National Commission for Aboriginal and Torres Strait Islander Children and Young People Act 2026

No. 14, 2026

An Act about the National Commission for Aboriginal and Torres Strait Islander Children and Young People, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)

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National Commission for Aboriginal and Torres Strait Islander Children and Young People Act 2026

No. 14, 2026

An Act about the National Commission for Aboriginal and Torres Strait Islander Children and Young People, and for related purposes

[*Assented to 26 March 2026*]

The Parliament of Australia enacts:

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Part 1—Preliminary

Division 1—General

1 Short title

This Act is the *National Commission for Aboriginal and Torres Strait Islander Children and Young People Act 2026*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provisions	**Commencement**	**Date/Details**
1. The whole of this Act	Either: (a) if this Act receives the Royal Assent before 1 July 2026—1 July 2026; or (b) otherwise—a single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the first day of the first calendar month to start after the end of that period.	1 July 2026 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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3 Objects

(1) The objects of this Act are to:

(a) promote the rights, interests, development, safety and wellbeing of Aboriginal and Torres Strait Islander children and young people, and acknowledge and build on their strengths; and

(b) improve development, safety and wellbeing outcomes for Aboriginal and Torres Strait Islander children and young people; and

(c) identify systemic issues and barriers to Aboriginal and Torres Strait Islander children and young people's development, safety and wellbeing; and

(d) support Aboriginal and Torres Strait Islander children and young people to assert their own rights and interests and to raise awareness of their views, needs and experiences; and

(e) increase awareness of:

(i) Aboriginal and Torres Strait Islander children and young people's rights, interests, views, needs and experiences; and

(ii) the importance of these factors in developing and delivering policies, programs and services that affect their lives; and

(f) drive greater accountability for the impact on, and for improving the outcomes for, Aboriginal and Torres Strait Islander children and young people, of government policies, programs and services.

(2) The objects of this Act relating to the rights, safety, development and wellbeing of Aboriginal and Torres Strait Islander children and young people are to be understood through, and achieved in a manner consistent with, the culture of the Aboriginal or Torres Strait Islander community or communities to which they belong.

(3) This Act is intended to enable special measures to be taken for the advancement and protection of Aboriginal persons and Torres Strait Islanders, particularly Aboriginal and Torres Strait Islander children and young people.

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4 Simplified outline of this Act

This Act is about the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

The National Commissioner has functions that are directed at the rights, interests, development, safety and wellbeing of Aboriginal and Torres Strait Islander children and young people.

This Act also continues in existence the National Commission for Aboriginal and Torres Strait Islander Children and Young People. The National Commission's function is to assist the National Commissioner.

The National Commissioner may require a person to give information, produce documents and answer questions relevant to the National Commissioner's performance of functions.

5 Definitions

In this Act:

Aboriginal and Torres Strait Islander children and young people means Aboriginal persons and Torres Strait Islanders who are under 25 years old.

Aboriginal person means a person of the Aboriginal race of Australia.

Australia, when used in a geographical sense, includes the external Territories.

Australian government entity or official means:

(a) a Commonwealth entity; or

(b) an official (within the meaning of the PGPA Act); or

(c) a State or Territory government entity; or

(d) an official of a State or Territory government entity.

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civil penalty provision has the same meaning as in the Regulatory Powers Act.

Commonwealth entity has the same meaning as in the PGPA Act.

entrusted person: see subsection 45(3).

general functions: see subsection 11(1).

National Commission means the National Commission for Aboriginal and Torres Strait Islander Children and Young People.

National Commissioner means the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

personal information has the same meaning as in the *Privacy Act 1988*.

PGPA Act means the *Public Governance, Performance and Accountability Act 2013*.

protected information: see subsection 45(4).

protected personal information: see subsection 45(6).

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

relevant information: see subsection 45(5).

rules means rules made under section 65.

State or Territory government entity means:

(a) a Department of a State or Territory; or

(b) a body (whether incorporated or not) established for a public purpose by or under a law of a State or Territory.

Torres Strait Islander means a descendant of an Indigenous inhabitant of the Torres Strait Islands.

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Division 2—Application of this Act

6 Extension to external Territories

This Act extends to the external Territories.

7 Act binds the Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

(3) The protection in subsection (2) does not apply to an authority of the Crown.

8 Concurrent operation of State and Territory laws

This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.

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Part 2—National Commissioner for Aboriginal and Torres Strait Islander Children and Young People

Division 1—Introduction

9 Simplified outline of this Part

The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People continues in existence.

The National Commissioner has functions that are directed at the rights, interests, development, safety and wellbeing of Aboriginal and Torres Strait Islander children and young people. These functions broadly include:

(a) promoting and enhancing coordination of efforts to identify solutions to systemic issues; and
(b) advising the Commonwealth; and
(c) undertaking and commissioning research into systemic issues and barriers; and
(d) providing and commissioning educational programs; and
(e) undertaking public advocacy.

The National Commissioner also has the function of conducting inquiries into and making recommendations on matters relating to those functions, and may publish reports on inquiries conducted and on other matters.

The National Commissioner is generally not subject to direction by any person, and is to perform functions and exercise powers in a manner that promotes the best interests of Aboriginal and Torres Strait Islander children and young people, recognises the need to protect and promote their cultural identity and development, and is consistent with the promotion of human rights.

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Section 9

The National Commissioner must be an Aboriginal person and/or a Torres Strait Islander with significant experience in community life and who has been selected for appointment through a process that Aboriginal persons and Torres Strait Islanders are involved in designing.

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Division 2—Functions, powers and independence

10 National Commissioner

The office of National Commissioner for Aboriginal and Torres Strait Islander Children and Young People continues in existence, by force of this section, under and subject to the provisions of this Act.

Note: Division 5 sets out provisions relating to the appointment and terms and conditions of the National Commissioner.

11 Functions of National Commissioner

(1) The National Commissioner has the following functions (the ***general functions***):

(a) to promote, and enhance coordination among Australian government entities and officials of, efforts to identify and recommend solutions to systemic issues that affect the rights, interests, development, safety or wellbeing of Aboriginal and Torres Strait Islander children and young people;

(b) to provide advice to the Commonwealth on matters affecting Aboriginal and Torres Strait Islander children and young people, in relation to developing and delivering policies, programs and services;

(c) to undertake and commission research into systemic issues and barriers that affect the rights, interests, development, safety or wellbeing of Aboriginal and Torres Strait Islander children and young people, including as a result of regulatory activities and the developing and delivering of policies, programs and services;

(d) to provide and commission educational programs for Aboriginal and Torres Strait Islander children and young people with the goal of empowering them to promote, and to advocate for the incorporation of, their views, needs and experiences on matters that affect them in the development

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and delivery of policies and programs by, and advice to, the Commonwealth;

(e) to undertake public advocacy to promote the rights, interests, development, safety and wellbeing of Aboriginal and Torres Strait Islander children and young people, and to amplify their voices and strengths;

(f) to engage with a broad range of Aboriginal and Torres Strait Islander children and young people throughout Australia, including in remote areas, and to support them to understand and assert their rights, agency and leadership;

(g) any other function conferred on the National Commissioner by this Act or any other Act.

Note: Section 14 sets out general principles for the National Commissioner's performance of functions.

(2) The National Commissioner also has the following functions:

(a) to conduct research and inquire into matters relating to, or for the purposes of, the general functions, and to make recommendations in relation to those matters, under section 17;

(b) to accept a referral of a matter relating to the general functions under section 19;

(c) to refer matters to another entity under section 20;

(d) to contribute to inquiries into matters relating to the general functions under section 22;

(e) to provide advisory services under section 23;

(f) to collaborate with the Australian Human Rights Commission and other organisations and institutions on matters relating to the general functions;

(g) to engage with international human rights mechanisms, including relevant United Nations bodies, rapporteurs and procedures, for the purposes of providing information, research or advice on matters relating to the general functions;

(h) anything incidental or conducive to the performance of any of the functions mentioned elsewhere in this section.

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Note: The National Commissioner's functions are primarily directed at systemic issues, but the National Commissioner may refer individual complaints to another Australian government entity or official: see section 20.

12 Powers of National Commissioner

The National Commissioner has power to do all things necessary or convenient to be done for or in connection with the National Commissioner's performance of functions.

Note 1: Section 14 sets out general principles for the National Commissioner's exercise of powers.

Note 2: The National Commissioner may require information or documents relevant to the National Commissioner's performance of functions: see section 39.

13 Consultation when performing functions and exercising powers

The National Commissioner may consult with any person or body in performing functions or exercising powers.

14 General principles for performing functions and exercising powers

Best interests of Aboriginal and Torres Strait Islander children and young people

(1) It is the intention of the Parliament that the National Commissioner is to perform functions and exercise powers in a manner that promotes the best interests of Aboriginal and Torres Strait Islander children and young people.

Aboriginal and Torres Strait Islander cultural identity and development

(2) It is the intention of the Parliament that the National Commissioner is to perform functions and exercise powers in a manner that recognises the need to protect and promote the cultural identity and development of Aboriginal and Torres Strait Islander children and

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young people through maintaining and building their connections to their family and community.

International human rights

(3) It is the intention of the Parliament that the National Commissioner is to perform functions and exercise powers in a manner consistent with the promotion of the following:

(a) the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples, being the Resolution adopted by the General Assembly of the United Nations on 13 September 2007;

(b) Australia's obligations under the following:

(i) the Convention on the Rights of the Child done at New York on 20 November 1989;

(ii) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006;

(iii) any other relevant international instrument (within the meaning of the *Australian Human Rights Commission Act 1986*);

(iv) any other international agreement relating to human rights.

Note 1: The Declaration mentioned in paragraph (a) is set out in United Nations General Assembly Resolution 61/295, which in 2026 could be accessed through the United Nations' website (https://www.un.org).

Note 2: The international agreements mentioned in subparagraphs (b)(i) and (ii) could in 2026 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

15 Independence of National Commissioner

(1) The National Commissioner:

(a) has complete discretion in performing functions and exercising powers; and

(b) is not subject to direction by any person in relation to performing functions or exercising powers.

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(2) To avoid doubt, the National Commissioner may, in the course of performing functions and exercising powers, publicise any matter relating to the National Commissioner's functions in any way the National Commissioner thinks appropriate.

(3) This section is subject to this Act and to other laws of the Commonwealth.

16 Reports by National Commissioner

(1) The National Commissioner may publish a report on any of the following as the National Commissioner sees fit:

(a) research and inquiries conducted under section 17;

(b) any other matter relating to the National Commissioner's functions.

Reports may be given to Minister and tabled in Parliament

(2) The National Commissioner may give such a report to the Minister if the National Commissioner sees fit to do so.

(3) The Minister must cause a copy of any report given to the Minister under subsection (2) to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

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Division 3—Inquiries and referrals

17 Inquiry into matters relating to general functions

(1) The National Commissioner may conduct research and inquire into matters relating to, or for the purposes of, the general functions.

Note 1: The National Commissioner may require information or documents for this purpose: see section 39.

Note 2: The National Commissioner may publish reports on the research and inquiries: see section 16.

(2) Without limiting subsection (1), the National Commissioner may conduct research and inquire into the following matters:

(a) systemic issues that affect, or may affect, the rights, interests, development, safety or wellbeing of Aboriginal and Torres Strait Islander children and young people;

(b) matters in a request from the Minister that is accepted by the National Commissioner under section 18;

(c) matters in a referral that is accepted by the National Commissioner under section 19.

Recommendations

(3) The National Commissioner may, in writing, make recommendations after conducting research or inquiring into matters under this section, including recommending that a person or body take a specified course of action.

Note: The National Commissioner may do so in a report published under section 16.

(4) If the National Commissioner recommends that a person or body take a specified course of action, the National Commissioner may, by written notice, request the person or body to give the National Commissioner a response to the recommendation before taking the action.

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18 Minister may request inquiry

(1) The Minister may, in writing, request the National Commissioner to conduct research and inquire into a matter relating to the general functions, including into systemic issues that affect, or may affect, the rights, interests, development, safety or wellbeing of Aboriginal and Torres Strait Islander children and young people.

(2) The National Commissioner may:

(a) accept the request, and conduct research or inquire into the matter under paragraph 17(2)(b); or

(b) decline the request.

Note: The National Commissioner must include details of requests received under this section, and reasons for declining requests, in the National Commission's annual report: see section 61.

19 Referrals from other entities

The National Commissioner may, as the National Commissioner sees fit, accept a referral of a matter relating to the general functions if the referral is from one of the following:

(a) a Commissioner (however described) with responsibilities relating to children, appointed under a law of the Commonwealth or a State or Territory;

(b) a coroner;

(c) any other Australian government entity or official.

Note 1: A matter relating to the general functions may be referred to the National Commissioner in various circumstances, for example:

(a) a systemic barrier affecting the rights of Aboriginal and Torres Strait Islander children and young people may be identified by the National Children's Commissioner as part of an investigation into a complaint and referred to the National Commissioner; and

(b) a matter requiring coordination of efforts among Australian government entities and officials to identify and recommend solutions to systemic issues to support the implementation of an intergovernmental agreement may be referred to the National Commissioner by one of those officials.

Note 2: The National Commissioner may conduct research or inquire into such a matter: see paragraph 17(2)(c).

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20 Referral of matters to another entity

(1) The National Commissioner may, if appropriate, refer a matter relating to Aboriginal and Torres Strait Islander children and young people to any of the following:

(a) an Australian government entity or official with responsibility for the matter;

(b) any other entity that the National Commissioner is satisfied has responsibility or advocates for the matter.

Giving information

(2) The National Commissioner may give the entity to which the matter is referred any information or documents that:

(a) relate to the matter; and

(b) are in the National Commissioner's possession or under the National Commissioner's control.

21 Rules

(1) The rules may make provision in relation to the National Commissioner's functions under this Division.

(2) Without limiting subsection (1), the rules may do the following:

(a) set out procedures that must be followed;

(b) specify time limits within which such procedures must be completed.

(3) Before making rules for the purposes of subsection (1), the Minister must consult the National Commissioner.

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Division 4—Other functions

22 Contributing to inquiries into relevant legislation, policies and practices

(1) The National Commissioner may provide information to, make submissions or recommendations to, and otherwise contribute to the conduct of, inquiries into legislation, policies and practices.

(2) The National Commissioner may do so to the extent the legislation, policies and practices affect, or may impact, Aboriginal and Torres Strait Islander children and young people.

23 Advisory services

(1) The National Commissioner may provide advisory services to any person or body on matters affecting Aboriginal and Torres Strait Islander children and young people, in relation to developing and delivering policies, programs and services.

Note: The National Commissioner also has the function of providing, on the National Commissioner's own initiative, advice on such matters to the Commonwealth: see paragraph 11(1)(b).

Fees for advisory services

(2) The National Commission may, on behalf of the Commonwealth, charge fees for providing advisory services under subsection (1).

Note: The Commonwealth is notionally liable to pay such a fee: see subsection 62(1).

(3) A fee charged under subsection (2):

(a) must not be such as to amount to taxation; and

(b) is a debt due to the Commonwealth; and

(c) is recoverable by the Commonwealth in a court of competent jurisdiction.

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Note: The National Commissioner must include information about advisory services provided and fees charged under this section in the National Commission's annual report: see section 61.

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Division 5—Appointment, terms and conditions, etc.

24 Appointment

(1) The National Commissioner is to be appointed by the Minister by written instrument.

(2) The National Commissioner is to be appointed on a full-time basis.

(3) The National Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

(4) The National Commissioner may be reappointed, but must not hold office for periods totalling more than 7 years.

Criteria for appointment and selection

(5) Before appointing a person as the National Commissioner, the Minister must be satisfied that the person:
  (a) is an Aboriginal person and/or a Torres Strait Islander; and
  (b) identifies as an Aboriginal person and/or a Torres Strait Islander; and
  (c) is accepted by the person's community as being an Aboriginal person and/or a Torres Strait Islander; and
  (d) has significant experience in community life of Aboriginal persons and/or Torres Strait Islanders; and
  (e) has been selected for appointment through a process that meets the conditions in subsection (6).

(6) The process for selecting the person for the appointment must meet the following conditions:
  (a) Aboriginal persons and Torres Strait Islanders, and their communities, must be involved in designing the process;
  (b) the process must be designed having regard to the interests and needs of Aboriginal and Torres Strait Islander children and young people;
  (c) the process must:

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(i) be merit-based; and
(ii) include public advertising of the position.

25 Remuneration

(1) The National Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the National Commissioner is to be paid the remuneration that is prescribed by the rules.

(2) The National Commissioner is to be paid the allowances that are prescribed by the rules.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

26 Acting appointments

(1) The Minister may, by written instrument, appoint a person to act as the National Commissioner:
(a) during a vacancy in the office (whether or not an appointment has previously been made to the office); or
(b) during any period, or during all periods, when the National Commissioner:
(i) is absent from duty or from Australia; or
(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

(2) The Minister must not appoint a person to act as the National Commissioner unless the Minister is satisfied that the person:
(a) is an Aboriginal person and/or a Torres Strait Islander; and
(b) identifies as an Aboriginal person and/or a Torres Strait Islander; and
(c) is accepted by the person's community as being an Aboriginal person and/or a Torres Strait Islander.

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27 Leave of absence

(1) The National Commissioner has the recreation leave entitlements that are determined by the Remuneration Tribunal.

(2) The Minister may grant the National Commissioner leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

28 Other paid work

The National Commissioner must not engage in paid work outside the duties of the National Commissioner's office without the Minister's approval.

29 Resignation

(1) The National Commissioner may resign the National Commissioner's appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

30 Termination of appointment

(1) The Minister may terminate the appointment of the National Commissioner:
  (a) for misbehaviour; or
  (b) if the National Commissioner is unable to perform the duties of the National Commissioner's office because of physical or mental incapacity.

(2) The Minister may terminate the appointment of the National Commissioner if:
  (a) the National Commissioner:
    (i) becomes bankrupt; or

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(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with the National Commissioner's creditors; or

(iv) makes an assignment of the National Commissioner's remuneration for the benefit of the National Commissioner's creditors; or

(b) the National Commissioner is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or

(c) the National Commissioner engages, except with the Minister's approval, in paid work outside the duties of the National Commissioner's office (see section 28); or

(d) the National Commissioner fails, without reasonable excuse, to comply with section 29 of the PGPA Act (which deals with the duty to disclose interests) or rules made for the purposes of that section.

31 Other terms and conditions

The National Commissioner holds office on the terms and conditions (if any) that are determined by the Minister in relation to matters not covered by this Act or the rules.

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Part 3—National Commission for Aboriginal and Torres Strait Islander Children and Young People

32 Simplified outline of this Part

The National Commission for Aboriginal and Torres Strait Islander Children and Young People continues in existence. The National Commission's function is to assist the National Commissioner in performing functions.

The National Commission consists of the National Commissioner and the staff of the National Commission. The National Commissioner may be assisted by other persons, including consultants engaged for that purpose.

33 National Commission

(1) The National Commission for Aboriginal and Torres Strait Islander Children and Young People continues in existence, by force of this subsection, under and subject to the provisions of this Act.

(2) The National Commission consists of:
  (a) the National Commissioner; and
  (b) the staff of the National Commission.

(3) For the purposes of the finance law (within the meaning of the PGPA Act):
  (a) the National Commission is a listed entity; and
  (b) the National Commissioner is the accountable authority of the National Commission; and
  (c) the following persons are officials of the National Commission:
    (i) the National Commissioner;

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(ii) the staff of the National Commission;

(iii) persons assisting the National Commissioner under subsection 36(1);

(iv) consultants engaged under section 37; and

(d) the purposes of the National Commission include:

(i) the functions of the National Commissioner referred to in section 11; and

(ii) the function of the National Commission referred to in section 34.

34 Function of the National Commission

The National Commission's function is to assist the National Commissioner in performing functions.

35 Staff

(1) The staff of the National Commission must be persons engaged under the *Public Service Act 1999*.

(2) For the purposes of the *Public Service Act 1999*:

(a) the National Commissioner and the staff of the National Commission together constitute a Statutory Agency; and

(b) the National Commissioner is the Head of that Statutory Agency.

36 Persons assisting

(1) The National Commissioner may be assisted by:

(a) officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth, whose services are made available to the National Commissioner in connection with performing any of the National Commissioner's functions; and

(b) persons whose services are made available under arrangements made under subsection (2).

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(2) The National Commissioner may, on behalf of the Commonwealth, make an arrangement with the appropriate authority or officer of a State or Territory government entity under which the entity makes officers or employees available to the National Commissioner to perform services in connection with performing any of the National Commissioner's functions.

(3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person to whom the arrangement relates.

(4) When performing services for the National Commissioner under this section, a person is subject to the directions of the National Commissioner.

37 Consultants

(1) The National Commissioner may, on behalf of the Commonwealth, engage consultants to assist the National Commissioner in performing functions.

(2) When assisting the National Commissioner in performing functions under this section, a person is subject to the directions of the National Commissioner.

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Part 4—Obtaining, using and protecting information

Division 1—Introduction

38 Simplified outline of this Part

The National Commissioner may require a person to give information, produce documents and answer questions relevant to the National Commissioner's performance of functions.

An entrusted person must generally not use or disclose protected information except as authorised.

An entrusted person is not generally required to produce or disclose protected information to other persons unless this is necessary for the purposes of an Act.

Entrusted persons are authorised to use and disclose relevant information in various circumstances.

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Division 2—Power to require information

39 National Commissioner may require information or documents

(1) This section applies if the National Commissioner reasonably believes that a person has, or could take reasonable steps to obtain, information or documents relevant to the National Commissioner's performance of functions.

(2) The National Commissioner may give the person a written notice that requires the person to do one or more of the things mentioned in subsection 40(1) (give specified information, produce specified documents or appear to answer questions).

Note: Failing to comply with a notice given to a person may result in a civil penalty: see section 41.

Notice does not authorise government entity or official to provide personal information

(3) A notice given to an Australian government entity or official does not authorise the provision of personal information about an individual, other than if the individual has consented to the use or disclosure of the information for that purpose.

Note: If the notice requires the production of a document containing personal information, the person complies with the notice by producing a copy of the document with that information deleted.

40 Contents of notice

(1) A notice given under section 39 may require a person to do the following:

(a) give information specified in the notice to the National Commissioner within the period and in the manner specified in the notice;

(b) produce documents specified in the notice to the National Commissioner within the period and in the manner specified in the notice;

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(c) if the person is an individual—appear before the National Commissioner to answer questions at the time and in the manner specified in the notice;

(d) if the person is not an individual—cause a competent officer of the person to appear before the National Commissioner to answer questions at the time and in the manner specified in the notice.

Note: For paragraphs (c) and (d), the notice may, for example, specify that the person is to appear before the National Commissioner to answer questions:

(a) by attending in person at a specified physical location; or

(b) by using a specified technology.

(2) The notice must set out the effect of the following provisions:

(a) section 41;

(b) section 137.1 of the *Criminal Code* (about an offence for giving false or misleading information);

(c) section 137.2 of the *Criminal Code* (about an offence for producing false or misleading documents).

Minimum period for complying with notice

(3) A period specified under paragraph (1)(a) or (b) must end at least 14 days after the day the notice is given.

(4) A time specified under paragraph (1)(c) or (d) must be on a day that is at least 14 days after the day the notice is given.

41 Failing to comply with notice

(1) A person contravenes this subsection if:

(a) the person is given a notice under section 39; and

(b) the person is not an Australian government entity or official; and

(c) the person fails to comply with a requirement of the notice.

Civil penalty: 30 penalty units.

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Exception—reasonable excuse

(2) However, subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see section 96 of the Regulatory Powers Act.

42 Inspection and retention of documents

(1) This section applies if a person produces a physical document under section 39.

National Commissioner may inspect and copy documents

(2) The National Commissioner may:
(a) inspect the document; and
(b) make and retain copies of the whole or a part of the document.

National Commissioner may retain documents

(3) The National Commissioner may take possession of the document and retain it for as long as is reasonably necessary.

Certified copy of documents

(4) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the National Commissioner to be a true copy.

(5) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(6) Until a certified copy is supplied, the National Commissioner must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the whole or a part of the document.

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43 Answering questions in accordance with notice

(1) This section applies if:

(a) the National Commissioner has given a notice under section 39; and

(b) the notice requires a person to appear before the National Commissioner in accordance with a requirement mentioned in paragraph 40(1)(c) or (d).

(2) The National Commissioner may require the person to answer questions orally or in writing.

Civil penalty

(3) A person contravenes this subsection if:

(a) the person appears before the National Commissioner in accordance with the requirement; and

(b) the recipient of the notice is not an Australian government entity or official; and

(c) the person refuses or fails to answer a question put by the National Commissioner.

Civil penalty: 30 penalty units.

Exception—reasonable excuse

(4) However, subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see section 96 of the Regulatory Powers Act.

44 Self-incrimination etc.

(1) An individual is not excused from giving information, producing a document or answering a question under this Division on the ground that doing so might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

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(2) However:

(a) the information given, document produced or answer given; and

(b) the giving of the information, the production of the document or the answering of the question; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information, the production of the document or the answering of the question;

are not admissible in evidence against the individual in criminal proceedings, other than proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (about false or misleading information or documents) that relates to this Division.

(3) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to giving information, producing a document or answering a question under this Division, the individual is not excused from doing so under this Division on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

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Division 3—Protected information

45 Offence—using or disclosing protected information

(1) A person commits an offence if:

(a) the person is, or has been, an entrusted person; and

(b) the person obtained or generated information in the person's capacity as an entrusted person; and

(c) the information is protected information; and

(d) the person uses or discloses the protected information.

Penalty: Imprisonment for 1 year or 50 penalty units, or both.

Exception—authorised use or disclosure

(2) Subsection (1) does not apply if the use or disclosure of the protected information is authorised by or under Division 4.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

*Meaning of **entrusted person***

(3) Each of the following persons is an ***entrusted person***:

(a) the National Commissioner;

(b) a member of the staff of the National Commission;

(c) a person assisting the National Commissioner under subsection 36(1);

(d) a consultant engaged under section 37.

*Meaning of **protected information***

(4) ***Protected information*** is relevant information that is:

(a) information obtained by the National Commissioner under section 39 or 43; or

(b) protected personal information.

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*Meaning of **relevant information***

(5) ***Relevant information*** is information obtained or generated by a person in the course of or for the purposes of:

(a) performing functions or duties, or exercising powers, under or for the purposes of this Act; or

(b) assisting another person to perform functions or duties, or exercise powers, under or for the purposes of this Act.

*Meaning of **protected personal information***

(6) ***Protected personal information*** is:

(a) personal information that if disclosed (whether alone or in conjunction with other information) would, or could reasonably be expected to:

(i) endanger the safety of the individual; or

(ii) cause harm to the individual's physical or mental health; or

(iii) have a substantial adverse effect on the individual's lawful business, professional, commercial or financial affairs; or

(iv) expose the individual to a substantial risk of being a victim of identity fraud; or

(b) information that if disclosed (whether alone or in conjunction with other information) would, or could reasonably be expected to disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law.

46 Protected information not required to be disclosed

(1) A person who is, or has been, an entrusted person must not be required to produce or disclose protected information to a court, tribunal, authority or person (other than a parliament) that has the power to require the production of documents or the answering of questions.

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(2) However, subsection (1) does not apply to the extent that the production or disclosure is necessary for the purposes of:
  (a) this Act; or
  (b) another Act or instrument made under an Act.

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Division 4—Use and disclosure of relevant information

Note: The provisions in this Division provide an authorisation for the purposes of subsection 45(2), the *Privacy Act 1988* and other laws.

47 Use or disclosure for the purposes of this Act or other Acts

(1) An entrusted person may use or disclose relevant information in the course of or for the purposes of:

(a) performing functions or duties, or exercising powers, under or in connection with this Act; or

(b) assisting another person to perform functions or duties, or exercise powers, under or in connection with this Act.

(2) An entrusted person may use or disclose relevant information if the use or disclosure is for the purposes of the administration of an Act (other than this Act).

48 Disclosure to State or Territory government entity—information relating to Aboriginal and Torres Strait Islander children and young people

The National Commissioner may disclose relevant information to a State or Territory government entity if:

(a) the information relates to Aboriginal and Torres Strait Islander children and young people; and

(b) the National Commissioner reasonably believes that disclosing the information:

(i) is necessary for the purposes of the administration of a law of a State or Territory; and

(ii) furthers or promotes the objects of this Act.

49 Disclosure to State or Territory government entity—inter-governmental agreement

The National Commissioner may disclose relevant information to a State or Territory government entity if:

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(a) the National Commissioner reasonably believes that disclosing the information is necessary:
(i) for the purposes of the administration of a law of a State or Territory; and
(ii) for the purposes of giving effect to an intergovernmental agreement on a matter of national significance; and
(b) the State or Territory government entity has undertaken not to use or further disclose the information except in accordance with an agreement that:
(i) is in force between the Commonwealth and the State or Territory; and
(ii) applies in relation to the information; and
(c) the National Commissioner is satisfied that the information will be used or further disclosed only in accordance with the agreement.

50 Disclosure to lessen or prevent a threat to life, health or safety

An entrusted person may disclose relevant information if the entrusted person reasonably believes that doing so is necessary to lessen or prevent a threat to the life, health or safety of:
(a) an Aboriginal or Torres Strait Islander child or young person; or
(b) any other person.

51 Disclosure for the purposes of law enforcement

(1) An entrusted person may disclose relevant information to a body mentioned in subsection (2) if:
(a) the entrusted person reasonably believes that disclosing the information is necessary for the enforcement of the criminal law or a law imposing a pecuniary penalty; and
(b) the functions of the body include that enforcement.

(2) The bodies are the following:
(a) a Commonwealth entity;
(b) a State or Territory government entity;

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(c) the Australian Federal Police;
(d) the police force or police service of a State or Territory.

Disclosure to State or Territory law enforcement bodies

(3) However, the entrusted person must not disclose the information to a body mentioned in paragraph (2)(b) or (d) unless:
(a) the entrusted person reasonably believes that disclosing the information is necessary for the purposes of giving effect to an intergovernmental agreement on a matter of national significance; and
(b) the body has undertaken not to use or further disclose the information except in accordance with an agreement that:
(i) is in force between the Commonwealth and the State or Territory; and
(ii) applies in relation to the information; and
(c) the entrusted person is satisfied that the information will be used or further disclosed only in accordance with that agreement.

52 Use or disclosure of statistics or publicly available information

An entrusted person may use or disclose relevant information if:
(a) the information is statistics that are not likely to enable the identification of a person; or
(b) the information has already been lawfully made available to the public.

53 Use or disclosure with consent or to related person

(1) An entrusted person may use or disclose relevant information that relates to a person if:
(a) the person has consented to the use or disclosure; and
(b) the use or disclosure is in accordance with that consent; and
(c) the entrusted person reasonably believes that the use or disclosure furthers or promotes the objects of this Act.

(2) An entrusted person may disclose relevant information to:

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(a) the person to whom the information relates; or
(b) the person who provided the information.

54 National Commissioner's directions about use or disclosure

(1) The National Commissioner may, in writing, make directions about the use or disclosure of relevant information by an entrusted person under this Division.

(2) An entrusted person must comply with any relevant direction made under subsection (1) when using or disclosing relevant information under this Division.

(3) A direction made under subsection (1) is not a legislative instrument.

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Part 5—Regulatory powers

55 Simplified outline of this Part

Civil penalty orders may be sought under Part 4 of the Regulatory Powers Act from a relevant court in relation to contraventions of each civil penalty provision of this Act.

56 Civil penalty provisions

Enforceable civil penalty provisions

(1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

(2) For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the civil penalty provisions mentioned in subsection (1):

(a) the National Commissioner;

(b) an SES employee, or an acting SES employee, in the National Commission.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

Relevant court

(3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions mentioned in subsection (1):

(a) the Federal Court of Australia;

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(b) the Federal Circuit and Family Court of Australia (Division 2);

(c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Extension to external Territories

(4) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions mentioned in subsection (1), extends to every external Territory.

Liability of Crown

(5) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions mentioned in subsection (1), does not make the Crown liable to be subject to civil proceedings for a contravention of a civil penalty provision.

(6) The protection in subsection (5) does not apply to an authority of the Crown.

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Part 6—Other matters

57 Simplified outline of this Part

This Part contains miscellaneous provisions relating to the National Commissioner and the National Commission, including indemnity from liability and reporting requirements.

The Minister and the National Commissioner may delegate certain functions and powers under this Act.

There is to be a review of the operation of this Act.

The Minister may make rules for the purposes of this Act.

58 Protection of National Commissioner etc.

The following are not liable to an action, suit or proceeding in relation to an act done or omitted to be done in good faith in the performance or purported performance, or exercise or purported exercise, of a function or power conferred by this Act:

(a) the National Commissioner;

(b) a member of the staff of the National Commission;

(c) a person assisting the National Commissioner under subsection 36(1);

(d) a consultant engaged under section 37.

59 Delegation by Minister

(1) The Minister may, in writing, delegate to an SES employee, or acting SES employee, in the Department one or more of the Minister's functions or powers under this Act (other than the power to make rules under section 65).

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

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(2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

60 Delegation by National Commissioner

(1) The National Commissioner may, in writing, delegate the National Commissioner's functions or powers under this Act to a member of the staff of the National Commission, or an APS employee assisting the National Commissioner under subsection 36(1), who is:

(a) an SES employee; or

(b) an acting SES employee; or

(c) classified as Executive Level 1 or higher; or

(d) acting in a position usually occupied by an APS employee who is so classified.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the National Commissioner.

61 Annual report

The annual report prepared by the National Commissioner and given to the Minister under section 46 of the PGPA Act for a period must include the following:

(a) details of each request received under section 18 (Minister may request inquiry) that the National Commissioner:

(i) accepted or declined during the period; or

(ii) had not decided to accept or decline as at the end of the period;

(b) if the National Commissioner declined one or more requests under section 18 (Minister may request inquiry) during the period—the National Commissioner's reasons for declining each of those requests;

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(c) for each fee charged during the period for the provision of advisory services, under subsection 23(2)—the following details:
  (i) the amount of the fee;
  (ii) the entity to whom the services were provided;
  (iii) the general subject of the services;
(d) details of each notice given under section 39 (National Commissioner may require information or documents) to which all of the following apply:
  (i) it was given to an Australian government entity or official;
  (ii) the Australian government entity or official did not comply with a requirement in the notice;
  (iii) the non-compliance started to occur during the period.

62 Payment of fees by the Commonwealth

(1) The Commonwealth is not liable to pay a fee that is payable under this Act. However, it is the Parliament's intention that the Commonwealth should be notionally liable to pay such a fee.

(2) The Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth.

(3) Directions under subsection (2) have effect, and must be complied with, despite any other law of the Commonwealth.

(4) Directions under subsection (2) are not legislative instruments.

(5) In this subsection:

Commonwealth includes a Commonwealth entity that cannot be made liable to taxation by a law of the Commonwealth.

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63 Rules—incorporation of matter in documents

(1) Despite subsection 14(2) of the *Legislation Act 2003*, the rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

(2) Subsection (1) applies even if the instrument or other writing was created for the purpose of being applied, adopted or incorporated by the rules.

(3) The Minister must ensure that an instrument or other writing is published on the Department's website if:

(a) the instrument or other writing was created for the purpose of being applied, adopted or incorporated by the rules; and

(b) the rules make provision as mentioned in subsection (1) in relation to the instrument or other writing.

(4) To the extent that rules making provision as mentioned in subsection (1) constitutes a subdelegation of the Minister's power to make rules under this Act, subsection (1) authorises that subdelegation.

64 Review of operation of this Act

(1) The Minister must cause an independent review to be conducted of the operation of this Act.

(2) Without limiting subsection (1), the review must consider the effectiveness of the National Commissioner's functions and powers in achieving the objects of this Act.

Public consultation

(3) A review under subsection (1) must make provision for public consultation.

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Timing of review

(4) The person conducting the review must commence the review as soon as practicable after the end of 3 years starting on the day this section commences.

Report

(5) The person conducting the review must give the Minister a written report of the review before the end of 9 months starting on the day the review commences.

(6) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Government response to recommendations

(7) If a report of the review sets out one or more recommendations to the Commonwealth Government:

(a) as soon as practicable after receiving the report, the Minister must cause to be prepared a statement setting out:

(i) the Commonwealth Government's response to each of the recommendations; and

(ii) if the Commonwealth Government has not accepted a recommendation—the reasons for not accepting the recommendation; and

(b) within 6 months after receiving the report, the Minister must cause copies of the statement to be tabled in each House of the Parliament.

65 Rules

(1) The Minister may, by legislative instrument, make rules prescribing matters:

(a) required or permitted by this Act to be prescribed by the rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

[*Minister's second reading speech made in—*
House of Representatives on 5 February 2026
Senate on 3 March 2026]

(5/26)

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