

INFORMATION COMMISSIONER BILL 2024

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)** on behalf of Hon Stephen Dawson (Minister for Innovation and the Digital Economy), read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.36 pm]: I move —

That the bill be now read a second time.

As we are seeking to introduce new privacy legislation in Western Australia, we need appropriate, independent office holders to oversee privacy matters in Western Australia. The Information Commissioner Bill 2024 seeks to establish three new commissioners to support the privacy provisions of the Privacy and Responsible Information Sharing Bill 2024, as well as the Freedom of Information Act 1992.

The bill will establish a tripartite, single-authority structure whereby the regulation of privacy and freedom of information will sit within one organisation. This model recognises the complementary nature of privacy and freedom of information laws. Both are underpinned by common principles of transparency and accountability; both involve the consideration and balancing of the public interest in the protection of personal privacy with the free flow of information for public benefit. In an environment in which privacy and information access practices are being strongly challenged by the digital environment, having a single regulator empowered to oversee and guide the public sector on both matters will provide Western Australia with contemporary and effective oversight that best matches public expectations.

The first of the commissioners is the new Information Commissioner, who will have overall responsibility for both privacy and freedom of information matters. The second is the Information Access Deputy Commissioner, who will be responsible for freedom of information matters under the Freedom of Information Act 1992. The current Information Commissioner, under the Freedom of Information Act 1992, will be transitioned across to this deputy role. The third is the Privacy Deputy Commissioner, who will be responsible for privacy matters under the Privacy and Responsible Information Sharing Bill 2024.

The Information Access Deputy Commissioner and Privacy Deputy Commissioner are deputies of the Information Commissioner and will be subject to the direction of the new Information Commissioner. The three commissioners will be supported by staff appointed under part 3 of the Public Sector Management Act 1994. It is intended that a department known as the Office of the Information Commissioner will be established under the Public Sector Management Act 1994, akin to the approach taken for other independent offices, such as the Office of the Auditor General, the Office of the Inspector of Custodial Services and the Public Sector Commission. The new Information Commissioner will be the head of this department.

I now turn to the bill itself. Part 2 of the bill will provide for the appointment of each of the commissioners. Each commissioner will be appointed by the Governor for up to five years and is eligible for reappointment once. Each commissioner will be eligible for appointment only if the person is or has been a legal practitioner of at least five years' standing or is, in the opinion of the Governor, suitable for appointment as a commissioner by reason of the person's legal qualifications and experience. Each commissioner is not part of the public service. This part also deals with matters ancillary to their appointment such as their remuneration and terms and conditions of service, the taking of an oath or affirmation of office, and the appointment of acting commissioners.

Part 3 of the bill will provide for the functions and powers of each of the commissioners and includes a power of delegation.

Part 4 of the bill will provide for staff and related matters. Staff are to be appointed under part 3 of the Public Sector Management Act 1994 to assist the commissioners in the performance of their functions. In addition, the Information Commissioner may seek the services of officers in the public service or engage persons to provide services, information or advice to the commissioners.

Part 5 of the bill contains miscellaneous provisions relating to the Information Commissioner's requirement to report directly to Parliament, secrecy provisions, protection from liability and general regulation-making powers.

Part 6 of the bill contains transitional provisions, including provisions to transition the current Information Commissioner to the Office of Information Access Deputy Commissioner. Staff of the current Information Commissioner will also be transitioned to the new department.

Part 7 of the bill contains a number of consequential amendments to other acts, including the Freedom of Information Act 1992 and the Financial Management Act 2006.

Overall, the bill will ensure that the new privacy legislation being contemporaneously introduced by the Privacy and Responsible Information Sharing Bill 2024 will be supported by strong, independent and effective oversight.

In accordance with standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does the bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper [3268](#).]

Debate adjourned, pursuant to standing orders.