would redress prejudice caused to the reputation of the person as a result of the allegation having been made public;

(e) whether any person has requested that the Commission make the statement.

(5) For the avoidance of doubt—

(a) nothing in this section affects the provision of information to the Crime and Public Integrity Policy Committee of the Parliament;

(b) a public statement must not include any findings or suggestions of criminal or civil liability and must not include any findings that, if proved to the requisite standard by a court, would constitute a criminal offence or a civil wrong.

26—Standard operating procedures

(1) The Commission must prepare standard operating procedures governing the exercise of powers by investigators for the purposes of an investigation into corruption in public administration.

(2) The standard operating procedures must—

(a) include provisions designed to ensure that persons in relation to whom powers are to be exercised under this Act are provided with appropriate information about their rights, obligations and liabilities under this Act; and

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

(3) Contravention of the operating procedures constitutes a ground for suspending, dismissing or taking other disciplinary action against the investigator (but the validity of the exercise of a power cannot be questioned on the ground of contravention of the operating procedures).

27—Management of investigation

(1) If the Commission decides to investigate a potential issue of corruption in public administration, the Commissioner must oversee the investigation.

(2) The Commissioner—

(a) may determine to head the investigation himself or herself or appoint the Deputy Commissioner or an examiner to head the investigation and report to the Commissioner; and

(b) may appoint 1 or more legal practitioners to assist as counsel in relation to the investigation.

28—Production of statement of information

For the purposes of an investigation into corruption in public administration, the person heading the investigation may, by written notice, require an inquiry agency, public authority or public officer 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 person so requires by statutory declaration.

29—Examination and production of documents and other things

(1) An examination may be conducted for the purposes of an investigation into corruption in public administration as set out in Schedule 2.

(2) A person may be required to produce a document or thing for the purposes of an investigation into corruption in public administration as set out in Schedule 2.

29A—Power to authorise inspection of financial records etc

(1) For the purposes of an investigation into corruption in public administration, the Commissioner may, by written notice, authorise an investigator to inspect and take copies of financial records.

(2) A copy of an authorisation under this section must be served on the relevant deposit holder not less than 3 clear days before the inspection is to occur, unless the Commissioner otherwise directs.

(3) An investigator may, for the purpose of inspecting and taking copies of financial records in accordance with an authorisation under this section, give directions to, or impose requirements on, the deposit holder or an officer or employee of the deposit holder.

(4) In this section—

deposit holder means—

(a) an ADI; or

(b) a friendly society; or

(c) a person or an organisation that holds money in accounts on behalf of other persons; or

(d) a person who carries on business as a pawnbroker; or

(e) an institution of a kind declared by regulation to be a deposit holder;

financial records means any of the following in the possession or control of a deposit holder:

(a) books of account, accounts, and accounting records (including working papers and other documents necessary to explain the methods and calculations by which accounts are made up);

(b) books, diaries, or other records used in the course of carrying on the business of a deposit holder;

(c) cheques, bills of exchange, promissory notes, deposit slips, orders for the payment of money, invoices, receipts and vouchers;

(d) securities, and documents of title to securities,

and includes such records kept in electronic form.

30—Power to require person to disclose identity

For the purposes of an investigation into corruption in public administration, an investigator may require a person who the investigator reasonably suspects has committed, is committing, or is about to commit, a prescribed offence, or may be able to assist an investigation of a prescribed offence, to state all or any of the person's personal details and to produce evidence of those details.

31—Enter and search powers under warrant

(1) The Commissioner may, on application by an investigator or on his or her own initiative, issue a warrant authorising an investigator or a police officer to enter and search—

(a) a place occupied or used by an inquiry agency, public authority or public officer; or

(b) a vehicle owned or used by an inquiry agency, public authority or public officer.

(2) A judge of the Supreme Court may, on application by an investigator, issue a warrant authorising an investigator or a police officer to enter and search any place or vehicle.

(3) A warrant may only be issued if the Commissioner or the judge is satisfied that the warrant is reasonably required in the circumstances for the purposes of an investigation into a potential issue of corruption in public administration.

(4) An application for a warrant may be made personally or, if, in the opinion of the applicant, the warrant is urgently required and there is not enough time to lodge a written application and attend in person, by fax, email or telephone in accordance with practices and procedures prescribed, in the case of an application to the Commissioner, by the regulations and, in the case of an application to a judge of the Supreme Court, by rules of the court.

(5) The grounds of an application for a warrant must be verified—

(a) if the application is made to the Commissioner—by statutory declaration; or

(b) if the application is made to a judge of the Supreme Court—by affidavit.

(6) A warrant must—

(a) specify the place or vehicle to which the warrant relates; and

(b) state whether entry is authorised at any time of the day or night or during specified hours of the day or night.

(7) A warrant authorises an investigator or a police officer—

(a) to enter and search and, if necessary, use reasonable force to break into or open—

(i) the place or vehicle to which the warrant relates; or

(ii) part of, or anything in or on, a place or vehicle to which the warrant relates; and

(b) to give directions with respect to the stopping or movement of a vehicle to which the warrant relates; and

(c) in the course of executing the warrant—

(i) to take photographs, films or audio, video or other recordings; and

(ii) to examine, copy or take extracts from a document connected with the investigation or any other investigation into corruption in public administration; and

(iii) to examine or test any thing connected with the investigation or any other investigation into corruption in public administration, or cause or require it to be examined or tested; and

(iv) if the investigator or police officer reasonably suspects that a person who is or has been on or in the place or vehicle has on or about his or her body evidence of a prescribed offence, to search the person; and

(v) to seize and retain anything that the investigator or police officer reasonably suspects has been used in, or may constitute evidence of, a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator; and

(vi) to seize and retain anything that the investigator or police officer reasonably suspects has been used in, or may constitute evidence of, an offence other than a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator, if the investigator or police officer reasonably believes that it is necessary to do so in order to prevent its concealment, loss, mutilation or destruction or its use in committing such an offence.

(8) In executing a warrant, the investigator or police officer may be assisted by such persons as the investigator or police officer considers necessary in the circumstances.

(9) An investigator or police officer may require an occupier of a place or a person apparently in charge of a document or thing to give to an investigator or police officer, or a person assisting an investigator or police officer, such assistance as is reasonably required by the investigator or police officer for the effective execution of a warrant.

(10) In searching a person under this section, the investigator or police officer—

(a) may run his or her hands over the person's outer clothing; and

(b) may require the person to remove a coat, jacket, hat or shoes the person is wearing, and may run his or her hands over the person's remaining outer clothing; and

(c) if the investigator or police officer sees or detects any thing that he or she reasonably suspects is, or contains, evidence of a prescribed offence, may require the person to surrender that item for inspection; and

(d) may use reasonable force to remove an item from a person if the person does not comply with a requirement to remove or surrender the item under paragraph (b) or (c); and

(e) may inspect an item that a person has removed or surrendered, or that has been removed from a person; and

(f) must conduct the search in a manner that affords, to the extent that the circumstances of the search permit, reasonable privacy to the person being searched; and

(g) must conduct the search as quickly as is reasonably practicable in the circumstances of the search.

(11) A search must be conducted by a person of the same sex as the person being searched unless it is not reasonable or practicable to do so in the circumstances of the search.

(12) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

(13) The Supreme Court may make rules of court providing for the Chief Justice to determine the judge to whom an application is to be made or otherwise regulating practice and procedure for the purposes of this section.

(14) The provisions set out in Schedule 3 apply in relation to a warrant under this section.

32—Seizure and retention order procedures

(1) A retention order under section 31—

(a) must be in the form of a written notice given to the owner or person apparently in control of the thing to which the order relates; and

(b) may be varied or discharged by further such written notice.

(2) If a retention order is issued, a person who, knowing of the order, removes or interferes with the thing to which the order relates without the approval of the Commissioner or an investigator before the thing is dealt with under this section or the retention order discharged is guilty of an offence.

Maximum penalty: $5 000.

(3) Subject to this section, if any thing has been made the subject of a retention order under section 31, the following provisions apply:

(a) if proceedings are not instituted for an offence relating to the thing within the designated period after the issuing of the retention order, the retention order is taken to have been discharged on the expiration of the designated period;

(b) if proceedings for an offence relating to the thing are instituted within the designated period after the issuing of the retention order, the court dealing with the proceedings may order that it be forfeited to the Crown (but if no such order is made, the retention order is taken to have been discharged);

(c) if the Commissioner or an investigator subsequently determines that the thing should be seized, an investigator may, without warrant, enter and search and, if necessary, use reasonable force to break into or open—

(i) the place at which, or vehicle in which, the thing is reasonably suspected to be located; or

(ii) part of, or anything in or on, a place at which, or vehicle in which, the thing is reasonably suspected to be located,

and may seize and retain the thing (and section 31(8) and (9) apply to the exercise of such powers as if the powers were being exercised pursuant to a warrant under that section).

(3a) If any thing has been seized under section 31 or under subsection (3)(c), the following provisions apply:

(a) the thing must be held pending proceedings for an offence relating to the thing seized, unless the Commissioner, on application, authorises its release to the person from whom it was seized, or to a person who had legal title to it at the time of its seizure, subject to such conditions as the Commissioner thinks fit;

(b) if proceedings for an offence relating to the thing are instituted, the court dealing with the proceedings may order—

(i) that it be forfeited to the Crown; or

(ii) that a person to whom it was released under paragraph (a) or the defendant pay to the Attorney-General an amount equal to its market value at the time of its seizure as the court thinks fit; or

(iii) that it be released to any person.

(4) In this section—

designated period means 2 years or such longer period as a judge of the Supreme Court may, on application by the Commissioner, allow.

33—Obstruction

(1) A person must not—

(a) refuse or fail to provide a statement of information as required by the person heading an investigation; or

(b) include information in a statement of information knowing that it is false or misleading in a material particular; or

(c) without lawful excuse, refuse or fail to comply with a requirement or direction of an investigator under this Act; or

(d) alter, destroy, conceal or fabricate a document or other thing knowing that it is or is likely to be required by an investigator performing functions under this Act; or

(e) otherwise hinder or obstruct an investigator, or a person assisting an investigator, in the performance of his or her functions.

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

(2) An investigator may arrest a person without warrant if the investigator reasonably suspects that the person has committed, is committing, or is about to commit, an offence against subsection (1) and—

(a) when required to do so by an investigator the person failed to state truthfully his or her personal details or to produce true evidence of those details; or

(b) the investigator has reasonable grounds for believing that the person would, if not arrested—

(i) fail to attend court in answer to a summons issued in respect of the offence; or

(ii) continue the offence or repeat the offence; or

(iii) alter, destroy, conceal or fabricate evidence relating to the offence; or

(iv) intimidate, harass, threaten or interfere with a person who may provide or produce evidence of the offence.

(3) On arresting a person under this section, the investigator must immediately deliver the person, or cause the person to be delivered, into the custody of a police officer (and the person will, for the purposes of any other law, then be taken to have been apprehended by the police officer without warrant).

34—Limiting action by other agencies and authorities

(1) The Commission may, by written notice, require a South Australian law enforcement agency, inquiry agency or public authority to refrain from taking action, in respect of a particular matter being investigated by the Commission under this Act or to conduct a joint investigation with the Commission in respect of a particular matter (and the agency or authority must comply with the requirement even if the agency or authority is otherwise required or authorised to take action under another Act).

(2) The notice must specify the period for which it is to apply and set out details of the action that is not to be taken or the requirements governing any joint investigation.

(3) The Commission must consider any comments of the agency or authority with respect to the terms of the notice.

35—Injunction to refrain from conduct pending investigation

(1) The Supreme Court may, on application made by the Commission (in a case where section 34 does not apply or the Commission 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 Commission.

(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.

36—Prosecutions and disciplinary action

(1) On completing an investigation or at any time during an investigation, the Commission may do either or both of the following:

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

(b) refer a matter to a public authority for further investigation and potential disciplinary action against a public officer for whom the authority is responsible.

(1a) For the avoidance of doubt, the Commission must not refer a matter directly to a prosecution authority but may only refer it to a law enforcement agency who will be responsible for any further investigation and prosecution of the matter.

(2) The Commission may disclose to the relevant law enforcement agency or public authority any evidence or information that the Commission has in respect of the matter.

(3) The Commission need not obtain the views of a public authority before referring a matter under this section.

(4) If a matter is referred to a public authority under subsection (1)(b), the Commission may give directions or guidance to the authority, which may include (without limitation)—

(a) a requirement that the authority submit a report or reports on action taken in respect of the matter as set out in the directions; and

(b) a recommendation as to the action that should be taken by the authority and the period within which it should be taken.

(5) The Commission may not give directions to the Governor or a judicial officer or to the Attorney-General in relation to a matter concerning the Governor or a judicial officer.

(6) The Commission may not give directions to a House of Parliament or the Joint Parliamentary Service Committee in relation to a matter concerning a public officer.

(7) The Commission may at any time—

(a) revoke a referral to a public authority; or

(b) revoke or vary directions or guidance given to a public authority or give further directions or guidance,

as the Commission sees fit.

(8) If—

(a) a referral of a matter by the Commission 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 Commission is not satisfied that a public authority has duly and properly taken action in relation to the matter,

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

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

(10) If, after considering any comments received from the Minister responsible for the public authority within 21 days after the report was submitted to the Minister, the Commission is still not satisfied, the Commission 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.

(11) 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.

36A—Determination of Commission's jurisdiction

If—

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

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

the Supreme Court may, on the application of the Commission, a public officer or a public authority, determine the question and make any orders necessary to give effect to the determination.

39—Request for Auditor-General to examine accounts

The Commission may, if the Commission considers it appropriate in respect of any matter subject to investigation or referral under this Act, request the Auditor-General to conduct an examination of accounts under the *Public Finance and Audit Act 1987*.

39A—Information to be provided

If—

(a) on completing the investigation of a matter involving potential issues of corruption in public administration, the Commission determines not to refer the matter to a relevant law enforcement agency or to a public authority; or

(b) a relevant law enforcement agency or public authority to whom a matter is referred by the Commission determines not to further investigate or deal with the matter,

reasonable steps must be taken by the Commission, or by the agency or authority (as the case may be), to ensure that each person who was the subject of the investigation is informed of that determination as soon as practicable.

Division 3—Evaluation of agency or authority practices

40—Evaluation of practices, policies and procedures

(1) If, in performing the Commission's functions, the Commission decides to evaluate the practices, policies and procedures of an inquiry agency or public authority in relation to corruption, or matters relating to corruption, the Commission must inform the agency or authority as to the nature and timing of the evaluation.

(2) An inquiry agency or public authority must assist the Commission in the conduct of the evaluation as requested by the Commission.

(3) The Commission must prepare a report of the evaluation and provide a copy to the President of the Legislative Council and the Speaker of the House of Assembly.

(4) 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.

(5) The Commission may not evaluate the practices, policies and procedures of a House of Parliament or a judicial body.

Division 4—Recommendations and reports by Commission

41—Recommendations

(1) On conducting an evaluation or in response to issues observed by the Commission in the course of an investigation or the handling of a matter referred to an inquiry agency or public authority, the Commission may recommend to an inquiry agency or public authority that the agency or authority—

(a) change practices, policies or procedures in a specified way or review practices, policies or procedures to achieve specified outcomes; or

(b) conduct, or participate in, specified educational programs or educational programs designed to achieve specified outcomes.

(2) The Commission must prepare a report containing the recommendations and provide a copy to the President of the Legislative Council and the Speaker of the House of Assembly.

(3) 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.

(4) If the Commission is not satisfied that an inquiry agency or public authority has complied with the recommendations of the Commission, the Commission must inform the agency or authority of the grounds of the Commission's dissatisfaction and give the agency or authority an opportunity to comment within a specified time.

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

(6) If, after considering any comments received from the Minister responsible for the inquiry agency or public authority within 21 days after the report was submitted to the Minister, the Commission is still not satisfied, the Commission 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.

(7) 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.

42—Reports

(1) The Commission may prepare a report setting out (subject to subsection (1a))—

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

(b) findings or recommendations resulting from completed investigations by the Commission in respect of matters raising potential issues of corruption in public administration; or

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

(1a) The Commission must not—

(a) prepare a report under this section setting out findings or recommendations resulting from a completed investigation into a potential issue of corruption in public administration unless—

(i) all criminal proceedings arising from that investigation are complete; or

(ii) the Commission is satisfied that no criminal proceedings will be commenced as a result of the investigation, in which case the report must not identify any person involved in the investigation; or

(b) prepare a report under this section that includes any findings or suggestions of criminal or civil liability and must not include any findings that, if proved to the requisite standard by a court, would constitute a criminal offence or a civil wrong.

(2) A copy of the report must be provided—

(a) in the case of a report of a kind referred to in subsection (1)(b)—to the public authority responsible for any public officer to whom the report relates and to the Minister responsible for that public authority; and

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

(3) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after 28 days (or such shorter number of days as the Attorney-General approves) have passed after receiving a report, lay it before their respective Houses.

Division 5—Miscellaneous

43—Referral of matter etc does not limit performance of functions

The Commission may perform functions or exercise powers in respect of a particular matter despite the referral of the matter for prosecution or investigation and prosecution, the institution of any proceedings before a judicial body or the charging of a person with an offence (but in such a case the Commission must endeavour to avoid, as far as practicable, prejudice to any person affected by the referral or proceedings or who is charged with the offence).

44—Public authority to assist with compliance by public officers

(1) A public authority must assist the public officers for whom it is responsible to comply with requirements and directions issued under this Act and, in particular, regard compliance as an official duty that may be performed during normal working hours.

(2) If a public officer attends at a place in accordance with a direction, or as reasonably required by a direction, issued under this Act, the officer—

(a) will be taken not to be absent from work for the period for which the officer's attendance is required; and

(b) will, if attendance necessitates the absence of the officer from the officer's usual place of employment, be entitled to be reimbursed from the funds of the public authority responsible for the officer for expenses in respect of travel, accommodation and meals in accordance with rates determined by the Commission.

Part 5—Accountability

45—Annual reports by Office and Commission

(1) The Director of OPI must, before 30 September in each year, prepare a report on the operations of the Office.

(2) The report of the Director of OPI must—

(a) relate to the financial year preceding the making of the report; and

(b) describe—

(i) the number and general nature of complaints and reports received by the Office; and

(ii) the number and general nature of matters referred for investigation to the Commissioner of Police or other law enforcement agency; and

(iii) the number and general nature of matters referred to an inquiry agency or public authority; and

(c) deal with any other matters stipulated by the regulations.

(3) The Commission must, before 30 September in each year, prepare a report on the operations of the Commission.

(4) The report of the Commission must—

(a) relate to the financial year preceding the making of the report; and

(b) describe—

(i) the number and general nature of matters investigated by the Commission; and

(ii) the number of warrants issued by the Commission and by judges of the Supreme Court; and

(iii) the number of examinations conducted; and

(iv) the extent to which investigations have resulted in prosecutions or disciplinary action; and

(v) the number and general nature of matters referred for investigation to the Commissioner of Police or other law enforcement agency; and

(vi) the number and general nature of occasions on which public statements have been made by the Commission; and

(vii) the number and general nature of matters referred to an inquiry agency or public authority; and

(viii) the number and general nature of directions or guidance given in referring matters under this Act; and

(ix) the number and general nature of requests for examinations of accounts by the Auditor-General; and

(x) the number and general nature of recommendations made to an inquiry agency or public authority by the Commission; and

(xi) the number and general nature of reports made to the Attorney-General, President of the Legislative Council or Speaker of the House of Assembly; and

(xii) a description of the activities carried out in relation to its evaluation and educational functions; and

(c) deal with any other matters stipulated by the regulations.

(5) A copy of a report under this section must be delivered to 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, on the first sitting day after receiving a report, lay it before their respective Houses.

46—Reviews

Reviews must be conducted in accordance with Schedule 4.

47—Crime and Public Integrity Policy Committee

The Commission must ensure that a copy of each annual report and other public report prepared by the Commission under this Act is promptly delivered to the Crime and Public Integrity Policy Committee established under the *Parliamentary Committees Act 1991*.

48—OPI and Commission websites

(1) The Commission must maintain a website for the purposes of this Act and include on it—

(a) information about the educational programs conducted or facilitated by the Commission; and

(b) information about the evaluations of practices, policies and procedures of inquiry agencies and public authorities conducted by the Commission; and

(c) information about the other functions of the Commission; and

(d) the Commission's standard operating procedures; and

(e) the reports prepared under section 41; and

(f) the reports prepared under section 42; and

(g) the Commission's annual reports; and

(h) information about the Inspector under Schedule 4 and the manner in which a complaint can be made to the Inspector; and

(i) the reports on annual reviews laid before Parliament in accordance with Schedule 4; and

(j) information designed to assist in preventing or minimising corruption in public administration or other material, as considered appropriate by the Commission.

(2) The Office must maintain a website for the purposes of this Act and include on it—

(a) information about the functions of the Office; and

(b) information about how to make a complaint to the Office; and

(c) the Office's annual reports; and

(d) information about the Inspector under Schedule 4 and the manner in which a complaint can be made to the Inspector; and

(e) the reports on annual reviews laid before Parliament in accordance with Schedule 4; and

(f) other material, as considered appropriate by the Office or as prescribed by the regulations.

49—Provision of information to Attorney-General

(1) The Commissioner and the Director of OPI must keep the Attorney-General informed of the general conduct of the functions of the Commission and the Office and, if the Attorney-General so requests, provide information to the Attorney-General relevant to the performance of the functions of the Commission or the Office (but not information identifying or about a particular matter subject to assessment, investigation or referral under this Act).

(2) However, if the Commissioner or the Director of OPI is of the opinion that to provide information as requested by the Attorney-General would compromise the proper performance of the Commission's functions or the Office's functions (as the case may be), they may instead provide to the Governor a detailed written explanation of the reasons for that opinion.

Part 6—Miscellaneous

50—No obligation on persons to maintain secrecy

No obligation to maintain secrecy or other restriction on the disclosure of information applies for the purposes of a complaint, report, assessment, investigation or referral under this Act, except an obligation or restriction designed to keep the identity of an informant secret.

51—Arrangements for provision of information by Commissioner of Police

The Commissioner of Police is to enter into arrangements with the Commissioner under which the Commission is given access to confidential information and databases for the purposes of assessments and investigations under this Act and for appropriate protection of the confidentiality of the information accessed.

52—Commission to be regarded as law enforcement body

The Commission is, for the purposes of any other Act, to be regarded as a body established for law enforcement purposes (however described).

53—Impersonation

A person must not falsely represent, by words or conduct, that they are a member of the Commission.

Maximum penalty: $5 000 or imprisonment for 1 year.

54—Confidentiality

(1) Except as required or authorised by this Act or by the Commissioner or the Director of OPI, 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 Office or the Commission 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 Commissioner or the Director of OPI, or by a person approved by the Commissioner or the Director of OPI under this section to give an authorisation; or

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

(i) dealing with a matter referred under this Act by the Commission or the Office; 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.

(3a) 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.

(4) For the purposes of subsection (3)(c), 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.

(5) A person must not, except as authorised in writing by the Commissioner or the Director of OPI, or by a person approved by the Commissioner or the Director of OPI 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 Commission.

Maximum penalty:

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

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

(6) 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.

(7) The Director of OPI and the Commissioner must enter into an agreement about the manner in which they will each exercise the power to authorise disclosure of information under this section.

55—Proceedings to be heard in private

(1) Subject to an order of the court or judicial officer concerned to the contrary, proceedings for an application for a warrant or injunction under this Act, proceedings for contempt of the Commission and other proceedings under this Act (other than for an offence) must be heard in private.

(2) Proceedings for an offence against this Act must be heard in private if a public hearing may prejudice an investigation under this Act or unduly prejudice the reputation of a person other than the defendant.

56A—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 suspected corruption in public administration—

(a) may be used for the purposes of any other investigation in relation to suspected corruption in public administration; 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) public authorities for the purposes of any disciplinary investigation or action in relation to suspected corruption in public administration,

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.

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

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

57—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 Commission 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, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she 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: $10 000.

(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) injury, damage or loss; or

(b) intimidation or harassment; or

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

(d) threats of reprisal.

58—Service

Subject to the regulations, a notice or other document required or authorised to be given to or served on a person under this Act may—

(a) be given to the person personally; or

(b) be left for the person at the person's place of residence or business with someone apparently over the age of 16 years; or

(c) be posted to the person at the person's last known place of residence or business; or

(d) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or other document will be taken to have been given or served at the time of transmission); or

(e) if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served in accordance with that Act.

59—Evidence

(1) In proceedings, a certificate apparently executed by the Commissioner certifying as to a matter relating to—

(a) the appointment of an examiner or investigator; or

(b) a delegation; or

(c) a notice; or

(d) an order; or

(e) the receipt or non-receipt of a document, statement of information or other thing,

under this Act constitutes proof, in the absence of proof to the contrary, of the matters so certified.

59A—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 5.

(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 5 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.

60—Regulations

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

(2) Without limiting the generality of subsection (1), the regulations may—

(a) make provision for the payment of expenses or other amounts to persons required to attend before the Commission, produce a document or other thing or provide a copy of a document; and

(b) prescribe forms for the purposes of this Act; and

(c) prescribe the manner in which a summons or notice under Schedule 2 is to be served on or given to a person; and

(d) prescribe fines (not exceeding $5 000) for offences against the regulations; and

(e) be of general application or vary in their application according to prescribed factors; and

(f) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Commissioner.

Schedule 1—Public officers, public authorities and responsible Ministers

For the purposes of this Act, the table below lists public officers, the public authorities responsible for the officers and the Ministers responsible for the public authorities.

Public officers	Public authority	Minister
Governor	Attorney-General	Premier
a person appointed to an office by the Governor	Governor Attorney-General	Premier
a Member of the Legislative Council an officer of the Legislative Council a person under the separate control of the President of the Legislative Council	Legislative Council	
a Member of the House of Assembly an officer of the House of Assembly a person under the separate control of the Speaker of the House of Assembly	House of Assembly	
a member of the joint parliamentary service	Joint Parliamentary Service Committee	
the principal officer of a judicial body a judicial officer that constitutes a judicial body	Attorney-General	Premier

Public officers	Public authority	Minister
a judicial officer (other than a judicial officer who is the principal officer of a judicial body or who constitutes a judicial body)	the principal officer of the judicial body of which the judicial officer is a member Attorney-General	Premier
a member of the staff of the State Courts Administration Council	State Courts Administration Council	Attorney-General
a person who constitutes a statutory authority or who is a statutory office holder	the Minister responsible for the administration of the Act under which the statutory authority is constituted or the statutory office holder is appointed	Premier
a person who is a member of the governing body of a statutory authority an officer or employee of a statutory authority or statutory office holder or a Public Service employee assigned to assist the statutory authority or statutory office holder	the statutory authority or statutory office holder	the Minister responsible for the administration of the Act constituting the statutory authority or statutory office holder
a member of a local government body an officer or employee of a local government body	the local government body	the Minister responsible for the administration of the *Local Government Act 1999*
the Local Government Association of South Australia	the Minister responsible for the administration of the *Local Government Act 1999*	Premier
a person who is a member of the governing body of the Local Government Association of South Australia an officer or employee of the Local Government Association of South Australia	the Local Government Association of South Australia	the Minister responsible for the administration of the *Local Government Act 1999*
the chief executive of an administrative unit of the Public Service	the Minister responsible for the administrative unit	Premier
a Public Service employee (other than a chief executive)	the chief executive of the administrative unit of the Public Service in which the employee is employed	the Minister responsible for the administrative unit
a police officer	Commissioner of Police	the Minister responsible for the administration of the *Police Act 1998*
a police security officer	Commissioner of Police	the Minister responsible for the administration of the *Police Act 1998*

Public officers	Public authority	Minister
an officer or employee appointed by the Chief Executive under the *Education and Children's Services Act 2019*	the Chief Executive under the *Education and Children's Services Act 2019*	the Minister responsible for the administration of the *Education and Children's Services Act 2019*
a person appointed by the Premier under the *Public Sector Act 2009*	Premier	Attorney-General
a person appointed by the Minister under the *Public Sector Act 2009*	the Minister responsible for the administration of the *Public Sector Act 2009*	Premier
any other public sector employee	the public sector agency that employs the employee	if the public sector agency is the Premier, the Attorney-General if the public sector agency is a Minister other than the Premier, the Premier in any other case, the Minister responsible for the public sector agency or the Premier
a person to whom a function or power of a public authority or a public officer is delegated in accordance with an Act	the public authority or the public authority responsible for the public officer (as the case requires)	if the public authority is the Premier, the Attorney-General if the public authority is a Minister other than the Premier, the Premier in any other case, the Minister responsible for the public authority
a person who is, in accordance with an Act, assisting a public officer in the enforcement of the Act	the public authority responsible for the public officer	the Minister responsible for the public authority
a person performing contract work for a public authority or the Crown	if the work is performed for a public authority, the public authority or, in any other case, the Premier	the Minister responsible for the public authority
a person declared by regulation to be a public officer	the person declared by regulation to be the public authority responsible for the public officer	the Minister declared by regulation to be responsible for the public authority and its public officers

Schedule 2—Examination and production of documents and other things

1—Interpretation

In this Schedule—

examiner means—

(a) the Commissioner; or

(b) the Deputy Commissioner; or

(c) an examiner appointed by the Commissioner;

official matter means any of the following (whether past, present or contingent):

(a) an investigation into corruption in public administration;

(b) an examination held by an examiner;

(c) court proceedings.

2—Examinations

An examiner may conduct an examination for the purposes of an investigation into corruption in public administration.

3—Conduct of examination

(1) An examiner may regulate the conduct of proceedings at an examination as the examiner thinks fit.

(2) At an examination before an examiner—

(a) a person giving evidence may be represented by a legal practitioner; and

(b) if, by reason of the existence of special circumstances, the examiner consents to a person who is not giving evidence being represented by a legal practitioner—the person may be so represented.

(3) An examination before an examiner must be held in private and the examiner may give directions as to the persons who may be present during the examination or a part of the examination.

(4) Nothing in a direction given by the examiner under subclause (3) prevents the presence, when evidence is being taken at an examination before the examiner, of—

(a) a person representing the person giving evidence; or

(b) a person representing, in accordance with subclause (2), a person who, by reason of a direction given by the examiner under subclause (3), is entitled to be present.

(5) If an examination before an examiner is being held, a person (other than a member of the staff of the Commission approved by the examiner) must not be present at the examination unless the person is entitled to be present by reason of a direction given by the examiner under subclause (3) or by reason of subclause (4).

(6) At an examination before an examiner—

(a) counsel assisting the examiner generally or in relation to the matter to which the investigation relates; or

(b) any person authorised by the examiner to appear before the examiner at the examination; or

(c) any legal practitioner representing a person at the examination in accordance with subclause (2),

may, so far as the examiner thinks appropriate, examine or cross-examine any witness on any matter that the examiner considers relevant to the investigation or any other investigation.

(7) If a person (other than a member of the staff of the Commission) is present at an examination before an examiner while another person (the ***witness***) is giving evidence at the examination, the examiner must—

(a) inform the witness that the person is present; and

(b) give the witness an opportunity to comment on the presence of the person.

(8) A person does not cease to be entitled to be present at an examination before an examiner or part of such an examination if—

(a) the examiner fails to comply with subclause (7); or

(b) a witness comments adversely on the presence of the person under subclause (7)(b).

(9) An examiner may direct that—

(a) any evidence given before the examiner; or

(b) the contents of any document, or a description of any thing, produced to the examiner; or

(c) any information that might enable a person who has given evidence before the examiner to be identified; or

(d) the fact that any person has given or may be about to give evidence at an examination,

must not be communicated or provided to any person, or must not be communicated or provided except in such manner, and to such persons, as the examiner specifies.

(10) The examiner must give such a direction if the failure to do so might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been, or may be, charged with an offence.

(11) Subject to subclause (12), the Commissioner may, in writing, vary or revoke a direction under subclause (9).

(12) The Commissioner must not vary or revoke a direction if to do so might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.

(13) If—

(a) a person has been charged with an offence; and

(b) the court considers that it may be desirable in the interests of justice that particular evidence given before an examiner, being evidence in relation to which the examiner has given a direction under subclause (9), be made available to the person or to a legal practitioner representing the person,

the court may give to the Commission a certificate to that effect and, if the court does so, the Commission must make the evidence available to the court.

(14) If—

(a) the Commission makes evidence available to a court in accordance with subclause (13); and

(b) the court, after examining the evidence, is satisfied that the interests of justice so require,

the court may make the evidence available to the person charged with the offence concerned or to a legal practitioner representing the person.

(15) A person who—

(a) is present at an examination in contravention of subclause (5); or

(b) makes a publication in contravention of a direction given under subclause (9),

is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(16) At the conclusion of an examination held by an examiner, the examiner must give the person heading the investigation—

(a) a record of the proceedings of the examination; and

(b) any documents or other things given to the examiner at, or in connection with, the examination.

4—Power to summon witnesses and take evidence

(1) An examiner may summon a person to appear before the examiner at an examination to give evidence and to produce such documents or other things (if any) as are referred to in the summons.

(2) Before issuing a summons under subclause (1), the examiner must be satisfied that it is reasonable in all the circumstances to do so.

(3) The examiner must also record in writing the reasons for the issue of the summons.

(4) A summons under subclause (1) requiring a person to appear before an examiner at an examination must, unless the examiner issuing the summons is satisfied that, in the particular circumstances of the investigation to which the examination relates, it would prejudice the effectiveness of the investigation for the summons to do so, set out, so far as is reasonably practicable, the general nature of the matters in relation to which the examiner intends to question the person, but nothing in this subclause prevents the examiner from questioning the person in relation to any matter that relates to an investigation into corruption in public administration.

(5) The examiner who is holding an examination may require a person appearing at the examination to produce a document or other thing.

(6) An examiner may, at an examination, take evidence on oath or affirmation and for that purpose—

(a) the examiner may require a person appearing at the examination to give evidence either to take an oath or to make an affirmation in a form approved by the examiner; and

(b) the examiner, or a person who is a member of the staff of the Commission authorised for the purpose by the Commissioner, may administer an oath or affirmation to a person so appearing at the examination.

(7) The powers conferred by this clause are not exercisable except for the purposes of an investigation into corruption in public administration.

5—Power to obtain documents

(1) An examiner may, by notice in writing served on a person, require the person—

(a) to attend, at a time and place specified in the notice, before a person specified in the notice, being the examiner or a member of the staff of the Commission; and

(b) to produce at that time and place to the person so specified a document or other thing specified in the notice, being a document or other thing that is relevant to an investigation into corruption in public administration.

(2) Before issuing a notice under subclause (1), the examiner must be satisfied that it is reasonable in all the circumstances to do so.

(3) The examiner must also record in writing the reasons for the issue of the notice.

(4) A notice may be issued under this clause in relation to an investigation into corruption in public administration, whether or not an examination before an examiner is being held for the purposes of the investigation.

(5) A person must not refuse or fail to comply with a notice served on the person under this clause.

Maximum penalty: $20 000 or imprisonment for 4 years.

(6) The provisions of clause 8(3) to (6) apply in relation to a person who is required to produce a document or thing by a notice served on him or her under this clause in the same manner as they apply in relation to a person who is required to produce a document or thing at an examination before an examiner.

6—Disclosure of summons or notice may be prohibited

(1) The examiner issuing a summons under clause 4 or a notice under clause 5 must, or may, as provided in subclause (2), include in it a notation to the effect that disclosure of information about the summons or notice, or any official matter connected with it, is prohibited except in the circumstances, if any, specified in the notation.

(2) A notation must not be included in the summons or notice except as follows:

(a) the examiner must include the notation if satisfied that failure to do so would reasonably be expected to prejudice—

(i) the safety or reputation of a person; or

(ii) the fair trial of a person who has been or may be charged with an offence; or

(iii) the effectiveness of an investigation;

(b) the examiner may include the notation if satisfied that failure to do so might prejudice—

(i) the safety or reputation of a person; or

(ii) the fair trial of a person who has been or may be charged with an offence; or

(iii) the effectiveness of an investigation;

(c) the examiner may include the notation if satisfied that failure to do so might otherwise be contrary to the public interest.

(3) If a notation is included in the summons or notice, it must be accompanied by a written statement setting out the rights and obligations conferred or imposed by clause 7 on the person who was served with, or otherwise given, the summons or notice.

(4) If, after the investigation concerned has been concluded—

(a) no evidence of an offence has been obtained; or

(b) evidence of an offence or offences has been assembled and the Commission has been advised that no person will be prosecuted; or

(c) evidence of an offence or offences committed by only 1 person has been assembled and criminal proceedings have begun against that person; or

(d) evidence of an offence or offences committed by 2 or more persons has been assembled and—

(i) criminal proceedings have begun against all those persons; or

(ii) criminal proceedings have begun against 1 or more of those persons and the Commission has been advised that no other of those persons will be prosecuted,

all the notations that were included under this clause in any summonses or notices relating to the operation or investigation are cancelled by this subclause.

(5) If a notation is cancelled by subclause (4), the Commission must serve a written notice of that fact on each person who was served with, or otherwise given, the summons or notice containing the notation.

7—Offences of disclosure

(1) A person who is served with, or otherwise given, a summons or notice containing a notation made under clause 6 must not disclose—

(a) the existence of the summons or notice or any information about it; or

(b) the existence of, or any information about, any official matter connected with the summons or notice.

Maximum penalty: $5 000 or imprisonment for 1 year.

(2) Subclause (1) does not prevent the person from making a disclosure—

(a) in accordance with the circumstances, if any, specified in the notation; or

(b) for the purpose of—

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

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

(c) where the information relates to the person and is disclosed by the person to a close family member of the person (within the meaning of section 54); or

(d) if the person is a body corporate—to an officer or agent of the body corporate for the purpose of ensuring compliance with the summons or notice; or

(e) if the person is a legal practitioner—for the purpose of obtaining the agreement of another person under clause 8(3) to the legal practitioner answering a question or producing a document at an examination before an examiner.

(3) If a disclosure is made to a person as permitted by subclause (2) or (4), the following provisions apply:

(a) while he or she is a person of a kind to whom a disclosure is so permitted to be made, he or she must not disclose the existence of, or any information about, the summons or notice, or any official matter connected with it, except as permitted by subclause (4);

(b) while he or she is no longer such a person, he or she must not, in any circumstances, make a record of, or disclose the existence of, the summons, notice or matter, or disclose any information about any of them.

Maximum penalty: $5 000 or imprisonment for 1 year.

(4) A person to whom information has been disclosed, as permitted by subclause (2) or this subclause, may disclose that information—

(a) if the person is an officer or agent of a body corporate referred to in subclause (2)(d)—

(i) to another officer or agent of the body corporate for the purpose of ensuring compliance with the summons or notice; or

(ii) to a legal practitioner for the purpose of obtaining legal advice or representation relating to the summons, notice or matter; or

(b) if the person is a legal practitioner—for the purpose of giving legal advice, or making representations, relating to the summons, notice or matter.

(5) This clause ceases to apply to a summons or notice after—

(a) the notation contained in the summons or notice is cancelled by clause 6(4); or

(b) 5 years elapse after the issue of the summons or notice, whichever is sooner.

(6) A reference in this clause to disclosing something's existence includes disclosing information from which a person could reasonably be expected to infer its existence.

8—Failure of witnesses to attend and answer questions

(1) A person served, as prescribed, with a summons to appear as a witness at an examination before an examiner must not—

(a) fail to attend as required by the summons; or

(b) fail to attend from day to day unless excused, or released from further attendance, by the examiner.

Maximum penalty: $20 000 or imprisonment for 4 years.

(2) A person appearing as a witness at an examination before an examiner must not—

(a) when required pursuant to clause 4 either to take an oath or make an affirmation—refuse or fail to comply with the requirement; or

(b) refuse or fail to answer a question that he or she is required to answer by the examiner; or

(c) refuse or fail to produce a document or thing that he or she was required to produce by a summons under this Act served on him or her as prescribed.

Maximum penalty: $20 000 or imprisonment for 4 years.

(3) If—

(a) a legal practitioner is required to answer a question or produce a document at an examination before an examiner; and

(b) the answer to the question would disclose, or the document contains, a privileged communication made by or to the legal practitioner in his or her capacity as a legal practitioner,

the legal practitioner is entitled to refuse to comply with the requirement unless the person to whom or by whom the communication was made agrees to the legal practitioner complying with the requirement but, where the legal practitioner refuses to comply with the requirement, he or she must, if so required by the examiner, give the examiner the name and address of the person to whom or by whom the communication was made.

Maximum penalty: $20 000 or imprisonment for 4 years.

(4) Subclause (5) limits the use that can be made of any answers given at an examination before an examiner, or documents or things produced at an examination before an examiner and that subclause only applies if—

(a) a person appearing as a witness at an examination before an examiner—

(i) answers a question that he or she is required to answer by the examiner; or

(ii) produces a document or thing that he or she was required to produce by a summons under this Act served on him or her as prescribed; and

(c) before answering the question or producing the document or thing, the person claims that the answer, or the production of the document or thing, might tend to incriminate the person or make the person liable to a penalty.

(5) The answer, or the document or thing, is not admissible in evidence against the person in—

(a) a criminal proceeding; or

(b) a proceeding for the imposition of a penalty,

other than—

(c) proceedings under the *Criminal Assets Confiscation Act 2005*; or

(d) a proceeding in respect of—

(i) in the case of an answer—the falsity of the answer; or

(ii) in the case of the production of a document—the falsity of any statement contained in the document.

(6) Subclause (3) does not affect the law relating to legal professional privilege.

9—Warrant for arrest of witness

(1) If, on application by an examiner, a judge of the Supreme Court is satisfied by evidence on oath that there are reasonable grounds to believe—

(a) that a person who has been ordered, under clause 18, to deliver his or her passport to the examiner, whether or not the person has complied with the order, is nevertheless likely to leave Australia for the purpose of avoiding giving evidence before the examiner; or

(b) that a person in relation to whom a summons has been issued under clause 4(1)—

(i) has absconded or is likely to abscond; or

(ii) is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons; or

(c) that a person has committed an offence under clause 8(1) or is likely to do so,

the judge may issue a warrant for the apprehension of the person.

(2) The warrant may be executed by any person to whom it is addressed and the person executing it has power to break into and enter any premises or vehicle for the purpose of executing it.

(3) The warrant may be executed even if the warrant is not at the time in the possession of the person executing it.

(4) A person executing the warrant may only use such reasonable force as is necessary for the execution.

(5) If a person is apprehended under the warrant, he or she must be brought, as soon as practicable, before a judge of the Supreme Court and the judge may—

(a) admit the person to bail, with such security as the judge thinks fit, on such conditions as he or she thinks necessary to ensure the appearance of the person as a witness before the examiner; or

(b) order the continued detention of the person for the purposes of ensuring his or her appearance as such a witness; or

(c) order the release of the person.

(6) If a person is under detention under this clause, he or she must, within 14 days after he or she was brought, or last brought, before a judge of the Supreme Court in accordance with this clause, or within such shorter or longer time as a judge has fixed upon the last previous appearance of the person before a judge under this clause, be again brought before a judge and the judge may then exercise any of the powers of a judge under subclause (5).

(7) In this clause—

Australia includes the external Territories.

10—False or misleading evidence

A person must not, at an examination before an examiner, give evidence that the person knows is false or misleading in a material particular.

Maximum penalty: $20 000 or imprisonment for 4 years.

11—Protection of witnesses from harm or intimidation

If it appears to an examiner that, by reason of the fact that a person—

(a) is to appear, is appearing or has appeared at an examination before the examiner to give evidence or to produce a document or thing; or

(b) proposes to furnish or has furnished information, or proposes to produce or has produced a document or thing, to the Commissioner or the Office otherwise than at an examination before the examiner,

the safety of the person may be prejudiced or the person may be subjected to intimidation or harassment, the examiner may make such arrangements (including arrangements with South Australia Police) as are necessary to avoid prejudice to the safety of the person, or to protect the person from intimidation or harassment.

12—Contempt of Commission

A person is in contempt of the Commission if he or she—

(a) when appearing as a witness at an examination before an examiner—

(i) refuses or fails to take an oath or affirmation when required to do so under clause 4; or

(ii) refuses or fails to answer a question that he or she is required to answer by the examiner; or

(iii) refuses or fails to produce a document or other thing that he or she was required to produce by a summons or notice under this Act that was served on him or her in accordance with this Act; or

(b) is a legal practitioner who is required to answer a question or produce a document at an examination before an examiner, and both of the following apply:

(i) the answer to the question would disclose, or the document contains, a privileged communication made by or to the legal practitioner in his or her capacity as a legal practitioner;

(ii) he or she refuses to comply with the requirement and does not, when required by the examiner, give the examiner the name and address of the person to whom or by whom the communication was made; or

(c) gives evidence at an examination before an examiner that he or she knows is false or misleading in a material particular; or

(d) obstructs or hinders an examiner in the performance of his or her functions as an examiner; or

(e) disrupts an examination before an examiner; or

(f) threatens a person present at an examination before an examiner.

13—Supreme Court to deal with contempt

(1) If an examiner is of the opinion that, during an examination before the examiner, a person is in contempt of the Commission, the examiner may apply to the Supreme Court for the person to be dealt with in relation to the contempt.

(2) Before making the application, the examiner must inform the person that the examiner proposes to make the application.

(3) The application must be accompanied by a certificate that states—

(a) the grounds for making the application; and

(b) evidence in support of the application.

(4) A copy of the certificate must be given to the person before, or at the same time as, the application is made.

(5) If, after—

(a) considering the matters specified in the certificate; and

(b) hearing or receiving any evidence or statements by or in support of the Commission; and

(c) hearing or receiving any evidence or statements by or in support of the person,

the Supreme Court finds that the person was in contempt of the Commission, the Court may deal with the person as if the acts or omissions involved constituted a contempt of that Court.

14—Conduct of contempt proceedings

(1) This clause applies if an application for a person to be dealt with in relation to a contempt of the Commission is made to the Supreme Court under clause 13.

(2) Proceedings in relation to the application are, subject to this Act, to be instituted, carried on, heard and determined in accordance with the laws (including any rules of court) that apply in relation to the punishment of a contempt of the Supreme Court.

(3) In proceedings in relation to the application, a certificate under clause 13(3) is prima facie evidence of the matters specified in the certificate.

15—Person in contempt may be detained

(1) If an examiner proposes to make an application under clause 13(1) in respect of a person, he or she may, during the hearing concerned, direct a police officer to detain the person for the purpose of bringing the person before the Supreme Court for the hearing of the application.

(2) If the person is detained under subclause (1)—

(a) the examiner must apply to the Court as soon as practicable under clause 13(1) in respect of the person; and

(b) the person must, subject to subclause (3), be brought before the Court as soon as practicable.

(3) The Court may—

(a) direct that the person be released from detention on condition that he or she will appear before the Court in relation to the application; or

(b) order that the person continue to be detained until the application is determined.

(4) The Court may also impose any other condition on the release, for example—

(a) that the person surrenders his or her passport; or

(b) that the person gives an undertaking as to his or her living arrangements; or

(c) that the person reports as required to a law enforcement agency.

(5) The Court may at any time vary or revoke a condition imposed under subclause (4).

16—Examiner may withdraw contempt application

(1) An examiner may at any time withdraw an application in relation to a person under clause 13(1).

(2) If—

(a) the examiner does so; and

(b) the person is in detention under clause 15,

the person must be released from detention immediately.

17—Legal protection of examiners, counsel and witnesses

(1) An examiner has, in the performance of his or her functions or the exercise of his or her powers as an examiner in relation to an examination before the examiner, the same protection and immunity as a judge of the Supreme Court.

(2) A legal practitioner assisting the Commission or representing a person at an examination before an examiner has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings in the Supreme Court.

(3) Subject to this Act, a person summoned to attend or appearing before an examiner as a witness has the same protection as a witness in proceedings in the Supreme Court.

18—Order for delivery to examiner of passport of witness

(1) If, on application by an examiner, a judge of the Supreme Court is satisfied by evidence on oath that—

(a) in connection with an investigation into corruption in public administration, a summons has been issued under this Act requiring a person to appear before an examiner at an examination (whether or not the summons has been served), or a person has appeared before an examiner at an examination, to give evidence or to produce documents or other things; and

(b) there are reasonable grounds for believing that the person may be able to give to the examiner evidence or further evidence that is, or to produce to the examiner documents or other things or further documents or other things that are, relevant to the investigation and could be of particular significance to the investigation; and

(c) there are reasonable grounds for suspecting that the person intends to leave Australia and has in his or her possession, custody or control of a passport issued to him or her,

the judge may make an order requiring the person to appear before a judge of the Supreme Court on a date, and at a time and place, specified in the order to show cause why he or she should not be ordered to deliver the passport to the examiner.

(2) If a person appears before a judge of the Supreme Court under an order made under subclause (1), the judge may, if he or she thinks fit, make an order—

(a) requiring the person to deliver to the examiner any passport issued to him or her that is in his or her possession, custody or control; and

(b) authorising the examiner to retain the passport until the expiration of such period (not exceeding 1 month) as is specified in the order.

(3) A judge of the Supreme Court may, on application by the examiner, extend for a further period (not exceeding 1 month) or further periods (not exceeding 1 month in each case) the period for which the examiner is authorised to retain a passport under an order made under subclause (2), but not so that the total period for which the examiner is authorised to retain the passport exceeds 3 months.

(4) A judge of the Supreme Court may, at any time while the examiner is authorised under an order made under this clause to retain a passport issued to a person, on application made by the person, revoke the order and, if the order is revoked, the examiner must immediately return the passport to the person.

(5) In this clause—

Australia includes the external Territories.

19—Offence to hinder, obstruct or disrupt

A person must not—

(a) hinder or obstruct an examiner in the performance of his or her functions as an examiner; or

(b) disrupt an examination before an examiner.

Maximum penalty: $20 000 or imprisonment for 4 years.

Schedule 3—Search warrants and privilege

1—Interpretation

In this Schedule—

claimant—see clause 2(1)(b);

searcher—see clause 2(1)(a).

2—Privilege claims in relation to search warrants

(1) This clause applies if—

(a) a person executing a warrant (the ***searcher***) wishes to inspect, copy or seize a document or other thing under the warrant; and

(b) a person who is entitled to claim the privilege (the ***claimant***) claims that the document or other thing is the subject of privilege.

(2) The searcher must consider the claim of privilege and either—

(a) cease exercising the power under the warrant in relation to the document or other thing over which the claim of privilege is made; or

(b) require the claimant to immediately seal the document or other thing in an envelope, or otherwise secure it if it cannot be sealed in an envelope, and give it to the searcher.

(3) The searcher must not inspect the document or other thing in considering the claim of privilege.

(4) If the searcher requires the claimant to give the document or other thing to the searcher under subclause (2)(b), the searcher must—

(a) notify the Commission as soon as is reasonably practicable; and

(b) as soon as is reasonably practicable, give the document or other thing to the proper officer of the Supreme Court to be held in safe custody.

(5) Subject to clause 4, a person must not open a sealed envelope or interfere with a document or thing secured otherwise than in an envelope before delivery to the proper officer of the Supreme Court.

3—Application to Supreme Court to determine privilege

(1) Within 7 days after a sealed envelope or document or thing secured otherwise than in an envelope is given to the proper officer of the Supreme Court in accordance with clause 2, the claimant may apply to the Supreme Court to determine whether or not the document or other thing is the subject of privilege.

(2) If no application is made under subclause (1) within the period of 7 days, the proper officer must give the document or thing to the Commission.

(3) The claimant must give notice of the application to the Commission within a reasonable time before the hearing of the application.

(4) Notice under subclause (3) must be in the prescribed form.

(5) The Commission is entitled to appear and be heard on the hearing of the application.

4—Determination of privilege claims

(1) On an application under clause 3, the Supreme Court must determine whether or not the document in the sealed envelope or the document or thing secured otherwise than in an envelope is the subject of privilege (in whole or in part).

(2) For the purpose of making a determination under subclause (1), the Judge constituting the Supreme Court and any other person authorised by the Court may—

(a) open the sealed envelope or access the document or thing secured otherwise than in an envelope; and

(b) inspect the document or thing.

(3) If the Supreme Court determines that the whole of the document or thing is the subject of privilege—

(a) the Court must order that the document or thing be returned to the claimant; and

(b) the proper officer must return the document or thing to the claimant.

(4) If the Supreme Court determines that the document or thing is not the subject of privilege—

(a) the Court must order that the document or thing be given to the Commission; and

(b) the proper officer must release the document or thing accordingly.

(5) If the Supreme Court determines that a part of the document or thing is the subject of privilege (the ***privileged part***) and a part is not (the ***non-privileged part***)—

(a) if the document or thing is able to be divided into the privileged part and the non-privileged part—

(i) the Court must so divide the document or thing and order that the privileged part be returned to the claimant and the non-privileged part be given to the Commission; and

(ii) the proper officer must return the privileged part to the claimant and release the non-privileged part to the Commission; or

(b) if paragraph (a) does not apply but the Court is of the opinion that it would be possible to produce a copy of the document or thing from which the privileged part is able to be redacted—

(i) the Court must make such orders as the Court thinks fit for the production of such a copy; and

(ii) the Court must order that the copy so produced be given to the Commission and that the document or thing be returned to the claimant; and

(iii) the proper officer must—

(A) release the copy so produced to the Commission; and

(B) return the document or thing to the claimant; or

(c) in any other case—

(i) the Court must order that the document or thing be returned to the claimant; and

(ii) the proper officer must return the document or thing to the claimant.

(6) Except as provided in subclause (2), a person must not open the sealed envelope or otherwise have access to the document or thing contained in the sealed envelope before—

(a) the Supreme Court determines the claim of privilege; or

(b) the document or thing is given to the claimant.

Maximum penalty: $5 000 or imprisonment for 1 year.

(7) Except as provided in subclause (2), a person must not open or otherwise have access to a document or thing secured otherwise than in an envelope before—

(a) the Supreme Court determines the claim of privilege; or

(b) the document or thing is returned to the claimant.

Maximum penalty: $5 000 or imprisonment for 1 year.

Schedule 4—Inspector and reviews

Part 1—Preliminary

1—Interpretation

In this Schedule—

Committee means the Crime and Public Integrity Policy Committee established under the *Parliamentary Committees Act 1991*;

Deputy Inspector—see clause 3;

employees of the Commission includes staff subject to an arrangement under section 13;

employees of the Office means the employees assigned to the Office in accordance with section 17(2);

Inspector—see clause 2;

relevant complaint means a complaint made in accordance with any requirements prescribed by the regulations relating to the conduct of any person exercising or purporting to exercise functions and powers under this Act.

Part 2—Inspector and Deputy Inspector

2—Inspector

(1) The Governor must appoint a person (the ***Inspector***)—

(a) to conduct annual reviews examining the operations of the Office and the Commission during each financial year; and

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

(c) to conduct other reviews on the Inspector's own motion or at the request of the Attorney-General or the Committee; and

(d) to perform any other functions conferred on the Inspector by other Acts.

(2) The Inspector—

(a) subject to subclause (3), must be a person who would be eligible for appointment as the Commissioner; and

(b) will be appointed under this clause for a term not exceeding 3 years and on conditions determined by the Governor and, at the end of a term of appointment, will be eligible for reappointment.

(3) Despite section 8(3)(b), a person who is not appointed as a judicial officer on a permanent basis may be appointed as the Inspector.

(4) Before a person is appointed to be the Inspector, the Attorney-General must ensure that the position is advertised in a newspaper or newspapers circulating in each State and Territory.

(5) A person may only be appointed to be the Inspector if, following referral by the Attorney-General of not less than 2 candidates who are qualified for appointment as the Inspector to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*, the appointment has been recommended by at least a two-thirds majority of that Committee.

(6) Despite the *Parliamentary Committees Act 1991*, the Statutory Officers Committee must not report on, or publish material in relation to, matters referred to the Committee under subclause (5) except to the extent allowed by the Attorney-General (but this subclause does not derogate from section 15I(2) of the *Parliamentary Committees Act 1991*).

(7) Subject to subclause (9), the Governor may, on the address of both Houses of Parliament, remove the Inspector from office.

(8) Subject to subclause (9), the Governor may suspend the Inspector from office for—

(a) contravention of a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official duties satisfactorily.

(9) The Governor may not remove or suspend the Inspector unless the Committee has inquired into the proposed removal or suspension and has reported to each House of Parliament in relation to its inquiry.

(10) If the Governor suspends the Inspector from office, a full statement of the reason for the suspension must be laid before both Houses of Parliament within 7 days after the suspension if Parliament is then in session or, if not, within 7 days after the commencement of the next session of Parliament.

(11) If, at the end of 20 sitting days after the statement is laid before Parliament, neither House of Parliament has presented an address to the Governor requiring the Inspector to be restored to office, the Inspector is removed from office.

(12) If within 20 sitting days after the statement is laid before Parliament either House of Parliament presents an address to the Governor requiring the Inspector to be restored to office, the Inspector is restored to office.

(13) The office of Inspector becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

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

(d) is appointed to judicial office; or

(e) is nominated for election as a member of an Australian Parliament; or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(g) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding subparagraph; or

(h) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(i) is removed from office by the Governor under this clause.

(14) Except as is provided by this clause, the Inspector may not be removed or suspended from office, nor will the office of the Inspector become vacant.

(15) The Inspector is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

3—Deputy Inspector

(1) There is to be a Deputy Inspector responsible for assisting the Inspector as directed by the Inspector.

(2) The Deputy Inspector is to be appointed by the Governor for a term not exceeding 3 years and on conditions determined by the Governor and, at the end of a term of appointment, will be eligible for reappointment.

(3) A person is only eligible for appointment as the Deputy Inspector if the person—

(a) is a legal practitioner of at least 7 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State) or a former judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court or any other court of a State or Territory of the Commonwealth; and

(b) is not a judicial officer or member of an Australian Parliament.

(4) The Deputy Inspector may—

(a) act as the Inspector during any period for which—

(i) no person is for the time being appointed as the Inspector; or

(ii) the Inspector is absent from, or unable to discharge, official duties; and

(b) when not so acting, perform functions or exercise powers at the direction of the Inspector.

(5) The Governor may remove the Deputy Inspector from office for—

(a) contravention of a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official duties satisfactorily.

(6) The office of Deputy Inspector becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

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

(d) is appointed to judicial office; or

(e) is nominated for election as a member of an Australian Parliament; or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(g) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding subparagraph; or

(h) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(i) is removed from office by the Governor under subclause (5).

(7) Except as is provided by this clause, the Deputy Inspector may not be removed from office, nor will the office of the Deputy Inspector become vacant.

(8) The Deputy Inspector is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

4—Use of services or staff of administrative units

The Inspector may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Part 3—Powers

5—Evidence

The Inspector may, for the purposes of a review—

(a) receive any evidence that, in the opinion of the Inspector, may assist the Inspector to carry out the review, whether or not the evidence would be admissible in a court of law; and

(b) take evidence on oath or affirmation (and for that purpose an oath or affirmation may be administered by the Inspector or the Deputy Inspector); and

(c) permit a witness to give evidence by any means, including by written or electronic means, and require the witness to verify the evidence by—

(i) in the case of written evidence—statutory declaration; or

(ii) in any other case—oath or affirmation.

6—Issue of summons

(1) The Inspector may, for the purposes of a review, summon a person to appear before the Inspector at an examination to give evidence and to produce such documents or other things (if any) as are referred to in the summons.

(2) Before issuing a summons under subclause (1), the Inspector must be satisfied that it is reasonable in all the circumstances to do so.

(3) The Inspector must also record in writing the reasons for the issue of the summons.

(4) The Inspector may exercise the powers of an examiner under Schedule 2 in relation to a person summoned for examination under this clause (and that Schedule applies, subject to any modifications prescribed by the regulations, as if the Inspector were an examiner).

7—Production of documents etc

(1) The Inspector may, for the purposes of a review, do any of the following:

(a) require a person to produce any documents or things in that person's possession or control or copies of those documents or things;

(b) require a person to provide information to the Inspector, in a form approved by the Inspector;

(c) require a person to verify by statutory declaration any written information, copies of documents, or representations of things provided to the Inspector;

(d) examine or make copies of any document or thing that is produced or provided by a person.

(2) The Inspector may, by instrument in writing given to a person, order a person to comply with a requirement of a kind specified in subclause (1).

8—Entry and search

(1) The Inspector (or a person authorised by the Inspector) may, for the purposes of a review, at any time, enter and search any place or vehicle occupied by the Commission, the Office or an inquiry agency, and anything in or on the place or vehicle, as if the Inspector or other person were authorised by a warrant under this clause.

(2) A magistrate may, on application under this clause, issue a warrant authorising the Inspector or a person authorised by the Inspector to enter and search any place or vehicle (not being a place or vehicle to which subclause (1) applies).

(3) An application may be made under this clause by the Inspector or a person authorised by the Inspector.

(4) A warrant may only be issued if the magistrate is satisfied that the warrant is reasonably required in the circumstances for the purposes of the review.

(5) An application for a warrant may be made personally or, if, in the opinion of the applicant, the warrant is urgently required and there is not enough time to lodge a written application and attend in person, by fax, email or telephone in accordance with practices and procedures prescribed by rules of the Magistrates Court.

(6) The grounds of an application for a warrant must be verified by affidavit.

(7) A warrant must—

(a) specify the place or vehicle to which the warrant relates; and

(b) state whether entry is authorised at any time of the day or night or during specified hours of the day or night.

(8) A warrant authorises the Inspector or any person authorised by the Inspector—

(a) to enter and search and, if necessary, use reasonable force to break into or open—

(i) the place or vehicle to which the warrant relates; or

(ii) part of, or anything in or on, a place or vehicle to which the warrant relates; and

(b) to give directions with respect to the stopping or movement of a vehicle to which the warrant relates; and

(c) in the course of executing the warrant—

(i) to take photographs, films or audio, video or other recordings; and

(ii) to examine, copy or take extracts from a document connected with the investigation; and

(iii) to examine or test any thing connected with the investigation, or cause or require it to be examined or tested.

(9) In executing a warrant, the Inspector or person authorised by the Inspector may be assisted by such other persons as they consider necessary in the circumstances.

(10) The Inspector or person authorised by the Inspector may require an occupier of a place or a person apparently in charge of a document or thing to give them, or a person assisting them, such assistance as is reasonably required by them for the effective execution of a warrant.

(11) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

(12) The provisions set out in Schedule 3 apply in relation to a warrant under this clause subject to any modifications prescribed by the regulations.

Part 4—Reviews

9—Reviews

(1) 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—

(A) whether there was any evidence of—

- corruption, misconduct or maladministration in public administration on the part of the Office or the Commission or employees of the Office or the Commission; or
- unreasonable delay in the conduct of investigations under this Act; or

- unreasonable invasions of privacy by the Office or the Commission or employees of the Office or the Commission; and

(B) whether undue prejudice to the reputation of any person was caused;

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

(iii) whether the Office and the Commission carried out their functions in a manner that was likely to assist in preventing or minimising corruption in public administration; and

(b) may examine any particular exercises of power by the Office or the Commission; and

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

(2) 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 Office and the Commission during the financial year to which the annual review is to relate.

(3) A notice under subclause (2) must be published on the Inspector's website and in the Gazette and may be published in any additional manner determined by the Inspector.

(4) The Office and the Commission must ensure that the Inspector is provided with such information as the Inspector may require for the purpose of conducting a review.

(5) A review conducted at the request of the 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.

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

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

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

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

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

(ii) recommend that the Commission or the Office (as the case may require) pay an amount of compensation to the person.

(7) Before referring a matter under subclause (6), the Inspector must notify the Office or the Commission (as the case may require) 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.

(8) The Inspector may disclose to the relevant law enforcement agency, or to the Office, the Commission or the public authority, information that the Inspector has in respect of the matter.

(9) 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 54.

(10) 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 Office and the Commission 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.

(11) 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.

Schedule 5—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 ICAC investigation means an investigation under this Act.

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 ICAC 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 ICAC 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) the Government employee, Government Board appointee, Minister or Member of Parliament has not been convicted of an indictable offence that constitutes corruption in public administration as a result of the relevant ICAC 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 ICAC 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 ICAC 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 ICAC 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 Independent Commissioner Against Corruption or the Director of OPI 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 ICAC investigation and, if the person has been charged with an offence referred to in clause 3(a), await the finalisation of proceedings for that offence (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; and

(d) enter into a legally enforceable agreement with appropriate security for repayment of any reimbursement in the event that they are convicted of an offence referred to in clause 3(a).

(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 ICAC 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 they are convicted of an offence referred to in clause 3(a);

(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 criminal proceedings or relevant ICAC 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 ICAC 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.

Formerly

Independent Commissioner Against Corruption Act 2012

Legislation amended by principal Act

The *Independent Commission Against Corruption Act 2012* amended the following:

Australian Crime Commission (South Australia) Act 2004

Child Sex Offenders Registration Act 2006

City of Adelaide Act 1998

Correctional Services Act 1982

Criminal Investigation (Covert Operations) Act 2009

Criminal Law Consolidation Act 1935

Criminal Law (Forensic Procedures) Act 2007

Defamation Act 2005

Freedom of Information Act 1991

Legal Practitioners Act 1981

Listening and Surveillance Devices Act 1972

Local Government Act 1999

Ombudsman Act 1972

Parliamentary Committees Act 1991

Police Act 1998

Police (Complaints and Disciplinary Proceedings) Act 1985

Protective Security Act 2007

Public Finance and Audit Act 1987

Public Sector Act 2009

Shop Theft (Alternative Enforcement) Act 2000

Summary Offences Act 1953

Terrorism (Preventative Detention) Act 2005

Whistleblowers Protection Act 1993

Witness Protection Act 1996

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2012	52	*Independent Commissioner Against Corruption Act 2012*	6.12.2012	20.12.2012 (*Gazette 20.12.2012 p5742*) except ss 3—61, Schs 1, 2 & Sch 3 Pts 4—7, 9, 10 (cll 19 & 20), 11, 13—15, 19, 22, 24 (cl 76) & 25 (cl 79)—1.9.2013 (*Gazette 23.5.2013 p2006*) and except Sch 3 Pt 2—24.11.2014 (*Gazette 20.11.2014 p6477*)
2014	20	*Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2014*	27.11.2014	Pt 2 (ss 4—28) & Sch 1 (cl 3)—27.11.2014 (*Gazette 27.11.2014 p6554*)
2015	34	*Judicial Conduct Commissioner Act 2015*	5.11.2015	Sch 1 (cl 7)—5.12.2016 (*Gazette 29.11.2016 p4525*)
2016	54	*Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2016*	24.11.2016	Pt 2 (ss 5(1), (2), 6(2), 8—10, 12, 13, 15—19, 22—24, new Sch 3 (as inserted by s 25) & Sch 1 (cll 4 & 5))—16.12.2016; ss 4, 5(3), 6(1), 7, 11 & 14—1.4.2017 (*Gazette 15.12.2016 p4988*); ss 20, 21 & new Sch 4 (as inserted by s 25)—15.7.2017 (*Gazette 11.7.2017 p2847*)
2016	60	*Police Complaints and Discipline Act 2016*	8.12.2016	Sch 1 (cll 13—17)—4.9.2017 (*Gazette 29.8.2017 p3794*)
2019	19	*Education and Children's Services Act 2019*	8.8.2019	Sch 1 (cl 10)—1.7.2020 (*Gazette 11.6.2020 p3305*)
2021	5	*Statutes Amendment and Repeal (Budget Measures) Act 2021*	25.2.2021	Pt 5 (s 14)—10.10.2022 (*Gazette 29.9.2022 p6255*)
2021	26	*Statutes Amendment (Local Government Review) Act 2021*	17.6.2021	Pt 7 (s 199)—will not be brought into operation
2021	**38**	***Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021***	**7.10.2021**	**Pt 2 (ss 4 to 58, 60 & Sch 1 (cll 65 to 76))—7.10.2021; s 59—5.12.2022 (*Gazette 1.12.2022 p6755*)**

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Long title	amended under *Legislation Revision and Publication Act 2002*	27.11.2014
	amended by 38/2021 s 4	7.10.2021
Pt 1		
s 1	amended by 38/2021 s 5	7.10.2021
s 2	*omitted under Legislation Revision and Publication Act 2002*	*27.11.2014*
s 3		
s 3(1)	amended by 38/2021 s 6(1)	7.10.2021
s 3(2)	substituted by 54/2016 s 4	1.4.2017
	amended by 38/2021 s 6(2), (3)	7.10.2021
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 54/2016 s 5(3)	1.4.2017
Commission	inserted by 38/2021 s 7(1)	7.10.2021
Director of OPI	inserted by 38/2021 s 7(2)	7.10.2021
inquiry agency	(c) deleted by 54/2016 s 5(1)	16.12.2016
	(b) deleted by 60/2016 Sch 1 cl 13(1)	4.9.2017
	substituted by 38/2021 s 7(3)	7.10.2021
Judicial Conduct Commissioner	inserted by 38/2021 s 7(4)	7.10.2021
law enforcement agency	amended by 43/2016 s 5(2)	16.12.2016
	(e) deleted by 60/2016 Sch 1 cl 13(2)	4.9.2017
publish	substituted by 20/2014 s 4	27.11.2014
seconded	inserted by 20/2014 s 4	27.11.2014
s 4(2)	*inserted by 54/2016 s 5(3)*	*1.4.2017*
	deleted by 38/2021 s 7(5)	*7.10.2021*
s 5		
s 5(1)	amended by 54/2016 s 6(1)	1.4.2017
	(c) deleted by 38/2021 s 8(1)	7.10.2021
s 5(2)	*deleted by 38/2021 s 8(2)*	*7.10.2021*
s 5(3)	substituted by 38/2021 s 8(3)	7.10.2021
s 5(4) & (5)	*deleted by 38/2021 s 8(3)*	*7.10.2021*
s 5(6)	*inserted by 54/2016 s 6(2)*	*16.12.2016*
	deleted by 38/2021 s 8(3)	*7.10.2021*
s 6	amended by 38/2021 s 9	7.10.2021
Pt 2		
heading	amended by 38/2021 s 10	7.10.2021
s 7		

s 7(1)	amended by 20/2014 s 5	27.11.2014
	amended by 54/2016 s 7	1.4.2017
	substituted by 38/2021 s 11(1)	7.10.2021
s 7(2)	amended by 38/2021 s 11(2)	7.10.2021
s 7(3)	*deleted by 38/2021 s 11(3)*	*7.10.2021*
s 7(4)	amended by 38/2021 s 11(2), (4) & (5)	7.10.2021
s 7(5)	amended by 38/2021 s 11(2), (6)	7.10.2021
s 7(6)	inserted by 38/2021 s 11(7)	7.10.2021
s 8		
s 8(1)	amended by 38/2021 s 12(1)	7.10.2021
s 8(8)	amended by 34/2015 Sch 1 cl 7(1)	5.12.2016
	amended by 38/2021 s 12(2)	7.10.2021
s 8(8a)	*inserted by 34/2015 Sch 1 cl 7(2)*	*5.12.2016*
	deleted by 38/2021 s 12(3)	*7.10.2021*
s 12		
s 12(1)	amended by 38/2021 s 13(1)	7.10.2021
s 12(2)	amended by 38/2021 s 13(2)	7.10.2021
s 13		
s 13(1)—(3)	amended by 38/2021 s 14	7.10.2021
s 14		
s 14(4)	amended by 38/2021 s 15(1)	7.10.2021
s 14(4a)	inserted by 20/2014 s 6	27.11.2014
	amended by 38/2021 s 15(2)	7.10.2021
s 15	amended by 38/2021 s 16(1), (2)	7.10.2021
s 16		
s 16(1)	substituted by 20/2014 s 7	27.11.2014
s 16(1a)	inserted by 20/2014 s 7	27.11.2014
Pt 3 before substitution by 38/2021		
s 17	*amended by 54/2016 s 8*	*16.12.2016*
	amended by 60/2016 Sch 1 cl 14	*4.9.2017*
s 18		
s 18(5)	*inserted by 54/2016 s 9*	*16.12.2016*
Pt 3	substituted by 38/2021 s 17	7.10.2021
Pt 4		
heading	substituted by 38/2021 s 18	7.10.2021
Pt 4 Div 1	*deleted by 38/2021 s 19*	*7.10.2021*
Pt 4 Div 2		
heading	substituted by 38/2021 s 20	7.10.2021
Pt 4 Div 2 Subdiv 1		
heading	*deleted by 38/2021 s 21*	*7.10.2021*
s 23 before deletion by 38/2021		

s 23(1)	*amended by 54/2016 s 10*	*16.12.2016*
s 23(3) and (4)	*inserted by 20/2014 s 8*	*27.11.2014*
s 23	*deleted by 38/2021 s 22*	*7.10.2021*
s 24		
s 24(1)	amended by 60/2016 Sch 1 cl 15	4.9.2017
	amended by 38/2021 s 23(1), (2)	7.10.2021
s 24(2)	amended by 20/2014 s 9(1), (2)	27.11.2014
	amended by 54/2016 s 11(1), (2)	1.4.2017
	(ab) deleted by 54/2016 s 11(2)	1.4.2017
	substituted by 38/2021 s 23(3)	7.10.2021
s 24(3)	substituted by 38/2021 s 23(3)	7.10.2021
s 24(4)—(8)	*deleted by 38/2021 s 23(3)*	*7.10.2021*
s 25	amended by 20/2014 s 10	27.11.2014
	substituted by 38/2021 s 24	7.10.2021
Pt 4 Div 2 Subdiv 2		
heading	*substituted by 20/2014 s 11*	*27.11.2014*
	deleted by 38/2021 s 25	*7.10.2021*
s 26		
s 26(1)	amended by 38/2021 s 26	7.10.2021
s 27		
s 27(1)	amended by 38/2021 s 27	7.10.2021
s 28	amended by 20/2014 s 12	27.11.2014
s 29A	inserted by 20/2014 s 13	27.11.2014
s 31		
s 31(1)	amended by 54/2016 s 12(1)	16.12.2016
s 31(2)	substituted by 54/2016 s 12(2)	16.12.2016
s 31(7)	amended by 54/2016 s 12(3)—(6)	16.12.2016
s 31(8)—(10)	amended by 54/2016 s 12(7)	16.12.2016
s 31(14) before substitution by 54/2016		
private place	*amended by 20/2014 s 14(1)*	*27.11.2014*
private vehicle	*amended by 20/2014 s 14(2)*	*27.11.2014*
s 31(14)	substituted by 54/2016 s 12(8)	16.12.2016
s 32		
s 32(3)	substituted by 20/2014 s 15(1)	27.11.2014
s 32(3a)	inserted by 20/2014 s 15(1)	27.11.2014
s 32(4)		
designated period	amended by 20/2014 s 15(2)	27.11.2014
s 34		
s 34(1) and (3)	amended by 38/2021 s 28	7.10.2021
s 35		
s 35(1)	amended by 38/2021 s 29	7.10.2021

s 36		
s 36(1)	s 36 redesignated as s 36(1) by 20/2014 s 16	27.11.2014
	amended by 54/2016 s 13(1)	16.12.2016
	amended by 38/2021 s 30(1)	7.10.2021
s 36(1a)	inserted by 38/2021 s 30(2)	7.10.2021
s 36(2)	inserted by 20/2014 s 16	27.11.2014
	amended by 54/2016 s 13(2)	16.12.2016
	amended by 38/2021 s 30(3)	7.10.2021
s 36(3)—(6)	inserted by 20/2014 s 16	27.11.2014
	amended by 38/2021 s 30(3)	7.10.2021
s 36(7)	inserted by 20/2014 s 16	27.11.2014
	substituted by 54/2016 s 13(3)	16.12.2016
	amended by 38/2021 s 30(3)	7.10.2021
s 36(8)	inserted by 20/2014 s 16	27.11.2014
	substituted by 54/2016 s 13(3)	16.12.2016
	amended by 38/2021 s 30(3), (4)	7.10.2021
s 36(9) & (10)	inserted by 20/2014 s 16	27.11.2014
	amended by 38/2021 s 30(3)	7.10.2021
s 36(11)	inserted by 20/2014 s 16	27.11.2014
s 36A	inserted by 38/2021 s 31	7.10.2021
Pt 4 Div 2 Subdiv 3 before deletion by 38/2021		
heading	*substituted by 20/2014 s 17*	*27.11.2014*
s 36A	*inserted by 20/2014 s 18*	*27.11.2014*
s 36A(1)	*amended by 54/2016 s 14(1)*	*1.4.2017*
s 36A(2)	*amended by 54/2016 s 14(2)*	*1.4.2017*
s 37 before substitution by 54/2016		
s 37(1)	*amended by 20/2014 s 19(1)*	*27.11.2014*
s 37(5)	*deleted by 20/2014 s 19(2)*	*27.11.2014*
s 37(6)	*(c) deleted by 20/2014 s 19(3)*	*27.11.2014*
s 37	*substituted by 54/2016 s 15*	*16.12.2016*
s 38		
s 38(1)	*amended by 20/2014 s 20*	*27.11.2014*
	amended by 54/2016 s 16(1)	*16.12.2016*
s 38(2)	*amended by 54/2016 s 16(1)*	*16.12.2016*
s 38(3) and (4)	*amended by 54/2016 s 16(2)*	*16.12.2016*
s 38(5)	*amended by 54/2016 s 16(1)*	*16.12.2016*
s 38(6) and (7)	*substituted by 54/2016 s 16(3)*	*16.12.2016*
s 38(7a)	*inserted by 54/2016 s 16(3)*	*16.12.2016*
Pt 4 Div 2 Subdiv 3	*deleted by 38/2021 s 32*	*7.10.2021*
Pt 4 Div 2 Subdiv 4		

heading	*deleted by 38/2021 s 33*	*7.10.2021*
s 39	amended by 38/2021 s 34(1), (2)	7.10.2021
s 39A	inserted by 38/2021 s 35	7.10.2021
Pt 4 Div 3		
s 40		
s 40(1)	amended by 38/2021 s 36(1)	7.10.2021
s 40(2), (3) and (5)	amended by 38/2021 s 36(2)	7.10.2021
Pt 4 Div 4		
heading	amended by 38/2021 s 37	7.10.2021
s 41		
s 41(1) and (2)	amended by 38/2021 s 38(1)	7.10.2021
s 41(4)	amended by 38/2021 s 38(1), (2)	7.10.2021
s 41(5) and (6)	amended by 38/2021 s 38(1)	7.10.2021
s 42		
s 42(1)	amended by 54/2016 s 17(1)	16.12.2016
	substituted by 38/2021 s 39(1)	7.10.2021
s 42(1a)	inserted by 54/2016 s 17(2)	16.12.2016
	amended by 38/2021 s 39(2), (3)	7.10.2021
s 42(2)	substituted by 54/2016 s 17(2)	16.12.2016
Pt 4 Div 5		
s 43	amended by 20/2014 s 21	27.11.2014
	substituted by 38/2021 s 40	7.10.2021
s 44		
s 44(1)	amended by 54/2016 s 18(1)	16.12.2016
s 44(2)	amended by 54/2016 s 18(2)	16.12.2016
	amended by 38/2021 s 41	7.10.2021
Pt 5		
s 45 before substitution by 38/2021		
s 45(2)	*amended by 20/2014 s 22*	*27.11.2014*
	amended by 54/2016 s 19	*16.12.2016*
	amended by 60/2016 Sch 1 cl 16	*4.9.2017*
s 45	substituted by 38/2021 s 42	7.10.2021
s 46	substituted by 54/2016 s 20	15.7.2017
s 47	amended by 38/2021 s 43	7.10.2021
s 48	amended by 54/2016 s 21	15.7.2017
	substituted by 38/2021 s 44	7.10.2021
s 49	substituted by 38/2021 s 44	7.10.2021
Pt 6		
s 50	amended by 20/2014 s 23	27.11.2014
s 51	amended by 20/2014 s 24	27.11.2014
	amended by 60/2016 Sch 1 cl 17	4.9.2017

	amended by 38/2021 s 45	7.10.2021
s 52	amended by 38/2021 s 46	7.10.2021
s 53	amended by 38/2021 s 47	7.10.2021
s 54 before substitution by 54/2016		
s 54(1)	*amended by 20/2014 s 25(1)—(3)*	*27.11.2014*
s 54(2)	*substituted by 20/2014 s 25(4)*	*27.11.2014*
s 54(3) and (4)	*deleted by 20/2014 s 25(4)*	*27.11.2014*
s 54	substituted by 54/2016 s 22	16.12.2016
s 54(1)	amended by 38/2021 s 48(1)	7.10.2021
s 54(2)	amended by 38/2021 s 48(2)	7.10.2021
s 54(3)	amended by 38/2021 s 48(3)—(5)	7.10.2021
s 54(3a)	inserted by 38/2021 s 48(6)	7.10.2021
s 54(5)—(7)	inserted by 38/2021 s 48(7)	7.10.2021
s 55		
s 55(1)	amended by 38/2021 s 49	7.10.2021
s 56	*deleted by 38/2021 s 50*	*7.10.2021*
s 56A	inserted by 20/2014 s 26	27.11.2014
s 56A(1)	substituted by 54/2016 s 23	16.12.2016
	amended by 38/2021 s 51	7.10.2021
s 56A(1a)	inserted by 54/2016 s 23	16.12.2016
	amended by 38/2021 s 51	7.10.2021
s 57		
s 57(1)	amended by 38/2021 s 52	7.10.2021
s 59		
s 59(1)	s 59 redesignated as s 59(1) by 54/2016 s 24	16.12.2016
s 59(2)	*inserted by 54/2016 s 24*	*16.12.2016*
	deleted by 38/2021 s 53	*7.10.2021*
s 59A	inserted by 38/2021 s 54	7.10.2021
s 60		
s 60(2)	amended by 38/2021 s 55	7.10.2021
s 61	*deleted by 38/2021 s 56*	*7.10.2021*
Sch 1	amended by 20/2014 s 27	27.11.2014
	amended by 19/2019 Sch 1 cl 10	1.7.2020
	amended by 5/2021 s 14	10.10.2022
Sch 2		
cl 3		
cl 3(5)	amended by 38/2021 s 57(1)	7.10.2021
cl 3(7)	amended by 38/2021 s 57(2)	7.10.2021
cl 3(13)	amended by 38/2021 s 57(3)	7.10.2021
cl 3(14)	amended by 38/2021 s 57(4)	7.10.2021
cl 3(9)	amended by 20/2014 s 28	27.11.2014

cl 4		
cl 4(6)	amended by 38/2021 s 57(5)	7.10.2021
cl 5		
cl 5(1)	amended by 38/2021 s 57(6)	7.10.2021
cl 6		
cl 6(4) and (5)	amended by 38/2021 s 57(7)	7.10.2021
cl 7		
cl 7(2)	substituted by 38/2021 s 57(8)	7.10.2021
cl 7(4)	amended by 38/2021 s 57(9)	7.10.2021
cl 8		
cl 8(4)	(b) deleted by 38/2021 s 57(10)	7.10.2021
cl 12	amended by 38/2021 s 57(11)	7.10.2021
cl 13		
cl 13(1) and (5)	amended by 38/2021 s 57(11)	7.10.2021
cl 14		
cl 14(1)	amended by 38/2021 s 57(11)	7.10.2021
cl 17		
cl 17(2)	amended by 38/2021 s 57(12)	7.10.2021
Sch 3	*omitted under Legislation Revision and Publication Act 2002*	*27.11.2014*
Sch 3	inserted by 54/2016 s 25	16.12.2016
cl 2		
cl 2(4)	amended by 38/2021 s 58	7.10.2021
cl 3		
cl 3(2), (3) and (5)	amended by 38/2021 s 58	7.10.2021
cl 4		
cl 4(4) and (5)	amended by 38/2021 s 58	7.10.2021
Sch 4	inserted by 54/2016 s 25	15.7.2017
	substituted by 38/2021 s 59	**5.12.2022**
Sch 5	inserted by 38/2021 s 60	7.10.2021

Transitional etc provisions associated with Act or amendments

Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2014, Sch 1 Pt 3—Transitional provision

3—Application of section 15

Section 32 of the *Independent Commissioner Against Corruption Act 2012*, as in force immediately after the commencement of section 15 of this Act, applies in relation to a thing—

(a) that is, immediately before that commencement, subject to a retention order under section 32; or

(b) that has been seized under section 32 and that is, immediately before that commencement, being held pending the institution or finalisation of proceedings for an offence relating to the thing,

as if the thing had been made subject to a retention order or had been seized after that commencement.

Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2016, Sch 1 Pt 4—Transitional provisions

4—Exercise of powers of inquiry agency

If, immediately before the commencement of this Act, the Independent Commissioner Against Corruption was taking action in respect of a matter raising potential issues of misconduct or maladministration in public administration by exercising the powers of an inquiry agency, the *Independent Commissioner Against Corruption Act 2012*, as in force immediately before the commencement of this Act, continues to apply in relation to the matter unless and until the Commissioner determines to withdraw from exercising the powers of an inquiry agency in accordance with section 36A(3) of that Act (as so in force).

5—Application of Schedule 3

Despite section 31(14) of the *Independent Commissioner Against Corruption Act 2012* (as in force after the commencement of section 12 of this Act), the provisions of Schedule 3 of that Act do not apply in relation to a warrant issued before the commencement of section 12 or any items seized pursuant to such a warrant.

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

65—Commissioner continues in office

The Commissioner holding office under the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continues to hold office as the Commissioner under the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act.

66—Judicial Conduct Commissioner continues in office

Despite section 12(3) and clause 16 of this Schedule, the Judicial Conduct Commissioner holding office under the *Judicial Conduct Commissioner Act 2015* as in force before the commencement of this Act continues to hold that office on the commencement of this Act.

67—Deputy Commissioner continues in office

The Deputy Commissioner holding office under the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continues to hold office as the Deputy Commissioner under the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act.

68—OPI organisational structure

Until the day fixed by the Minister by notice in the Gazette (which must be not more than 3 months after the commencement of this Act), the Minister may appoint either the Commissioner under the *Independent Commission Against Corruption Act 2012* or another person (on terms and conditions determined by the Minister) to act as the Director of OPI under that Act (as amended by this Act).

69—Staff

(1) On the commencement of this Act—

(a) employees engaged by the Commissioner under section 12 of the *Independent Commissioner Against Corruption Act 2012* (including any employees assigned to the Office under section 18(3)(a) of the Act) will be taken to be engaged by the Commission under that section as amended by this Act; and

(b) arrangements established by the Commissioner under section 13 of the *Independent Commissioner Against Corruption Act 2012* will be taken to continue as if they were arrangements established by the Commission under that section as amended by this Act; and

(c) Public Service employees assigned to the Office under section 18(3)(a) of the *Independent Commissioner Against Corruption Act 2012* will be taken to continue to be assigned to the Office under section 17(2)(b) of the *Independent Commission Against Corruption Act 2012*).

(2) Despite section 17(2) of the *Independent Commission Against Corruption Act 2012*, the Independent Commission Against Corruption and the Director of OPI may enter into an arrangement for the continued assignment of employees who were, immediately before the commencement of this Act, assigned to the Office under section 18(3)(b) of the *Independent Commissioner Against Corruption Act 2012*.

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.

72—Websites

Despite section 48 of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act, the websites referred to in that section are not required immediately on the commencement of that section but must be developed as soon as practicable (and in any case within 6 months after the commencement of that section).

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.

74—Review continues

Any review being conducted by the reviewer under Schedule 4 of the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of section 59 may be continued after the commencement of that section as if it had been carried out by the Inspector under Schedule 4 of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of section 59.

75—First review after commencement to consider past prejudice to reputation

(1) The Inspector under Schedule 4 of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of section 59 must, in undertaking the first annual review occurring under that Schedule after the commencement of section 59, consider whether undue prejudice to the reputation of any person was caused by the Commissioner, employees of the Commissioner or employees of the Office under the *Independent Commissioner Against Corruption Act 2012* as in force at any time before the commencement of this Act.

(2) If the Inspector finds that undue prejudice to the reputation of any person was caused by the Commissioner, employees of the Commissioner or employees of the Office, the Inspector may—

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

(b) recommend that the Commission pay an amount of compensation to the person.

(3) The Inspector may also make recommendations to the Attorney-General in relation to the making of ex gratia payments as reimbursement of legal costs incurred by persons the subject of, or required to participate in, any investigation under the *Independent Commissioner Against Corruption Act 2012* (being costs incurred before the commencement of section 59A of the *Independent Commission Against Corruption Act 2012* (as inserted by this Act).

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

27.11.2014
5.12.2016
16.12.2016
1.4.2017
15.7.2017
4.9.2017
1.7.2020
7.10.2021
10.10.2022