

Corruption and Crime Commission Amendment (Misconduct) Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

**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 1st 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 1st 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 2nd 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

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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

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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

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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**

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

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

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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” (1st 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

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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;

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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*;

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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

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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.

- 1 **45S. Referring allegations to Parliamentary**
2 **Commissioner or Auditor General under s. 45M(c)**
- 3 (1) The Public Sector Commissioner is not to refer an
4 allegation to the Parliamentary Commissioner or the
5 Auditor General under section 45M(c) without having
6 first consulted the Parliamentary Commissioner or the
7 Auditor General.
- 8 (2) If an allegation is referred to the Parliamentary
9 Commissioner, the allegation is to be treated by the
10 Parliamentary Commissioner as if it were a complaint
11 duly made under the *Parliamentary Commissioner*
12 *Act 1971* section 17 and that Act applies to and in
13 relation to the allegation accordingly.
- 14 (3) If an allegation is referred to the Auditor General, the
15 Auditor General may investigate the allegation and the
16 *Auditor General Act 2006* applies to the investigation
17 as if it were an investigation under section 18(2) of that
18 Act.
- 19 (4) The *Auditor General Act 2006* does not prevent the
20 Auditor General or any person to whom section 46(2)
21 of that Act applies from disclosing to —
22 (a) the Public Sector Commissioner; or
23 (b) a person who is authorised by the Public Sector
24 Commissioner for the purposes of this
25 paragraph,
26 information obtained in the course of an investigation
27 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.

s. 21

- 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

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

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” (1st 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. 31

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

3

Table

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

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Part 3 — Other Acts amended

32. *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*.

33. *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

34. *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. 35

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

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

3 **35. *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 3rd row delete “*Corruption and*
17 *Crime Commission Act 2003*” and insert:
18

Corruption, Crime and
Misconduct Act 2003

19

20 **36. *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

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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 **37. *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**

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1 **38. 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 Corruption and Crime Commission , 41(3)
<i>Criminal Investigation Act 2006</i>	s. 115 def. of CCC , CCC officer and Parliamentary Inspector
<i>Criminal Organisations Control Act 2012</i>	s. 3(1) def. of CC Commissioner , officer of the Corruption and Crime Commission , 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 judicial body 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 judicial body par. (b), 15C(1)
<i>Public Interest Disclosure Act 2003</i>	s. 3(1) def. of Corruption and Crime Commission , 11(3), 16(1)(f) and (3)(g)
<i>Royal Commissions Act 1968</i>	s. 8A(1) def. of public authority and public officer
<i>Salaries and Allowances Act 1975</i>	s. 7(1)

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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 Corruption and Crime Commission and officer of the Corruption and Crime Commission and (4) def. of misconduct , 18A(1) def. of section 5 offence , 23(3), 33(3)
<i>Telecommunications (Interception and Access) Western Australia Act 1996</i>	s. 3(1) def. of certifying officer par. (aa), chief officer par. (aa), Corruption and Crime Commission and officer 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 Corruption and Crime Commission and officer of the Corruption and Crime Commission , 14(2a), 34(2a)

