

# Corruption and Crime Commission Amendment (Misconduct) Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

*(As amended during consideration in detail)*

**Corruption and Crime Commission Amendment  
(Misconduct) Bill 2014**

**A Bill for**

**An Act to amend the *Corruption and Crime Commission Act 2003* and  
to make consequential amendments to various other Acts.**

The Parliament of Western Australia enacts as follows:

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**Part 1 — Preliminary matters**

**1. Short title**

This is the *Corruption and Crime Commission Amendment (Misconduct) Act 2014*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 2 — *Corruption and Crime Commission Act 2003***  
2 **amended**

3 **3. Act amended**

4 This Part amends the *Corruption and Crime Commission*  
5 *Act 2003*.

6 **4. Long title amended**

7 In the long title:

8 (a) in the 1<sup>st</sup> bullet point delete “**Commission; and**” and  
9 insert:

10  
11 **Commission with functions with respect to serious**  
12 **misconduct by public officers and organised crime;**  
13 **and**

14  
15 (b) after the 1<sup>st</sup> bullet point insert:

16  
17 • **confer on the Public Sector Commissioner functions**  
18 **with respect to misconduct by public officers; and**

19  
20 (c) in the 2<sup>nd</sup> bullet point delete “**Commission; and**” and  
21 insert:

22  
23 **Commission.**

24  
25 (d) delete the last bullet point.

26 **5. Section 1 amended**

27 In section 1 delete “*Corruption and Crime Commission*  
28 *Act 2003.*” and insert:

29  
30 *Corruption, Crime and Misconduct Act 2003.*  
31

**s. 6**

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1 **6. Section 3 amended**

2 (1) In section 3(1) delete the definitions of:

3 *allegation*

4 *investigation*

5 *serious misconduct*

6 (2) In section 3(1) insert in alphabetical order:

7

8 *allegation* means —

9 (a) a report made to the Commission under  
10 section 25; or

11 (b) a proposition initiated by the Commission  
12 under section 26(1); or

13 (c) a matter notified to the Commission under  
14 section 28(2); or

15 (d) an allegation referred to the Commission under  
16 section 45M(d); or

17 (e) a received matter; or

18 (f) a report made to the Public Sector  
19 Commissioner under section 45E(1); or

20 (g) a proposition initiated by the Public Sector  
21 Commissioner under section 45F(1); or

22 (h) a matter notified to the Public Sector  
23 Commissioner under section 45H(2);

24 *employee of the Police Department* includes an  
25 Aboriginal police liaison officer, a police auxiliary  
26 officer and a police cadet under the *Police Act 1892*;

27 *investigation* means an investigation by the  
28 Commission, whether alone or in cooperation with  
29 another body, under Part 3 (including a preliminary  
30 investigation conducted under section 32(2));



- 1                    **minor misconduct** means misconduct of a kind  
2 described in section 4(d) that is not any of the  
3 following —
- 4                    (a) police misconduct;
- 5                    (b) conduct engaged in by a member of a House of  
6 Parliament or the Clerk of a House of  
7 Parliament;
- 8                    (c) conduct engaged in by a member of a local  
9 government or council of a local government;
- 10                   **officer of the Public Sector Commissioner** means a  
11 public service officer employed in, or seconded to, the  
12 office of the Public Sector Commissioner;
- 13                   **Police Department** means the agency (as defined in the  
14 *Public Sector Management Act 1994* section 3(1))  
15 principally assisting the Minister responsible for the  
16 administration of the *Police Act 1892* in the  
17 administration of that Act;
- 18                   **police misconduct** means —
- 19                   (a) misconduct by —
- 20                        (i) a member of the Police Force; or  
21                        (ii) an employee of the Police Department;  
22                                or  
23                        (iii) a person seconded to perform functions  
24 and services for, or duties in the service  
25 of, the Police Department;
- 26                        or
- 27                   (b) reviewable police action;
- 28                   **police service** means the organisation consisting of —
- 29                   (a) members of the Police Force; and  
30                   (b) employees of the Police Department; and

**s. 7**

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- 1 (c) persons seconded to perform functions and  
2 services for, or duties in the service of, the  
3 Police Department;
- 4 ***serious misconduct*** means —
- 5 (a) misconduct of a kind described in section 4(a),  
6 (b) or (c) by a public officer; or  
7 (b) police misconduct;  
8
- 9 (3) In section 3(1) in the definition of ***appropriate authority*** after  
10 “does not include” insert:  
11
- 12 the Commission,  
13
- 14 (4) In section 3(1) in the definition of ***reviewable police action***  
15 delete “a police officer or an employee of the Police Service of  
16 the Public Service,” and insert:  
17
- 18 a member of the Police Force, an employee of the Police  
19 Department or a person seconded to perform functions and  
20 services for, or duties in the service of, the Police Department  
21
- 22 (5) In section 3(2) delete “exclusively by a House of Parliament,  
23 unless that House so resolves.” and insert:  
24
- 25 by a House of Parliament.  
26
- 27 **7. Section 4 amended**  
28 Delete section 4(d)(v).

1 **8. Section 7B amended**

2 Delete section 7B(3) and insert:

3

4 (3) The Act's purpose in relation to misconduct is to be  
5 achieved by conferring functions on the Commission  
6 and on the Public Sector Commissioner.

7 (4) The Commission is to be able to investigate cases of  
8 serious misconduct.

9 (5) The Public Sector Commissioner is to be able to  
10 investigate cases of minor misconduct.

11 (6) The Commission and the Public Sector Commissioner  
12 are to help public authorities to prevent, and to identify  
13 and deal effectively and appropriately with,  
14 misconduct.  
15

16 **9. Section 17 deleted**

17 Delete section 17.

18 **10. Section 18 amended**

19 (1) In section 18(1):

20 (a) delete “(the *misconduct function*)” and insert:

21

22 (the *serious misconduct function*)

23

24 (b) delete “misconduct” and insert:

25

26 serious misconduct  
27

**s. 10**

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- 1 (2) After section 18(3) insert:  
2
- 3 (4) As an aspect of the serious misconduct function, the  
4 Commission may help public authorities to prevent  
5 serious misconduct by doing the following —
- 6 (a) analysing the information it gathers in  
7 performing the serious misconduct function,  
8 including the intelligence gathered in support of  
9 investigations into serious misconduct;
- 10 (b) analysing systems used within public  
11 authorities to prevent serious misconduct;
- 12 (c) providing information to, consulting with, and  
13 making recommendations to, public authorities  
14 about ways to prevent serious misconduct;
- 15 (d) generally increasing the capacity of public  
16 authorities to prevent serious misconduct by  
17 providing advice and training to those  
18 authorities and, if asked, to other entities;
- 19 (e) reporting on ways to prevent and combat  
20 serious misconduct.  
21
- 22 (3) In section 18 amend the provisions listed in the Table as set out  
23 in the Table.

24 **Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 18(2)	misconduct function (1 <sup>st</sup> occurrence)	serious misconduct function
s. 18(2)(a), (b), (c) and (e)	misconduct (each occurrence)	serious misconduct

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Provision	Delete	Insert
s. 18(2)(h)	misconduct function	serious misconduct function

1 Note: The heading to amended section 18 is to read:

2 **Serious misconduct function**

3 **11. Section 21A amended**

4 After section 21A(2) insert:

5

6 (3) This section does not limit the powers of the  
7 Commission under section 22 or 24 in relation to police  
8 misconduct.

9

10 **12. Sections 21AA, 21AB and 21AC inserted**

11 At the end of Part 2 Division 2 insert:

12

13 **21AA. Prevention and education function: police**  
14 **misconduct**

15 (1) It is a function of the Commission (the *prevention and*  
16 *education function*) to help to prevent police  
17 misconduct.

18 (2) Without limiting the ways the Commission may  
19 perform the prevention and education function, the  
20 Commission performs that function by doing the  
21 following —

22 (a) analysing the information it gathers in  
23 performing functions under this Act and any  
24 other Act, including the intelligence gathered in  
25 support of its police misconduct and organised  
26 crime functions;

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- 1 (b) analysing systems used within the Police  
2 Department to prevent police misconduct;
- 3 (c) using information it gathers from any source in  
4 support of the prevention and education  
5 function;
- 6 (d) providing information to, consulting with, and  
7 making recommendations to, the Police  
8 Department;
- 9 (e) providing information relevant to the  
10 prevention and education function to members  
11 of the police service and to the general  
12 community;
- 13 (f) ensuring that in performing all of its functions  
14 it has regard to the prevention and education  
15 function;
- 16 (g) generally increasing the capacity of the Police  
17 Department to prevent and combat police  
18 misconduct by providing advice and training to  
19 the Police Department;
- 20 (h) reporting on ways to prevent and combat police  
21 misconduct.
- 22 (3) In performing the prevention and education function,  
23 the Commission may consult, cooperate, and exchange  
24 information, with the Public Sector Commissioner.

25 **21AB. Capacity development function: public authorities**

- 26 (1) If, in the course of performing its other functions, the  
27 Commission identifies a special need to increase the  
28 capacity of public authorities generally, or the capacity  
29 of a particular public authority, to prevent or combat  
30 misconduct, the Commission has the function (the  
31 ***capacity development function***) of assisting, in  
32 cooperation with the Public Sector Commissioner,

- 1                   those public authorities or that public authority to  
2                   increase that capacity.
- 3           (2)   Without limiting the ways the Commission may  
4           perform the capacity development function, the  
5           Commission performs that function by doing the  
6           following —
- 7                   (a)   analysing intelligence it gathers in support of its  
8                   serious misconduct and organised crime  
9                   functions;
- 10                  (b)   using information it gathers from any source in  
11                  support of the capacity development function.
- 12           (3)   In performing the capacity development function, the  
13           Commission may consult, cooperate, and exchange  
14           information, with the Public Sector Commissioner.
- 15           (4)   This section does not limit the obligation of the  
16           Commission under section 45A(4) to support the  
17           Public Sector Commissioner.

18           **21AC. Information about allegations received or initiated**  
19           **by Public Sector Commissioner**

20                   For the purpose of assisting the Commission in  
21                   performing the serious misconduct function and the  
22                   capacity development function, the Public Sector  
23                   Commissioner will, if requested by the Commission to  
24                   do so, provide the Commission with details about any  
25                   allegation, or class of allegations, of minor misconduct  
26                   received or initiated by the Public Sector  
27                   Commissioner under section 45D(1).  
28

**s. 13**

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1 **13. Part 3 heading replaced**

2 Delete the heading to Part 3 and insert:

3

4 **Part 3 — Serious misconduct: role of**  
5 **Commission**

6

7 **14. Section 23 deleted**

8 Delete section 23.

9 **15. Sections 27A and 27B deleted**

10 Delete sections 27A and 27B.

11 **16. Section 32 amended**

12 Delete section 32(3) and insert:

13

14 (3) The Commission may consult about an allegation or  
15 other matter relating to serious misconduct the persons  
16 and bodies that the Commission considers desirable  
17 and practicable to consult.

18

19 **17. Section 34 amended**

20 (1) In section 34(1) delete the passage that begins with “regard,  
21 when” and ends with “misconduct —” and insert:

22

23 regard when deciding whether or not to make a decision under  
24 section 33(1)(a) or (b), the Commission is to have regard to the  
25 nature of the serious misconduct that —

26



- 1 (2) In section 34(2):  
2 (a) delete the passage that begins with “When” and ends  
3 with “include” and insert:  
4  
5 Without limiting the matters to which the Commission  
6 may have regard when deciding whether or not to make  
7 a decision under section 33(1)(c), the Commission is to  
8 have regard to  
9  
10 (b) in paragraph (b) delete “whether, in the opinion of the  
11 Commission, serious misconduct —” and insert:  
12  
13 the nature of the serious misconduct that —  
14

15 **18. Section 37 amended**

16 In section 37(1) after “decides” insert:

17

18 under section 33(1)(c)

19

20 **19. Section 38 amended**

21 In section 38(1) after “Auditor General” (1<sup>st</sup> occurrence) insert:

22

23 under section 33(1)(c)

24

25 **20. Section 42 amended**

26 (1) In section 42(2):

27 (a) after “direct” insert:

28

29 the Public Sector Commissioner or

30

**s. 20**

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- 1 (b) in paragraph (b) before “an officer” insert:  
2  
3 an officer of the Public Sector Commissioner or  
4
- 5 (2) Delete section 42(3) and insert:  
6
- 7 (3) The Public Sector Commissioner or appropriate  
8 authority must comply with the direction.  
9
- 10 (3) In section 42(4) after “absolves” insert:  
11  
12 the Public Sector Commissioner and his or her officers or  
13
- 14 (4) Delete section 42(5).
- 15 (5) In section 42(6) before “appropriate authority.” insert:  
16  
17 Public Sector Commissioner or  
18
- 19 (6) In section 42(7):  
20 (a) before “appropriate authority” (each occurrence) insert:  
21  
22 Public Sector Commissioner or  
23
- 24 (b) delete “direction given to it under subsection (2).” and  
25 insert:  
26  
27 direction.  
28
- 29 Note: The heading to amended section 42 is to read:  
30 **Commission may direct Public Sector Commissioner or**  
31 **appropriate authority not to take action**

1   **21.     Part 4A inserted**

2           After section 44 insert:

3

4                   **Part 4A — Misconduct: role of Public Sector**  
5                                   **Commissioner**

6                           **Division 1 — Functions in relation to misconduct**

7   **45A.    Prevention and education function**

- 8           (1) It is a function of the Public Sector Commissioner (the  
9           *prevention and education function*) to help to prevent  
10           misconduct.
- 11          (2) Without limiting the ways the Public Sector  
12           Commissioner may perform the prevention and  
13           education function, the Public Sector Commissioner  
14           performs that function by doing the following —
- 15                  (a) analysing the information the Public Sector  
16                  Commissioner gathers in performing functions  
17                  under this Act and any other Act, including the  
18                  information gathered in support of inquiries  
19                  conducted under Division 2;
- 20                  (b) analysing systems used within public  
21                  authorities to prevent misconduct;
- 22                  (c) providing information to, consulting with, and  
23                  making recommendations to, public authorities;
- 24                  (d) providing information relevant to the  
25                  prevention and education function to the  
26                  general community;
- 27                  (e) ensuring that, in performing functions under  
28                  this Act and any other Act, the Public Sector  
29                  Commissioner has regard to the prevention and  
30                  education function;

**s. 21**

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- 1 (f) generally increasing the capacity of public  
2 authorities to prevent and combat misconduct  
3 by providing advice and training to those  
4 authorities and, if asked, to other entities;
- 5 (g) reporting on ways to prevent and combat  
6 misconduct.
- 7 (3) In performing the prevention and education function,  
8 the Public Sector Commissioner may consult,  
9 cooperate, and exchange information, with the  
10 Commission.
- 11 (4) In performing the prevention and education function,  
12 the Public Sector Commissioner is to be supported by  
13 the Commission, other independent agencies and  
14 appropriate authorities.
- 15 **45B. Minor misconduct function**
- 16 (1) It is a function of the Public Sector Commissioner (the  
17 *minor misconduct function*) to ensure that an  
18 allegation about, or information or matter involving,  
19 minor misconduct is dealt with in an appropriate way.
- 20 (2) Without limiting the ways the Public Sector  
21 Commissioner may perform the minor misconduct  
22 function or any other function under this Act or any  
23 other Act, the Public Sector Commissioner performs  
24 the minor misconduct function by doing the  
25 following —
- 26 (a) receiving and initiating allegations of minor  
27 misconduct;
- 28 (b) considering whether action is needed in relation  
29 to allegations and matters related to minor  
30 misconduct;
- 31 (c) inquiring into or taking other action in relation  
32 to allegations and matters related to minor  
33 misconduct if it is appropriate to do so, or

- 1 referring the allegations or matters to other  
2 independent agencies or appropriate authorities  
3 so that they can take action themselves or in  
4 cooperation with the Public Sector  
5 Commissioner;
- 6 (d) monitoring the way in which other independent  
7 agencies and appropriate authorities take action  
8 in relation to allegations and matters that are  
9 referred to them by the Public Sector  
10 Commissioner;
- 11 (e) whether or not there has been an allegation of  
12 minor misconduct, inquiring into whether  
13 minor misconduct —
- 14 (i) has or may have occurred; or  
15 (ii) is or may be occurring; or  
16 (iii) is or may be about to occur; or  
17 (iv) is likely to occur;
- 18 (f) making recommendations and furnishing  
19 reports on the outcome of inquiries;
- 20 (g) consulting, cooperating, and exchanging  
21 information, with the following —
- 22 (i) the Commission;  
23 (ii) other independent agencies;  
24 (iii) appropriate authorities;  
25 (iv) the principal officers of notifying  
26 authorities;
- 27 (v) any person or body whose functions  
28 under a law of the Commonwealth,  
29 another State or a Territory correspond  
30 with those of the Public Sector  
31 Commissioner under this Part or under  
32 the *Public Sector Management*  
33 *Act 1994*;

**s. 21**

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- 1 (vi) any person, or any authority or body of  
2 this State, the Commonwealth, another  
3 State or a Territory, declared by the  
4 Minister to be a person, authority or  
5 body to which this paragraph applies;
- 6 (h) giving information to another independent  
7 agency or other authority that may provide  
8 evidence of the commission of a criminal  
9 offence under a written law or may otherwise  
10 be relevant to the functions of the agency or  
11 other authority.
- 12 (3) When the Public Sector Commissioner is deciding  
13 whether further action for the purposes of this Act in  
14 relation to an allegation is warranted, the matters to  
15 which the Public Sector Commissioner may have  
16 regard include the following —
- 17 (a) the seriousness of the conduct or involvement  
18 to which the allegation relates;
- 19 (b) whether or not the allegation is frivolous or  
20 vexatious or is made in good faith;
- 21 (c) whether or not the conduct or involvement to  
22 which the allegation relates is or has been the  
23 subject of appropriate investigatory or other  
24 action otherwise than for the purposes of this  
25 Act;
- 26 (d) whether or not, in all the circumstances, the  
27 carrying out of further action for the purposes  
28 of this Act in relation to the allegation is  
29 justified or is in the public interest.

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**Division 2 — Minor misconduct**

**Subdivision 1 — Assessments and opinions**

**45C. Assessments and opinions as to occurrence of minor misconduct**

- (1) Whether or not there has been an allegation of minor misconduct, the Public Sector Commissioner may make assessments and form opinions as to whether minor misconduct —
  - (a) has or may have occurred; or
  - (b) is or may be occurring; or
  - (c) is or may be about to occur; or
  - (d) is likely to occur.
- (2) The Public Sector Commissioner may make the assessments and form the opinions on the basis of all or any of the following —
  - (a) consultations with the Commission, another independent agency or an appropriate authority;
  - (b) inquiries and other action, whether conducted or taken in cooperation with the Commission, another independent agency or an appropriate authority or otherwise;
  - (c) inquiries or other action conducted or taken by the Commission, another independent agency or an appropriate authority.
- (3) If the Public Sector Commissioner makes an assessment or forms an opinion under subsection (1) concerning minor misconduct, the Public Sector Commissioner may —
  - (a) conduct a review in respect of part or all of the functions, management or operations of one or more notifying authorities in connection with the minor misconduct; or

**s. 21**

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- 1 (b) advise the Commission, another independent  
2 agency or an appropriate authority of the  
3 assessment or opinion and provide the  
4 Commission, agency or authority with the  
5 information on which the assessment or opinion  
6 is based.
- 7 (4) For the purpose of subsection (3)(a), the *Public Sector*  
8 *Management Act 1994* Part 3A Division 3  
9 Subdivision 1 (except sections 24B(2) to (5) and 24G)  
10 applies (with the necessary changes) as if —
- 11 (a) a reference to a review were a reference to a  
12 review under subsection (3)(a); and
- 13 (b) a reference to a public sector body, or to the  
14 employing authority of a public sector body,  
15 were a reference to a notifying authority; and
- 16 (c) a reference to an employee were a reference to  
17 a public officer.

18 **Subdivision 2 — Allegations**

19 **45D. Allegations of minor misconduct**

- 20 (1) Subject to section 45G, the Public Sector  
21 Commissioner —
- 22 (a) is to receive allegations of minor misconduct by  
23 way of —
- 24 (i) reports under section 45E(1); and  
25 (ii) matters notified under section 45H(2);  
26 and
- 27 (b) may initiate allegations of minor misconduct by  
28 way of propositions under section 45F(1).
- 29 (2) Before assessing an allegation received by the Public  
30 Sector Commissioner, the Public Sector Commissioner  
31 may seek further information about the allegation from  
32 the person making the allegation in such form as the  
33 Public Sector Commissioner thinks fit.



- 1           **45E. Any person may report minor misconduct**
- 2           (1) A public officer or any other person may report to the
- 3           Public Sector Commissioner any matter which that
- 4           person suspects on reasonable grounds concerns or
- 5           may concern minor misconduct that —
- 6               (a) has or may have occurred; or
- 7               (b) is or may be occurring; or
- 8               (c) is or may be about to occur; or
- 9               (d) is likely to occur.
- 10          (2) A report may be made to the Public Sector
- 11          Commissioner orally or in writing.
- 12          (3) This section has effect despite —
- 13               (a) the provisions of any other Act, whether
- 14               enacted before or after this Act; and
- 15               (b) any obligation the person has to maintain
- 16               confidentiality about a matter to which the
- 17               allegation relates.
- 18          (4) A person who exercises the power conferred by
- 19          subsection (1) does not commit an offence by reason of
- 20          that exercise.
- 21          (5) A person who makes a report under this section and
- 22          who does so —
- 23               (a) knowing that the content of the report is false or
- 24               misleading in a material respect; or
- 25               (b) maliciously or recklessly,
- 26          is guilty of a crime.
- 27          Penalty: a fine of \$60 000 and imprisonment for
- 28          3 years.
- 29          Summary conviction penalty: a fine of \$10 000.

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- 1 (6) A charge cannot be brought against a person under  
2 subsection (5) other than by the Director of Public  
3 Prosecutions.
- 4 (7) A publication by —  
5 (a) a complainant; or  
6 (b) a person who has relied upon information  
7 derived from a complainant; or  
8 (c) a person who has no reliable source of  
9 knowledge (which is to be presumed in the  
10 absence of proof to the contrary),  
11 that an allegation has been made about a person to the  
12 Public Sector Commissioner carries with it an  
13 inference that there were reasonable grounds for  
14 making the complaint.
- 15 **45F. Public Sector Commissioner may make proposition**  
16 **about minor misconduct**
- 17 (1) The Public Sector Commissioner may make a  
18 proposition that minor misconduct —  
19 (a) has or may have occurred; or  
20 (b) is or may be occurring; or  
21 (c) is or may be about to occur; or  
22 (d) is likely to occur.
- 23 (2) A proposition under subsection (1) may be based on  
24 the Public Sector Commissioner’s own experience and  
25 knowledge and made independently of any allegation  
26 referred to in section 45E(1).

1           **45G. Allegation about Commission, Public Sector**  
2           **Commissioner, Parliamentary Inspector or judicial**  
3           **officer not to be received or initiated**

4           The Public Sector Commissioner must not receive or  
5           initiate an allegation about a person in the person's  
6           capacity as any of the following —

- 7           (a) the holder of the office of Commissioner,  
8           whether the person is appointed under section 9  
9           or 14;
- 10           (b) an officer of the Commission;
- 11           (c) the Public Sector Commissioner;
- 12           (d) the Parliamentary Inspector;
- 13           (e) an officer of the Parliamentary Inspector;
- 14           (f) the holder of a judicial office as defined in *The*  
15           *Criminal Code* section 121.

16                           **Subdivision 3 — Duty to notify**

17           **45H. Certain officers obliged to notify minor misconduct**

- 18           (1) This section applies to the following persons —
- 19           (a) the Parliamentary Commissioner;
- 20           (b) the Inspector of Custodial Services;
- 21           (c) the principal officer of a notifying authority;
- 22           (d) an officer who constitutes a notifying authority.
- 23           (2) Subject to subsections (4) and (5), a person to whom  
24           this section applies must notify the Public Sector  
25           Commissioner in writing of any matter —
- 26           (a) which that person suspects on reasonable  
27           grounds concerns or may concern minor  
28           misconduct; and
- 29           (b) which, in the case of a person referred to in  
30           subsection (1)(c) or (d), is of relevance or  
31           concern to that person in his or her official  
32           capacity.

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- 1 (3) The Public Sector Commissioner must be notified  
2 under subsection (2) as soon as is reasonably  
3 practicable after the person becomes aware of the  
4 matter.
- 5 (4) A person to whom this section applies is not required  
6 to notify the Public Sector Commissioner of —
- 7 (a) a matter that —
- 8 (i) is being dealt with by that person, or the  
9 notifying authority of which that person  
10 is the principal officer, under  
11 section 45M(b); or
- 12 (ii) is referred to that person, or the  
13 notifying authority of which that person  
14 is the principal officer, by the Public  
15 Sector Commissioner under  
16 section 45M(c);
- 17 or
- 18 (b) a matter that —
- 19 (i) is referred to that person, or a notifying  
20 authority of which that person is the  
21 principal officer, by the Parliamentary  
22 Inspector under section 196(3)(f); and
- 23 (ii) relates to conduct by the holder of the  
24 office of Commissioner, whether the  
25 person is appointed under section 9 or  
26 14, or by an officer of the Commission  
27 or an officer of the Parliamentary  
28 Inspector.
- 29 (5) The Director of Public Prosecutions is not required to  
30 notify the Public Sector Commissioner of a matter if  
31 the matter does not relate to conduct by —
- 32 (a) the Deputy Director as defined in the *Director*  
33 *of Public Prosecutions Act 1991* section 3; or

- 1 (b) a member of staff appointed or made available  
2 for the performance of the functions of the  
3 Director of Public Prosecutions under the  
4 *Director of Public Prosecutions Act 1991*  
5 section 30.

6 **45I. Duty to notify under s. 45H is paramount**

- 7 (1) The duty of a person to make a notification under  
8 section 45H must be complied with despite —  
9 (a) the provisions of any other Act, whether  
10 enacted before or after this Act; or  
11 (b) any obligation the person has to maintain  
12 confidentiality about a matter to which the  
13 allegation relates,  
14 and the person does not commit an offence by reason  
15 of that compliance.

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

18 **45J. Public Sector Commissioner may issue guidelines**  
19 **about notifications**

- 20 (1) The Public Sector Commissioner may issue guidelines  
21 about —  
22 (a) what matters are or are not required to be  
23 notified to the Public Sector Commissioner  
24 under section 45H; and  
25 (b) what reports are required with respect to such  
26 matters.  
27 (2) If the Public Sector Commissioner issues guidelines to  
28 the effect that a matter is not required to be notified  
29 under section 45H but is required to be reported on in  
30 accordance with the guidelines, a person to whom the  
31 guidelines apply is not required to notify the Public

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1 Sector Commissioner of the matter under section 45H  
2 but is required to report on the matter in accordance  
3 with the guidelines.

4 (3) The Public Sector Commissioner may deal with a  
5 matter reported on under subsection (2) as if it were a  
6 matter notified under section 45H.

7 **45K. Public Sector Commissioner may report breach of**  
8 **duty to report or notify**

9 If a person to whom section 45H or 45J applies does  
10 not comply with the duty to make a notification or  
11 report under that section, the Public Sector  
12 Commissioner may report that non-compliance —

13 (a) in the case of the principal officer referred to in  
14 paragraph (c) of the definition of *principal*  
15 *officer of a notifying authority* — to the CEO  
16 as defined in the *Court Security and Custodial*  
17 *Services Act 1999* section 3 or the *chief*  
18 *executive officer* as defined in the *Prisons*  
19 *Act 1981* section 3(1), as is relevant to the case;  
20 and

21 (b) in any other case — to a person or body that  
22 has the power to take disciplinary action against  
23 the person to whom section 45H or 45J applies.

24 **Subdivision 4 — Assessments, opinions and investigations**

25 **45L. Dealing with allegations**

26 (1) The Public Sector Commissioner is to deal with an  
27 allegation by —

28 (a) assessing the allegation and forming an opinion  
29 under section 45C; and

30 (b) making a decision under section 45M that the  
31 Public Sector Commissioner considers  
32 appropriate in the circumstances.

1           (2) For the purposes of subsection (1), the Public Sector  
2           Commissioner may conduct a preliminary inquiry into  
3           the allegation.

4           (3) The Public Sector Commissioner may consult about an  
5           allegation or other matter relating to minor misconduct  
6           the persons and bodies that the Public Sector  
7           Commissioner considers desirable and practicable to  
8           consult.

9           **45M. Decision on further action on allegation**

10           Having made an assessment of an allegation, the Public  
11           Sector Commissioner may decide to do any of the  
12           following —

13           (a) inquire into or take other action in relation to  
14           the allegation without the involvement of the  
15           Commission, another independent agency or an  
16           appropriate authority;

17           (b) inquire into or take other action in relation to  
18           the allegation in cooperation with the  
19           Commission, another independent agency or an  
20           appropriate authority;

21           (c) refer the allegation to another independent  
22           agency or an appropriate authority for action in  
23           accordance with sections 45R(1) and 45S(1),  
24           and those sections apply accordingly;

25           (d) refer the allegation to the Commission in  
26           accordance with section 45T(1), and that  
27           section applies accordingly;

28           (e) take no action.

29           **45N. Matters to be considered in deciding who should**  
30           **take action**

31           (1) Without limiting the matters to which the Public Sector  
32           Commissioner may have regard when deciding

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- 1 whether or not to make a decision under  
2 section 45M(a) or (b), the Public Sector Commissioner  
3 is to have regard to the nature of the minor misconduct  
4 that —
- 5 (a) has or may have occurred; or  
6 (b) is or may be occurring; or  
7 (c) is or may be about to occur; or  
8 (d) is likely to occur.
- 9 (2) Without limiting the matters to which the Public Sector  
10 Commissioner may have regard when deciding  
11 whether or not to make a decision under  
12 section 45M(c), the Public Sector Commissioner is to  
13 have regard to the following —
- 14 (a) the seniority of any public officer to whom the  
15 allegation relates;  
16 (b) the nature of the minor misconduct that —  
17 (i) has or may have occurred; or  
18 (ii) is or may be occurring; or  
19 (iii) is or may be about to occur; or  
20 (iv) is likely to occur;  
21 (c) the need for any inquiry into the allegation to  
22 be conducted independently of a public  
23 authority with which any public officer to  
24 whom the allegation relates is connected by  
25 membership or employment or in any other  
26 respect.
- 27 **45O. Informant to be notified of decision not to take**  
28 **action**
- 29 If —
- 30 (a) a person makes an allegation under  
31 section 45E(1) or 45H(2); or



1 (b) a complaint under the *Parliamentary*  
2 *Commissioner Act 1971* is referred to the Public  
3 Sector Commissioner,  
4 and the Public Sector Commissioner decides to take no  
5 action, the Public Sector Commissioner must notify the  
6 person who made the allegation or complaint of the  
7 decision.

8 **45P. Person to whom allegation relates can be advised of**  
9 **outcome of inquiry**

10 The Public Sector Commissioner may inform a person  
11 to whom an allegation relates as to the outcome of any  
12 inquiry conducted by the Public Sector Commissioner  
13 or an appropriate authority in relation to the allegation  
14 if —

- 15 (a) the person requests the information; or  
16 (b) the Public Sector Commissioner considers that  
17 giving the information to the person is in the  
18 person's best interests,

19 and the Public Sector Commissioner considers that  
20 giving the information to the person is in the public  
21 interest.

22 **45Q. Action by Public Sector Commissioner: special**  
23 **inquiry or investigation**

24 (1) If the Public Sector Commissioner decides to take  
25 action under section 45M(a) in relation to an allegation,  
26 the Public Sector Commissioner may —

- 27 (a) arrange for the holding of a special inquiry into  
28 the allegation; or  
29 (b) investigate the allegation.

30 (2) For the purposes of subsection (1), the *Public Sector*  
31 *Management Act 1994* Part 3A Division 3

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- 1 Subdivisions 2 and 3 (except sections 24H(2) to (6) and  
2 24K(2)) apply (with the necessary changes) as if —
- 3 (a) a reference to a special inquiry or investigation  
4 were a reference to a special inquiry or  
5 investigation under subsection (1); and
- 6 (b) a reference to a public sector body were a  
7 reference to a notifying authority.
- 8 (3) This section does not limit the action that the Public  
9 Sector Commissioner may take under section 45M(a).
- 10 **45R. Referring allegation to independent agency or**  
11 **appropriate authority under s. 45M(c)**
- 12 (1) If the Public Sector Commissioner decides under  
13 section 45M(c) to refer an allegation to another  
14 independent agency or an appropriate authority, the  
15 Public Sector Commissioner is to refer the allegation as  
16 soon as is practicable after making that decision.
- 17 (2) The allegation may be accompanied by a report, which  
18 may include —
- 19 (a) a recommendation under section 45X; and  
20 (b) such other recommendations as the Public  
21 Sector Commissioner thinks fit in respect of the  
22 action to be taken; and
- 23 (c) such information as the Public Sector  
24 Commissioner considers would assist the  
25 agency or authority to take the action.
- 26 (3) If the allegation is referred to an appropriate authority,  
27 the report may also include a recommendation as to the  
28 period within which the action should be taken.

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**45S. Referring allegations to Parliamentary  
Commissioner or Auditor General under s. 45M(c)**

- (1) The Public Sector Commissioner is not to refer an allegation to the Parliamentary Commissioner or the Auditor General under section 45M(c) without having first consulted the Parliamentary Commissioner or the Auditor General.
- (2) If an allegation is referred to the Parliamentary Commissioner, the allegation is to be treated by the Parliamentary Commissioner as if it were a complaint duly made under the *Parliamentary Commissioner Act 1971* section 17 and that Act applies to and in relation to the allegation accordingly.
- (3) If an allegation is referred to the Auditor General, the Auditor General may investigate the allegation and the *Auditor General Act 2006* applies to the investigation as if it were an investigation under section 18(2) of that Act.
- (4) The *Auditor General Act 2006* does not prevent the Auditor General or any person to whom section 46(2) of that Act applies from disclosing to —
  - (a) the Public Sector Commissioner; or
  - (b) a person who is authorised by the Public Sector Commissioner for the purposes of this paragraph,information obtained in the course of an investigation under subsection (3).

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- 1           **45T. Referring allegations to Corruption and Crime**  
2           **Commission under s. 45M(d)**
- 3           (1) The Public Sector Commissioner may refer an  
4           allegation to the Commission under section 45M(d) if  
5           the Public Sector Commissioner considers —
- 6                 (a) that serious misconduct —
- 7                         (i) has or may have occurred; or  
8                         (ii) is or may be occurring; or  
9                         (iii) is or may be about to occur; or  
10                        (iv) is likely to occur;
- 11                 or
- 12                 (b) that it is otherwise appropriate to refer the  
13                 allegation.
- 14           (2) The Commission may deal with an allegation referred  
15           under section 45M(d) as if it were a matter notified  
16           under section 28(2).
- 17           (3) This section does not affect the obligation of the Public  
18           Sector Commissioner under section 28(2) to notify the  
19           Commission of suspected serious misconduct of  
20           relevance or concern to the Public Sector  
21           Commissioner in his or her official capacity.
- 22           **45U. Public Sector Commissioner may decide to take**  
23           **other action**
- 24           (1) Despite having made a decision to act under  
25           section 45M(a), (b) or (c), the Public Sector  
26           Commissioner may at any time decide to act under  
27           another of those paragraphs.
- 28           (2) The Public Sector Commissioner may make the  
29           decision whether or not he or she has acted under the  
30           first-mentioned decision.

- 1           (3) The Public Sector Commissioner is not to reconsider  
2           action taken in respect of a matter reported under  
3           section 45J(2) except on new information.
- 4           (4) If, as a result of the first-mentioned decision, an  
5           allegation was referred to the Parliamentary  
6           Commissioner, subsection (1) does not apply unless the  
7           action to be taken by the Public Sector Commissioner  
8           has been requested or agreed to by the Parliamentary  
9           Commissioner.

10       **45V. Monitoring of appropriate authorities**

- 11           (1) If —
- 12               (a) an appropriate authority takes action in relation  
13               to an allegation in cooperation with the Public  
14               Sector Commissioner; or
- 15               (b) an allegation is referred to an appropriate  
16               authority by the Public Sector Commissioner,
- 17           unless the Public Sector Commissioner advises the  
18           appropriate authority in writing to the contrary, the  
19           appropriate authority must prepare a detailed report of  
20           the action the appropriate authority has taken in  
21           relation to the allegation.
- 22           (2) The report must be given to the Public Sector  
23           Commissioner in writing as soon as practicable after  
24           the action is taken.
- 25           (3) The Public Sector Commissioner may, by written  
26           notice, direct the appropriate authority to give the  
27           Public Sector Commissioner a detailed report on —
- 28               (a) action the appropriate authority has taken in  
29               relation to the allegation; and
- 30               (b) if action recommended by the Public Sector  
31               Commissioner under section 45R(2)(a) or (b)  
32               has not been taken, or any action has not been

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- 1                                      taken within the time recommended under  
2                                      section 45R(3) — the reasons for not so taking  
3                                      the action.
- 4                      (4)    The appropriate authority must comply with a direction  
5                                      given to it under subsection (3).
- 6                      (5)    A report referred to in this section must include details  
7                                      of any disciplinary action taken as a consequence of the  
8                                      recommendations.

9                      **45W.    Review of appropriate authority’s handling of**  
10                                      **minor misconduct**

- 11                      (1)    The Public Sector Commissioner may review the way  
12                                      an appropriate authority has dealt with minor  
13                                      misconduct, in relation to either a particular allegation,  
14                                      complaint, information or matter involving minor  
15                                      misconduct or in relation to a class of allegation,  
16                                      complaint, information or matter involving minor  
17                                      misconduct.
- 18                      (2)    The appropriate authority must give the Public Sector  
19                                      Commissioner all necessary help to undertake a review  
20                                      under subsection (1).

21                                      **Subdivision 5 — Recommendations**

22                      **45X.    Recommendations by Public Sector Commissioner**

- 23                      (1)    The Public Sector Commissioner may —  
24                                      (a)    make recommendations as to whether  
25                                      consideration should or should not be given to  
26                                      the taking of disciplinary action against  
27                                      particular persons; and  
28                                      (b)    make recommendations for the taking of other  
29                                      action that the Public Sector Commissioner  
30                                      considers should be taken in relation to the

- 1 subject matter of his or her assessments or  
2 opinions or the results of his or her inquiries.
- 3 (2) The Public Sector Commissioner may make the  
4 recommendations on the basis of —
- 5 (a) his or her assessments, consultations and  
6 opinions; and
- 7 (b) inquiries and other action, whether conducted  
8 or taken in cooperation with the Commission,  
9 another independent agency or an appropriate  
10 authority or otherwise; and
- 11 (c) inquiries or other action conducted or taken by  
12 the Commission, another independent agency  
13 or an appropriate authority.
- 14 (3) Without limiting subsection (1), the Public Sector  
15 Commissioner may —
- 16 (a) recommend that further inquiry or investigation  
17 into any matter be carried out —
- 18 (i) by an Inquiry Panel appointed under the  
19 *Local Government Act 1995*; or
- 20 (ii) in such other manner as the  
21 Commissioner may recommend;
- 22 and
- 23 (b) recommend the terms of reference of any such  
24 inquiry or investigation.
- 25 (4) The Public Sector Commissioner may give the  
26 recommendations to another independent agency or an  
27 appropriate authority.
- 28 (5) A recommendation made by the Public Sector  
29 Commissioner under this section is not, and is not to be  
30 taken as, a finding that a particular person has engaged  
31 in conduct that constitutes or provides grounds on  
32 which that person's tenure of office, contract of

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1 employment, or agreement for the provision of services  
2 is or may be terminated.

3 **45Y. Other action for minor misconduct not affected**

4 This Part does not limit the action that may lawfully be  
5 taken to discipline or otherwise deal with a person for  
6 minor misconduct.

7 **Division 3 — Reporting**

8 **45ZA. Report to Parliament on inquiry or other action**

- 9 (1) The Public Sector Commissioner may at any time  
10 prepare a report on any matter that has been the subject  
11 of an inquiry or other action in respect of minor  
12 misconduct, irrespective of whether the inquiry was  
13 conducted or other action was taken by —
- 14 (a) the Public Sector Commissioner alone; or
  - 15 (b) the Public Sector Commissioner in cooperation  
16 with the Commission, another independent  
17 agency or an appropriate authority; or
  - 18 (c) an appropriate authority alone.
- 19 (2) The Public Sector Commissioner may include in the  
20 report —
- 21 (a) statements as to any of the Public Sector  
22 Commissioner's assessments, opinions and  
23 recommendations; and
  - 24 (b) statements as to any of the Public Sector  
25 Commissioner's reasons for the assessments,  
26 opinions and recommendations.
- 27 (3) The *Public Sector Management Act 1994* section 22F  
28 applies in relation to a report prepared under this  
29 section as if it were a report prepared under  
30 section 22E of that Act.



- 1           **45ZB. Report to Parliament on further action by**  
2           **appropriate authority**
- 3           (1) After considering a report given to the Public Sector  
4           Commissioner by an appropriate authority under  
5           section 45V(2) or (4), the Public Sector Commissioner  
6           may prepare a report on the report of the authority.
- 7           (2) During or after the taking of action by an appropriate  
8           authority in respect of an allegation referred to the  
9           authority under section 45R(1), the Public Sector  
10          Commissioner may prepare a report if the Public  
11          Sector Commissioner considers that the action is not  
12          being, or has not been, taken properly, efficiently or  
13          expeditiously.
- 14          (3) The Public Sector Commissioner may include in a  
15          report prepared under this section —
- 16                  (a) statements as to any of the Public Sector  
17                  Commissioner’s assessments, opinions and  
18                  recommendations; and
- 19                  (b) statements as to any of the Public Sector  
20                  Commissioner’s reasons for the assessments,  
21                  opinions and recommendations.
- 22          (4) The *Public Sector Management Act 1994* section 22F  
23          applies in relation to a report prepared under this  
24          section as if it were a report prepared under  
25          section 22E of that Act.
- 26           **45ZC. Person subject to adverse report: entitlement of**  
27           Before reporting any matters adverse to a person or  
28           body in a report under section 45ZA or 45ZB, the  
29           Public Sector Commissioner must give the person or  
30           body a reasonable opportunity to make representations  
31           to the Public Sector Commissioner concerning those  
32           matters.

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- 1           **45ZD. Annual report under PSMA s. 22D: matters to be**  
2           **included**
- 3           (1) The Public Sector Commissioner must include in the  
4           report prepared under the *Public Sector Management*  
5           *Act 1994* section 22D in respect of any year a report of  
6           the Public Sector Commissioner's general activities  
7           under this Part during that year.
- 8           (2) The report is to include the following —
- 9                   (a) a description of the types of allegations  
10                   received or initiated by the Public Sector  
11                   Commissioner;
- 12                   (b) a description of the types of inquiries conducted  
13                   by the Public Sector Commissioner, whether  
14                   alone or in cooperation with another person or  
15                   body;
- 16                   (c) an evaluation of the response of appropriate  
17                   authorities to recommendations made by the  
18                   Public Sector Commissioner;
- 19                   (d) a description of the general nature and extent of  
20                   any information furnished under this Part by the  
21                   Public Sector Commissioner to other  
22                   independent agencies;
- 23                   (e) a description of the general nature and extent of  
24                   referrals to the Commission under  
25                   section 45M(d);
- 26                   (f) a description of the extent to which inquiries  
27                   conducted by the Public Sector Commissioner,  
28                   whether alone or in cooperation with another  
29                   person or body, have resulted in disciplinary  
30                   action against public officers;
- 31                   (g) a description of the Public Sector  
32                   Commissioner's activities during that year in  
33                   relation to the prevention and education  
34                   function;

1 (h) any recommendations for changes in the laws  
2 of the State that the Public Sector  
3 Commissioner considers should be made as a  
4 result of the performance of functions under  
5 this Part.

6 (3) This section does not require the Public Sector  
7 Commissioner to include operational information in a  
8 report prepared under subsection (1).  
9

10 **22. Section 91 amended**

11 In section 91(2):

12 (a) in paragraph (d) delete “the general nature” and insert:

13

14 a description of the general nature

15

16 (b) in paragraph (d) delete “authorities; and” and insert:

17

18 agencies; and

19

20 (c) in paragraph (e) delete “the extent” and insert:

21

22 a description of the extent

23

24 **23. Section 119 amended**

25 In section 119 in the definition of *controlled operation*  
26 paragraph (a) delete “of misconduct; and” and insert:

27

28 for the purposes of an investigation; and

29

**s. 24**

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1 **24. Section 166 amended**

2 In section 166 delete “the Commission,” and insert:

3

4 the Commission or the Public Sector Commissioner,

5

6 **25. Section 175 amended**

7 In section 175 delete “the Commission or Parliamentary  
8 Inspector in the performance of its, his or her functions.” and  
9 insert:

10

11 the Commission, the Public Sector Commissioner or the  
12 Parliamentary Inspector in the performance of functions under  
13 this Act.

14

15 **26. Section 217A inserted**

16 At the beginning of Part 14 insert:

17

18 **217A. Findings and opinions of Commission or Public**  
19 **Sector Commissioner**

20 (1) This section applies in relation to a finding made, or an  
21 opinion formed or expressed, by the Commission or the  
22 Public Sector Commissioner in the course of  
23 performing a function under this Act.

24 (2) The Commission or the Public Sector Commissioner  
25 must not publish or report a finding or opinion that a  
26 particular person is guilty of or has committed, is  
27 committing or is about to commit a criminal offence or  
28 disciplinary offence.

29 (3) A finding or opinion that misconduct has occurred, is  
30 occurring or is about to occur is not, and is not to be

1 taken as, a finding or opinion that a particular person is  
2 guilty of or has committed, is committing or is about to  
3 commit a criminal offence or disciplinary offence.  
4

5 **27. Section 219 replaced**

6 Delete section 219 and insert:  
7

8 **219. Protection from liability**

9 (1) In this section —

10 *official* means —

- 11 (a) the Commission; or  
12 (b) any person acting on behalf of, or with the  
13 authority of, the Commission; or  
14 (c) the Public Sector Commissioner; or  
15 (d) any person acting on behalf of, or with the  
16 authority of, the Public Sector Commissioner;  
17 or  
18 (e) the Parliamentary Inspector; or  
19 (f) any person acting on behalf of, or with the  
20 authority of, the Parliamentary Inspector.

21 (2) No action or claim for damages lies against an official  
22 for or on account of anything done or omitted, or  
23 ordered or authorised to be done or omitted —

- 24 (a) under, or apparently under, this Act; or  
25 (b) for the purpose, or apparently for the purpose,  
26 of giving effect to this Act.

27 (3) Subsection (2) does not apply if it is proved that the  
28 thing was done or omitted, or ordered or authorised to  
29 be done or omitted, maliciously and without reasonable  
30 and probable cause.  
31

**s. 28**

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- 1 **28. Section 220 amended**
- 2 (1) In section 220(2) delete “Commission” (each occurrence) and  
3 insert:  
4
- 5 Commission, the Public Sector Commissioner  
6
- 7 (2) In section 220(3)(a) after “Commission” insert:  
8
- 9 or the Public Sector Commissioner  
10
- 11 (3) In section 220(4):  
12 (a) after “Commission” (1<sup>st</sup> occurrence) insert:  
13  
14 or the Public Sector Commissioner  
15
- 16 (b) delete “Commission,” and insert:  
17  
18 Commission or the Public Sector Commissioner,  
19
- 20 **29. Section 222 amended**
- 21 In section 222 delete “Commission” and insert:  
22
- 23 Commission, the Public Sector Commissioner  
24

1 **30. Part 15 replaced**

2 Delete Part 15 and insert:  
3

4 **Part 15 — Transitional matters**

5 **228. Transitional provision for *Corruption and Crime***  
6 ***Commission Amendment (Misconduct) Act 2014***

7 An allegation of misconduct that was received or  
8 initiated by the Commission before the day on which  
9 the *Corruption and Crime Commission Amendment*  
10 *(Misconduct) Act 2014* Part 2 comes into operation  
11 must continue to be dealt with under this Act as if that  
12 Part had not been enacted.  
13

14 **31. Various references to “misconduct” amended**

15 In the provisions listed in the Table delete “misconduct” (each  
16 occurrence) and insert:  
17

18 serious misconduct  
19

20 **Table**

s. 22(1)	s. 24(1)(a) and (b)
s. 25(1)	s. 26(1)
s. 28(2)(a)	s. 41(1)
s. 84(1)	s. 100(2)
s. 148(3)	

**s. 32**

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1 **32. Schedule 2 clause 3 amended**

2 (1) In Schedule 2 clause 3(4) delete “subclause (5) and”.

3 (2) Delete Schedule 2 clause 3(5).

4 Note: The headings to the amended sections listed in the Table are to read as set  
5 out in the Table.

6

**Table**

<b>Amended section</b>	<b>Section heading</b>
s. 22	<b>Assessments and opinions as to occurrence of serious misconduct</b>
s. 24	<b>Allegations of serious misconduct</b>
s. 25	<b>Any person may report serious misconduct</b>
s. 26	<b>Commission may make proposition about serious misconduct</b>
s. 28	<b>Certain officers obliged to notify serious misconduct</b>
s. 41	<b>Commission may review how appropriate authority has dealt with serious misconduct</b>



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**Part 3 — Other Acts amended**

**33. *Freedom of Information Act 1992* amended**

- (1) This section amends the *Freedom of Information Act 1992*.
- (2) In Schedule 2 after “The Corruption and Crime Commission.” insert:

The Public Sector Commissioner, but only in relation to documents originating with or received by the Public Sector Commissioner in relation to his or her functions under the *Corruption, Crime and Misconduct Act 2003*.

**34. *Inspector of Custodial Services Act 2003* amended**

- (1) This section amends the *Inspector of Custodial Services Act 2003*.
- (2) Delete section 26(1)(c) and insert:

(c) an investigation, inquiry or other action taken by the Corruption and Crime Commission or Public Sector Commissioner under the *Corruption, Crime and Misconduct Act 2003*;  
or

**35. *Local Government Act 1995* amended**

- (1) This section amends the *Local Government Act 1995*.
- (2) In section 9.69A delete “section 28 of the *Corruption and Crime Commission Act 2003*.” and insert:

the *Corruption, Crime and Misconduct Act 2003* section 28 or 45H.

**s. 36**

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1 Note: The heading to amended section 9.69A is to read:

2 **Notification under *Corruption, Crime and Misconduct Act 2003***

3 **36. *Parliamentary Commissioner Act 1971* amended**

4 (1) This section amends the *Parliamentary Commissioner Act 1971*.

5 (2) In section 4 in the definitions of ***Corruption and Crime***  
6 ***Commission, officer of the Corruption and Crime***  
7 ***Commission, officer of the Parliamentary Inspector of the***  
8 ***Corruption and Crime Commission*** and ***Parliamentary***  
9 ***Inspector of the Corruption and Crime Commission*** delete  
10 “*Corruption and Crime Commission Act 2003*,” and insert:

11

12 *Corruption, Crime and Misconduct Act 2003*;

13

14 (3) In section 22A(1) after “Commission,” insert:

15

16 the Public Sector Commissioner,

17

18 (4) In section 22B:

19 (a) in paragraph (b) delete the passage that begins with “and  
20 concerns” and continues to the end of the paragraph and  
21 insert:

22

23 and concerns a matter that is relevant to the  
24 functions of any of the following —

25 (iv) the Corruption and Crime Commission;

26 (v) the Parliamentary Inspector;

27 (vi) the Public Sector Commissioner, but  
28 only those functions under the

29 *Corruption, Crime and Misconduct*  
30 *Act 2003*;

1 (vii) the Director of Public Prosecutions;  
2 or

3  
4 (b) after paragraph (d) insert:

5  
6 (ea) is disclosed to —  
7 (i) the Public Sector Commissioner; or  
8 (ii) a person who is authorised by the Public  
9 Sector Commissioner for the purposes  
10 of this subparagraph,  
11 and concerns a matter that is relevant to the  
12 functions of the Public Sector Commissioner  
13 under the *Corruption, Crime and Misconduct*  
14 *Act 2003*; or

15  
16 (5) In Schedule 1 in the Table in the 3<sup>rd</sup> row delete “*Corruption and*  
17 *Crime Commission Act 2003*” and insert:

18  
19  
20 *Corruption, Crime and*  
*Misconduct Act 2003*

20 **37. Public Sector Management Act 1994 amended**

21 (1) This section amends the *Public Sector Management Act 1994*.

22 (2) In section 24D(2) in the Penalty delete “\$1 000.” and insert:

23  
24 \$10 000.

25  
26 (3) In section 24D(3) in the Penalty delete “\$1 000.” and insert:

27  
28 \$10 000.  
29

**s. 38**

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- 1 (4) In Schedule 3 clause 3(4) delete “\$1 000.” and insert:  
2  
3 \$10 000.  
4
- 5 (5) In Schedule 3 clause 4(1) delete “\$1 000.” and insert:  
6  
7 \$10 000.  
8
- 9 (6) In Schedule 3 clause 5(1) and (2) delete “\$1 000.” and insert:  
10  
11 \$10 000.  
12

13 **38. *Terrorism (Preventative Detention) Act 2006* amended**

- 14 (1) This section amends the *Terrorism (Preventative Detention)*  
15 *Act 2006*.
- 16 (2) In section 4(1) delete the definition of ***allegation of misconduct***.
- 17 (3) In section 4(1) insert in alphabetical order:  
18  
19 ***allegation of serious misconduct*** has the same  
20 meaning as in the *Corruption, Crime and Misconduct*  
21 *Act 2003*;  
22
- 23 (4) In section 4(1) in the definition of ***Corruption and Crime***  
24 ***Commission*** delete “*Corruption and Crime Commission*  
25 *Act 2003*;” and insert:  
26  
27 *Corruption, Crime and Misconduct Act 2003*;  
28

- 1 (5) In section 42(2):  
2 (a) delete “*Corruption and Crime Commission Act 2003*,”  
3 and insert:  
4  
5 *Corruption, Crime and Misconduct Act 2003*,  
6  
7 (b) delete “misconduct” and insert:  
8  
9 serious misconduct  
10
- 11 (6) In section 43(1)(e) delete “misconduct” and insert:  
12  
13 serious misconduct  
14
- 15 (7) In section 46(3)(h) and (4)(g) delete “misconduct” and insert:  
16  
17 serious misconduct  
18
- 19 (8) Delete section 55(1)(b) and insert:  
20  
21 (b) a function under the *Corruption, Crime and*  
22 *Misconduct Act 2003* of the Corruption and  
23 Crime Commission, the Commissioner under  
24 that Act, the Public Sector Commissioner or the  
25 Parliamentary Inspector; or  
26

27 Note: The heading to amended section 42 is to read:

28 **Contacting proper authorities to make complaints, allegations of**  
29 **serious misconduct and representations**

**s. 39**

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1 **39. References in other Acts to “Corruption and Crime**  
2 **Commission Act 2003” amended**

3 (1) This section amends the Acts listed in the Table.

4 (2) In the provisions listed in the Table:

5 (a) delete “*Corruption and Crime Commission Act 2003*”  
6 (each occurrence) and insert:

7

8 *Corruption, Crime and Misconduct Act 2003*

9

10 (b) delete “*Corruption and Crime Commission Act 2003*” (each  
11 occurrence) and insert:

12

13 *Corruption, Crime and Misconduct Act 2003*

14

15 (c) delete “*Corruption and Crime Commission Act 2003*” and  
16 insert:

17

18 *Corruption, Crime and Misconduct Act 2003*

19

20

**Table**

<i>Children’s Court of Western Australia Act 1988</i>	s. 51A(3)(d)
<i>Combat Sports Act 1987</i>	s. 54B(3)(d) and (e)
<i>Constitution Acts Amendment Act 1899</i>	Sch. V Pt. 1 Div. 2
<i>Co-operatives Act 2009</i>	s. 476(5)(h)
<i>Court Security and Custodial Services Act 1999</i>	s. 38(1)

<i>Criminal Investigation (Covert Powers) Act 2012</i>	s. 5 def. of <b>Corruption and Crime Commission</b> , 41(3)
<i>Criminal Investigation Act 2006</i>	s. 115 def. of <b>CCC, CCC officer</b> and <b>Parliamentary Inspector</b>
<i>Criminal Organisations Control Act 2012</i>	s. 3(1) def. of <b>CC Commissioner, officer of the Corruption and Crime Commission</b> , 7(3)(b), 168, Sch. 1A Pt. 1 it. 3 and Pt. 2 it. 3
<i>Cross-border Justice Act 2008</i>	s. 103(1) def. of <b>judicial body</b> par. (b)
<i>Gaming and Wagering Commission Act 1987</i>	s. 20A(3)
<i>Juries Act 1957</i>	s. 56B(2)(ba) and (bb), 56C(2)(ba) and (bb), Sch. 1 Div. 2 cl. 4(a), (b) and (c)
<i>Liquor Control Act 1988</i>	s. 30(2)
<i>Magistrates Court Act 2004</i>	s. 33(7)(d)
<i>Prisons Act 1981</i>	s. 3(1) def. of <b>judicial body</b> par. (b), 15C(1)
<i>Public Interest Disclosure Act 2003</i>	s. 3(1) def. of <b>Corruption and Crime Commission</b> , 11(3), 16(1)(f) and (3)(g)
<i>Royal Commissions Act 1968</i>	s. 8A(1) def. of <b>public authority</b> and <b>public officer</b>
<i>Salaries and Allowances Act 1975</i>	s. 7(1)

**s. 39**

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<i>Sentencing Act 1995</i>	Sch. 1A Pt. 1 it. 3 and Pt. 2 it. 3
<i>Spent Convictions Act 1988</i>	Sch. 3 cl. 1(1) Table it. 10B(a) to (h)
<i>Surveillance Devices Act 1998</i>	s. 3(1) def. of <b>Corruption and Crime Commission</b> and <b>officer of the Corruption and Crime Commission</b> and (4) def. of <b>misconduct</b> , 18A(1) def. of <b>section 5 offence</b> , 23(3), 33(3)
<i>Telecommunications (Interception and Access) Western Australia Act 1996</i>	s. 3(1) def. of <b>certifying officer</b> par. (aa), <b>chief officer</b> par. (aa), <b>Corruption and Crime Commission</b> and <b>officer</b> par. (aa)
<i>Terrorism (Extraordinary Powers) Act 2005</i>	s. 20(2)
<i>Witness Protection (Western Australia) Act 1996</i>	s. 3(1) def. of <b>Corruption and Crime Commission</b> and <b>officer of the Corruption and Crime Commission</b> , 14(2a), 34(2a)

