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Integrity Commission Act 2009**An Act to establish an Integrity Commission and for related matters and to amend certain Acts****[Royal Assent 17 December 2009]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the Integrity Commission Act 2009 .

2. Commencement

This Act commences on a day or days to be proclaimed.

3. Object and objectives

(1) The object of this Act is to promote and enhance standards of ethical conduct by public officers by the establishment of an Integrity Commission.

(2) The objectives of the Integrity Commission are to –

- (a) improve the standard of conduct, propriety and ethics in public authorities in Tasmania; and
- (b) enhance public confidence that misconduct by public officers will be appropriately investigated and dealt with; and
- (c) enhance the quality of, and commitment to, ethical conduct by adopting a strong, educative, preventative and advisory role.

(3) The Integrity Commission will endeavour to achieve these objectives by –

- (a) educating public officers and the public about integrity; and
- (b) assisting public authorities deal with misconduct; and
- (c) dealing with allegations of serious misconduct or misconduct by designated public officers; and
- (d) making findings and recommendations in relation to its investigations and inquiries.

4. Interpretation

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

assessor means a person appointed under section 35(2) ;

audit includes to examine, investigate, inspect and review;

authorised person means a person authorised under section 21 ;

Board means the Board of the Integrity Commission established under section 12 ;

Chief Commissioner means the person appointed under section 15 ;

chief executive officer means the person appointed under section 17 ;

complainant, in relation to a complaint, means the person making the complaint, whether on that person's behalf or on behalf of some other person;

complaint means a complaint made under section 33 and includes any associated matters relating to the complaint;

council-owned company means a company incorporated under the Corporations Act that is controlled by one or more councils or another company that is so controlled;

designated public officer means a public officer specified in section 6 ;

DPP means the person appointed as Director of Public Prosecutions under the Director of Public Prosecutions Act 1973 ;

functions includes duties;

Government Business Enterprise means a Government Business Enterprise within the meaning of the Government Business Enterprises Act 1995 ;

Government department means any department established under the State Service Act 2000 , or constituted by any other enactment as a department within the meaning of the State Service Act 2000 ;

Head of Agency has the same meaning as in the State Service Act 2000 ;

inquiry officer means a person appointed or required under section 63 to assist an Integrity Tribunal with the conduct of an inquiry;

Integrity Commission means the Integrity Commission established under section 7 ;

integrity entity means any of the following:

- (a) the Integrity Commission;
- (b) the Ombudsman;
- (c) the Auditor-General;
- (d) [Section 4 Subsection (1) amended by No. 42 of 2012, s. 44, Applied:04 Feb 2013] [Section 4 Subsection (1) amended by No. 30 of 2016, Sched. 2, Applied:16 Nov 2016] the Custodial Inspector;

Integrity Tribunal means an Integrity Tribunal convened under section 60 ;

[Section 4 Subsection (1) amended by No. 55 of 2011, s. 4, Applied:22 Dec 2011]

[Section 4 Subsection (1) amended by No. 55 of 2011, s. 4, Applied:22 Dec 2011] **investigator** means –

- (a) a person appointed under section 44 or 45 ; or
- (b) if the Integrity Commission is conducting an investigation under section 87 , 88 or 89 , a person appointed by the Integrity Commission;

Joint Committee means the Joint Standing Committee on Integrity established under section 23 ;

local authority includes –

- (a) a council; and
- (b) a single authority, controlling authority or joint authority established under Part 3 of the Local Government Act 1993 ; and
- (c) any other body or authority, constituted or established by or under an Act, having power to levy, or cause to be levied, a rate on any land;

member, in relation to a council, means a member of that council elected under the Local Government Act 1993 ;

Member of Parliament means a member of the Legislative Council or the House of Assembly;

misconduct means –

- (a) conduct, or an attempt to engage in conduct, of or by a public officer that is or involves –
 - (i) a breach of a code of conduct applicable to the public officer; or
 - (ii) the performance of the public officer's functions or the exercise of the public officer's powers, in a way that is dishonest or improper; or
 - (iii) a misuse of information or material acquired in or in connection with the performance of the public officer's functions or exercise of the public officer's powers; or
 - (iv) a misuse of public resources in connection with the performance of the public officer's functions or the exercise of the public officer's powers; or
- (b) conduct, or an attempt to engage in conduct, of or by any public officer that adversely affects, or could adversely affect, directly or indirectly, the honest and proper performance of functions or exercise of powers of another public officer –

but does not include conduct, or an attempt to engage in conduct, by a public officer in connection with a proceeding in Parliament;

Parliamentary integrity entity means any of the following:

- (a) the President of the Legislative Council;
- (b) the Speaker of the House of Assembly;

Parliamentary Standards Commissioner means the person appointed to the office of Parliamentary Standards Commissioner under section 27 ;

police misconduct means misconduct by a police officer;

political party means a party registered under the Electoral Act 2004 or under an Act of the Commonwealth or another State or Territory as a political party;

premises of a public authority means premises at which the business or operations of the public authority are conducted;

principal officer, in relation to a public authority specified in Column 1 of Schedule 1 , means the principal officer specified in Column 2 of the Schedule opposite that public authority;

privilege includes any of the following:

- (a) all the privileges set out in Part 10 of Chapter 3 of the Evidence Act 2001 ;
- (b) the privileges of spouses and others set out in sections 18 , 19 and 20 of the Evidence Act 2001 ;
- (c) the privileges of the Parliament;

proceeding in Parliament means all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of a House of Parliament or of a committee, and, without limiting the generality of the foregoing, includes –

- (a) the giving of evidence before a House or a committee, and evidence so given; and
- (b) the presentation or submission of a document to a House or a committee; and
- (c) the preparation of a document for purposes of or incidental to the transacting of any such business; and
- (d) the formulation, making or publication of a document, including a report, by or pursuant to an order of a House or a committee and the document so formulated, made or published;

[Section 4 Subsection (1) amended by No. 55 of 2011, s. 4, Applied:22 Dec 2011] ***public authority*** means a public authority referred to in section 5(1) ;

[Section 4 Subsection (1) amended by No. 55 of 2011, s. 4, Applied:22 Dec 2011] ***public officer*** means a person who is a public authority or a person who holds any office, employment or position in a public authority whether the appointment to the office, employment or position is by way of selection or election or by any other manner but does not include a person specified in section 5(2) ;

record includes any account, deed, writing or document and any other record of information however compiled, recorded or stored, whether in written or printed form, on film or in electronic form or otherwise;

register of complaints means the register referred to in section 34 ;

relevant public authority, in relation to a complaint made or an investigation or inquiry conducted under this Act, means the public authority to which a public officer who is the subject of a complaint is appointed or, in the case of a public authority who is a person, the public authority who is the subject of a complaint, investigation or inquiry;

responsible Minister, in relation to any public authority or part of a public authority, means the Minister charged with the administration of that public authority or part of that public authority;

senior executive office means an office created under section 29(4) of the State Service Act 2000 ;

serious misconduct means misconduct by any public officer that could, if proved, be –

- (a) a crime or an offence of a serious nature; or
- (b) misconduct providing reasonable grounds for terminating the public officer's appointment;

State-owned company means a company incorporated under the Corporations Act that is controlled by –

- (a) the Crown; or
- (b) a Government Business Enterprise; or
- (c) a statutory authority; or
- (d) another company which is itself controlled by an entity referred to in paragraph (a) , (b) or (c) ;

statutory authority means a body or authority, whether incorporated or not, that is established, constituted or continued by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority but does not include a State Service Agency;

statutory office means an office the holder of which is appointed by the Governor or a Minister.

(2) For the purposes of this Act –

- (a) a reference to a public authority includes a reference to the principal officer and each of the members, officers and employees of the authority; and
- (b) a reference to an officer of a public authority includes a reference to a principal officer and an officer appointed by or to the authority under any Act; and
- (c) a reference to a member of a public authority includes a reference to the holder of an office created by any Act who, by virtue of his or her holding the office, is a member of the authority; and
- (d) a reference to an employee of a public authority includes a reference to a State Service officer or State Service employee; and
- (e) a reference to a member of a public authority includes a reference to a person who is elected to that authority.

(3) For the purposes of the definition of **State-owned company** in subsection (1) , the provisions of the Corporations Act relating to control are taken to apply as if the Crown, Government Business Enterprise or statutory authority, as the case may be, were a corporation under that Act.

5. Public authorities

(1) Subject to subsection (2) , the following persons are public authorities for the purposes of this Act:

- (a) the Parliament of Tasmania and any person performing functions or exercising powers under the Parliamentary Privilege Act 1898 ;
- (b) a person employed in an office of a Minister, Parliamentary Secretary or other Member of Parliament whether in accordance with the State Service Act 2000 or otherwise, except for a person performing functions or exercising powers under the Parliamentary Privilege Act 1898 ;
- (c) a State Service Agency;
- (d) the Police Service;
- (e) any person performing functions under the Governor of Tasmania Act 1982 ;
- (f) a Government Business Enterprise;
- (g) the Board of a Government Business Enterprise;
- (h) a State-owned company;

(i) the Board of a State-owned company;

(ia) *[Section 5 Subsection (1) amended by No. 13 of 2012, s. 31, Applied:30 May 2012]* the University of Tasmania;

(j) a body or authority, whether incorporated or not, whose members or a majority of whose members are appointed by the Governor or a Minister under an Act;

(k) the holder of a statutory office;

(l) a local authority;

(m) a council-owned company;

(n) any other prescribed body or authority, whether incorporated or not –

(i) to which any money is paid by way of appropriation from the Public Account; or

(ii) over which the Government or a Minister exercises control.

(2) The following persons are not public authorities for the purposes of this Act:

(a) the Governor of Tasmania;

(b) a judge of the Supreme Court;

(c) the Associate Judge of the Supreme Court;

(d) a magistrate of the Magistrates Court;

(e) a court;

(f) *[Section 5 Subsection (2) amended by No. 55 of 2011, s. 5, Applied:22 Dec 2011]* members of a tribunal;

(g) *[Section 5 Subsection (2) amended by No. 55 of 2011, s. 5, Applied:22 Dec 2011]* members of the Tasmanian Industrial Commission;

(h) the Integrity Commission;

(i) any other prescribed person.

(3) A reference to a person specified in subsection (1) or (2) includes a reference to that person as it was formerly known.

6. Designated public officers

(1) The following persons are designated public officers:

(a) a Member of Parliament;

(b) a member of a council;

(c) the principal officer of a public authority other than a person specified in section 5(2) in relation to the principal officer's office;

(d) *[Section 6 Subsection (1) amended by No. 13 of 2017, s. 4, Applied:13 Jun 2017]* the holder of a statutory office other than the Chief Commissioner and the chief executive officer;

(e) a commissioned police officer;

(f) the holder of a senior executive office;

(g) such other persons as may be prescribed.

(2) *[Section 6 Subsection (2) omitted by No. 55 of 2011, s. 6, Applied:22 Dec 2011]*

PART 2 - Integrity Commission

Division 1 - Establishment of Integrity Commission

7. Establishment of Integrity Commission

- (1) The Integrity Commission is established.
- (2) The Integrity Commission includes the Board, any member of the Board, the chief executive officer, the staff of the Integrity Commission, any authorised persons, assessors, investigators, and any member of or any persons appointed to assist an Integrity Tribunal.
- (3) The Integrity Commission –
 - (a) is a body corporate with perpetual succession; and
 - (b) may have a seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown.
- (4) If the Integrity Commission has a seal –
 - (a) it is to be kept and used as authorised by the Integrity Commission; and
 - (b) all courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed by the Integrity Commission.

8. Functions and powers of Integrity Commission

- (1) In addition to any other functions that are imposed on the Integrity Commission under this or any other Act, the functions of the Integrity Commission are to –
 - (a) develop standards and codes of conduct to guide public officers in the conduct and performance of their duties; and
 - (b) educate public officers and the public about integrity in public administration; and
 - (c) prepare guidelines and provide training to public officers on matters of conduct, propriety and ethics; and
 - (d) provide advice on a confidential basis to public officers about the practical implementation of standards of conduct that it considers appropriate in specific instances; and
 - (e) establish and maintain codes of conduct and registration systems to regulate contact between persons conducting lobbying activities and certain public officers; and
 - (f) receive and assess complaints or information relating to matters involving misconduct; and
 - (g) refer complaints to a relevant public authority, integrity entity or Parliamentary integrity entity for action; and
 - (h) refer complaints or any potential breaches of the law to the Commissioner of Police, the DPP or other person that the Integrity Commission considers appropriate for action; and
 - (i) investigate any complaint by itself or in cooperation with a public authority, the Commissioner of Police, the DPP or other person that the Integrity Commission considers appropriate; and
 - (j) on its own initiative, initiate an investigation into any matter related to misconduct; and
 - (k) deal with any matter referred to it by the Joint Committee; and
 - (l) assume responsibility for, and complete, an investigation into misconduct commenced by a public authority or integrity entity if the Integrity Commission considers that action to be appropriate having regard to the principles set out in section 9 ; and

(m) when conducting or monitoring investigations into misconduct, gather evidence for or ensure evidence is gathered for –

- (i) the prosecution of persons for offences; or
- (ii) proceedings to investigate a breach of a code of conduct; or
- (iii) proceedings under any other Act; and

(n) conduct inquiries into complaints; and

(o) receive reports relating to misconduct from a relevant public authority or integrity entity and take any action that it considers appropriate; and

(p) if the Integrity Commission is satisfied that it is in the public interest and expedient to do so, recommend to the Premier the establishment of a Commission of Inquiry under the Commissions of Inquiry Act 1995 ; and

(q) monitor or audit any matter relating to the dealing with and investigation of complaints about misconduct in any public authority including any standards, codes of conduct, or guidelines that relate to the dealing with those complaints; and

(r) perform any other prescribed functions or exercise any other prescribed powers.

(2) In addition to any other powers that are conferred on the Integrity Commission under this or any other Act, the Integrity Commission has the power to do all things reasonably necessary or convenient to be done in connection with the performance of its functions.

9. Principles of operation of Integrity Commission

(1) The Integrity Commission is to perform its functions and exercise its powers in such a way as to –

- (a) raise standards of conduct, propriety and ethics in public authorities; and
- (b) work cooperatively with public authorities, integrity entities and Parliamentary integrity entities to prevent or respond to misconduct; and
- (c) improve the capacity of public authorities to prevent and respond to cases of misconduct; and
- (d) ensure that action to prevent and respond to misconduct in a public authority is taken if the public authority has the capacity, and it is in the public interest, to do so; and
- (e) deal with matters of misconduct by designated public officers; and
- (f) ensure that matters of misconduct or serious misconduct are dealt with expeditiously at a level and by a person that it considers is appropriate; and
- (g) not duplicate or interfere with work that it considers has been undertaken or is being undertaken appropriately by a public authority.

(2) In the performance of its functions and the exercise of its powers, the Integrity Commission is not bound by the rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit.

(3) The Integrity Commission is to perform its functions and exercise its powers with as little formality and technicality as possible.

10. Integrity Commission not subject to direction or control of Minister

The Integrity Commission is not subject to the direction or control of the Minister in respect of the performance or exercise of its functions or powers.

11. Annual and other reports

(1) *[Section 11 Subsection (1) amended by No. 13 of 2012, s. 32, Applied:30 May 2012]* The Integrity Commission, on or before 31 October or such other date as may be prescribed, is to lay before each House of Parliament a report

on the performance of its functions and exercise of its powers under this Act during the period of 12 months ending on the last preceding 30 June.

(2) The report under subsection (1) may be combined with the report under section 36 of the State Service Act 2000 .

(3) The Integrity Commission may, at any time, lay before each House of Parliament a report on any matter arising in connection with the performance of its functions or exercise of its powers.

(4) The Integrity Commission may, at any time, provide a report to the Joint Committee on the performance of its functions or exercise of its powers relating to an investigation or inquiry.

Division 2 - Board of Integrity Commission

12. Establishment of Board of Integrity Commission

The Board of the Integrity Commission is established.

13. Role of Board

The role of the Board is to –

- (a) *[Section 13 Amended by No. 13 of 2017, s. 5, Applied:13 Jun 2017]* provide guidance to facilitate the functions and powers of the Integrity Commission, under this or any other Act, being performed and exercised by the chief executive officer and staff of the Integrity Commission in accordance with sound public administration practice and principles of procedural fairness and the objectives of this Act; and
- (b) promote an understanding of good practice and systems in public authorities in order to develop a culture of integrity, propriety and ethical conduct in those public authorities and their capacity to deal with allegations of misconduct; and
- (c) monitor and report to the Minister or Joint Committee or both the Minister and Joint Committee on the operation and effectiveness of this Act and other legislation relating to the operations of integrity entities in Tasmania.

14. Members of Board

(1) The members of the Board are –

- (a) *[Section 14 Subsection (1) amended by No. 13 of 2017, s. 6, Applied:13 Jun 2017]* the Chief Commissioner; and
- (b) *[Section 14 Subsection (1) amended by No. 13 of 2017, s. 6, Applied:13 Jun 2017]*
- (c) *[Section 14 Subsection (1) amended by No. 13 of 2017, s. 6, Applied:13 Jun 2017]*
- (d) *[Section 14 Subsection (1) amended by No. 42 of 2012, s. 45, Applied:04 Feb 2013]*
- (e) a person with experience in local government; and
- (f) a person with experience in law enforcement or the conduct of investigations; and
- (g) a person who has at least one of the following:
 - (i) experience in public administration, governance or government;
 - (ii) experience in business management and administration whether in a government organisation or non-government organisation;
 - (iii) experience in legal practice;
 - (iv) *[Section 14 Subsection (1) amended by No. 13 of 2017, s. 6, Applied:13 Jun 2017]* community service experience, or experience of community standards and expectations, relating to public sector officials and public sector administration;
 - (v) *[Section 14 Subsection (1) amended by No. 13 of 2017, s. 6, Applied:13 Jun 2017]* experience, in a government organisation, in both human resources and industrial relations.

(1A) [Section 14 Subsection (1A) inserted by No. 13 of 2017, s. 6, Applied:13 Jun 2017] The Chief Commissioner is the chairperson of the Board.

(2) The members of the Board referred to in subsection (1)(e) , (f) or (g) are appointed by the Governor on the advice of the Minister.

(3) In providing advice to the Governor, the Minister is to inform the Governor of the outcome of the consultations referred to in subsection (4) .

(4) Before a person is appointed as a member of the Board under subsection (1)(e) , (f) or (g) , the Minister is to consult the Joint Committee.

(5) If the members of the Joint Committee have not been appointed or Parliament has been prorogued, the Minister is to consult –

(a) the President of the Legislative Council; and

(b) the Parliamentary leader of each political party represented in the House of Assembly.

(6) A person is not eligible to be appointed as a member of the Board under subsection (1)(e) , (f) or (g) if that person is, or has been in the period of 5 years immediately preceding the date on which it is proposed to appoint that person –

(a) a Member of a House of Parliament of the Commonwealth or a State or Territory; or

(b) a member of a council; or

(c) a member of a political party or a member of a similar organisation.

(7) Schedule 2 has effect with respect to membership of the Board.

(8) Schedule 3 has effect with respect to meetings of the Board.

(9) [Section 14 Subsection (9) inserted by No. 13 of 2017, s. 6, Applied:13 Jun 2017] If a person holding the office of Chief Commissioner vacates that office in accordance with section 15B(1) , he or she ceases to be a member of the Board.

(10) [Section 14 Subsection (10) inserted by No. 13 of 2017, s. 6, Applied:13 Jun 2017] In this section –

government organisation means –

(a) a Government department; and

(b) a State authority within the meaning of the *State Service Act 2000*.

15. Chief Commissioner

(1) A person is to be appointed by the Governor as Chief Commissioner.

(2) Before a person is appointed as Chief Commissioner, the Minister is to consult the Joint Committee.

(3) If the members of the Joint Committee have not been appointed or Parliament has been prorogued, the Minister is to consult –

(a) the President of the Legislative Council; and

(b) the Parliamentary leader of each political party represented in the House of Assembly.

(4) [Section 15 Subsection (4) substituted by No. 13 of 2017, s. 7, Applied:13 Jun 2017] A person is not eligible to be appointed as Chief Commissioner unless he or she is an Australian legal practitioner of not less than 7 years' standing and either –

(a) he or she has not previously been appointed as Chief Commissioner under subsection (1) ; or

(b) he or she has previously been appointed under subsection (1) as Chief Commissioner and section 15A(2) applies in relation to his or her appointment.

(5) [Section 15 Subsection (5) substituted by No. 13 of 2017, s. 7, Applied:13 Jun 2017] A person is not eligible to be appointed as Chief Commissioner if he or she is, or has been, in the period of 5 years immediately preceding the

date on which it is proposed that he or she be appointed –

- (a) a Member of a House of Parliament of the Commonwealth or a State or Territory; or
- (b) a member of a council; or
- (c) a member of a political party or a member of a similar organisation.

(6) *[Section 15 Subsection (6) substituted by No. 13 of 2017, s. 7, Applied:13 Jun 2017]* The State Service Act 2000 does not apply in relation to a person in his or her capacity as Chief Commissioner.

(7) *[Section 15 Subsection (7) inserted by No. 13 of 2017, s. 7, Applied:13 Jun 2017]* A person may hold the office of Chief Commissioner in conjunction with State Service employment.

15A. Terms of office and terms and conditions of appointment to office of Chief Commissioner

[Section 15A Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) Subject to this Act, a person appointed as Chief Commissioner holds that office for the period, not exceeding 5 years, which is specified in his or her instrument of appointment.

(2) A person may be appointed as Chief Commissioner more than once, but the period of appointment specified in any instrument of appointment after the first instrument of appointment must not be a period such that the total of all periods for which he or she is appointed as Chief Commissioner is more than a period of 10 years.

(3) Subject to this Act, a person appointed as Chief Commissioner holds that office on the terms and conditions –

- (a) determined by the Governor; and
- (b) specified in his or her instrument of appointment as Chief Commissioner.

(4) A person holding an office who is required by the terms of his or her appointment to devote the whole of his or her time to the functions of that office is not disqualified from –

- (a) holding that office and also the office of Chief Commissioner; or
- (b) accepting any remuneration payable to the Chief Commissioner.

(5) A person appointed to the office of Chief Commissioner is entitled to be paid the remuneration and allowances that are specified in the Chief Commissioner's instrument of appointment.

(6) A person appointed to the office of Chief Commissioner who is a State Service officer or State Service employee is not entitled to remuneration or allowances under subsection (5) except with the approval of the Minister administering the State Service Act 2000 .

15B. Vacation of office of Chief Commissioner

[Section 15B Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) A person holding the office of Chief Commissioner vacates the office –

- (a) at the end of the term of his or her appointment; or
- (b) on his or her resignation from that office under subsection (2) ; or
- (c) on the revocation of his or her appointment to the office under section 15J .

(2) A person holding the office of Chief Commissioner may at any time resign his or her office by notice in writing delivered to the Governor.

15C. Leave of absence

[Section 15C Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017] The Governor may grant a person holding the office of Chief Commissioner leave of absence from that office on any terms and conditions that the Governor determines.

15D. Acting Chief Commissioner

[Section 15D Inserted by No. 13 of 2017, s. 8, Applied: 13 Jun 2017]

- (1) The Governor may appoint a person, who is eligible under this Act for appointment to the office of Chief Commissioner, to act as Chief Commissioner during any particular, or every, period during which the Chief Commissioner is absent.
- (2) The appointment of an Acting Chief Commissioner under subsection (1) is subject to, and has effect in accordance with, the terms and conditions (including remuneration and allowances) specified in the instrument of appointment.
- (3) While a person is appointed as Acting Chief Commissioner under subsection (1) –
 - (a) that person is taken to be the Chief Commissioner; and
 - (b) this Act and any other Act applies to that person as if he or she were the Chief Commissioner.
- (4) An appointment under subsection (1) –
 - (a) may be revoked at any time by the Governor; and
 - (b) is revoked by the return to office of the Chief Commissioner who while absent has been represented by the Acting Chief Commissioner; and
 - (c) is revoked once the person who has been represented by the Acting Chief Commissioner is able to perform the functions of the office of Chief Commissioner again.
- (5) Anything done by or in relation to a person appointed as Acting Chief Commissioner under subsection (1) is not invalid on the ground that –
 - (a) the occasion for the person's appointment as Acting Chief Commissioner had not arisen; or
 - (b) there is a defect or irregularity in connection with the person's appointment as Acting Chief Commissioner; or
 - (c) the person's appointment as Acting Chief Commissioner ceased to have effect; or
 - (d) the occasion for the person to act as Acting Chief Commissioner had not arisen or had ceased.

15E. Suspension from office of Chief Commissioner

[Section 15E Inserted by No. 13 of 2017, s. 8, Applied: 13 Jun 2017]

- (1) The Governor may suspend from office a person holding the office of Chief Commissioner if the Governor is satisfied that the person –
 - (a) except by reason of temporary illness, is, by reason of disability or infirmity, incapable of performing the functions of that office; or
 - (b) has become bankrupt, applied to take or has taken advantage of any law relating to bankruptcy or insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration or estate for their benefit; or
 - (c) has been convicted in Tasmania of –
 - (i) a crime; or
 - (ii) an offence that is punishable by imprisonment for a term of 12 months or more –
 or has been convicted of a crime, or of an offence, which would, if committed in Tasmania, be a crime, or be an offence punishable by imprisonment for a term of 12 months or more.
- (2) The Governor may suspend from office a person holding the office of Chief Commissioner if the Governor is satisfied that the person has been charged with –
 - (a) a crime; or
 - (b) an offence that is punishable by imprisonment for a term of 12 months or more; or

(c) a crime, or an offence, which would, if committed in Tasmania, be a crime, or be an offence punishable by imprisonment for a term of 12 months or more.

(3) The Governor may suspend from office a person holding the office of Chief Commissioner if the Governor is satisfied that the person –

(a) has been guilty of conduct, or an attempt to engage in conduct, which if engaged in by a public officer is misconduct; or

(b) has engaged in misbehaviour that brings the office of Chief Commissioner into disrepute.

15F. Minister to lay before each House of Parliament a statement in relation to suspension of person from office of Chief Commissioner

[Section 15F Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017] If a person is suspended from the office of Chief Commissioner under section 15E, the Minister must cause a statement setting out the grounds for the suspension to be laid before each House of Parliament during the first 7 sitting-days of that House following the suspension, or a longer period allowed by resolution of the House of Parliament before which it is laid.

15G. House of Parliament may confirm or revoke suspension for misconduct or misbehaviour

[Section 15G Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) If a person is suspended from the office of Chief Commissioner under section 15E(3), a House of Parliament, within 30 sitting-days after the day on which a statement is laid before the House under section 15F, or a longer period allowed by resolution of that House of Parliament, may pass a resolution –

(a) confirming the suspension; or

(b) revoking the suspension.

(2) If both Houses of Parliament pass a resolution under subsection (1)(b) revoking the suspension of a person from the office of Chief Commissioner, the suspension of the person from the office of Chief Commissioner is revoked on and from the day on which the resolution is passed by both Houses.

15H. Governor may revoke or vary suspension of person from office of Chief Commissioner

[Section 15H Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) The Governor may revoke or vary a suspension imposed under section 15E.

(2) If a suspension is revoked or varied under subsection (1), the Minister must cause a statement setting out the grounds for the revocation or variation to be laid before each House of Parliament during the first 7 sitting-days of that House following the revocation or variation, or a longer period allowed by resolution of the House of Parliament before which it is laid.

(3) If a suspension is revoked or varied under subsection (1), a House of Parliament, within 30 sitting-days after the day on which a statement setting out the grounds for the revocation or variation has been laid before the House under subsection (2), or a longer period allowed by resolution of that House of Parliament, may pass a resolution –

(a) confirming the revocation or variation of the suspension; or

(b) revoking the revocation or variation of the suspension.

(4) If both Houses of Parliament pass a resolution under subsection (3)(b) –

(a) revoking the revocation of a suspension, the suspension is to be taken to continue on and from the day on which the resolution is passed by both Houses until the suspension is revoked, if at all, under this Act; or

(b) revoking the variation of a suspension, the variation of the suspension is to be taken to cease on and from the day on which the resolution has been passed by both Houses.

15I. Request for revocation of appointment

[Section 15I Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017] The Governor may cause to be laid before both Houses of Parliament a statement requesting the Houses of Parliament to revoke the appointment of a person as Chief Commissioner on the grounds for suspension, referred to in section 15E(1) or (3) , that are specified in the statement, if –

- (a) the Governor is satisfied that the person may be suspended from the office of Chief Commissioner on the grounds, referred to in section 15E(1) or (3) , specified in the statement; and
- (b) the Governor has suspended the person from office under section 15E on any grounds referred to in that section, whether or not they are the same grounds as the grounds to which the statement relates; and
- (c) the statement required by section 15F to be laid before both Houses of Parliament in relation to the suspension of the person from the office of Chief Commissioner has been laid before each House; and
- (d) where the person has been suspended from office under section 15E(3) – the suspension has been confirmed under section 15G(1)(a) .

15J. House of Parliament may revoke appointment or suspension of person from office of Chief Commissioner

[Section 15J Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) A House of Parliament, after 10 sitting-days, or a longer period allowed by resolution of the House, after the day on which a statement requesting the Houses of Parliament to revoke the appointment of a person as Chief Commissioner has been laid before the House under section 15I , may resolve –

- (a) to refuse the request made in the statement and, if the suspension of the person from office has not been revoked, to revoke the suspension; or
- (b) to revoke the appointment of the person as Chief Commissioner.

(2) If both Houses have resolved –

- (a) under subsection (1)(a) to revoke the suspension of a person from the office of Chief Commissioner, the suspension of the person from the office of Chief Commissioner is revoked; or
- (b) under subsection (1)(b) to revoke the appointment of a person as Chief Commissioner, the appointment of the person as Chief Commissioner is revoked –

on and from the day on which the resolution is passed by both Houses.

15K. Payment of person suspended from office of Chief Commissioner

[Section 15K Inserted by No. 13 of 2017, s. 8, Applied:13 Jun 2017]

(1) If a person is suspended from the office of Chief Commissioner under section 15E , the Governor is to specify in the instrument of suspension the proportion (which may be all, none or part) of the salary of the Chief Commissioner to which the person is to be entitled in respect of the period of suspension.

(2) If a person is suspended from the office of Chief Commissioner under section 15E , the person is not entitled, in respect of the period of suspension, to any more of the salary of the Chief Commissioner, to which, but for the suspension, or any variation of the suspension, the person would be entitled under this Act, than the proportion of that salary that is specified in the instrument of suspension, as so varied, if at all.

(3) Despite subsection (2) , if the suspension of a person from the office of Chief Commissioner for a period under section 15E is revoked under section 15G(2) , section 15H(1) or section 15J(2)(a) , the person is entitled to the amount of the salary in respect of the period to which, but for the suspension of the person from the office, the person would be entitled under this Act.

16. Delegation

(1) The Board may, by resolution, delegate to a member of the Board, a member of the staff, other than the chief executive officer, of the Integrity Commission or any other person all or any of its functions or powers under this Act or any other Act, other than this power of delegation.

- (2) The Board may, by resolution, delegate to the chief executive officer any of its functions and powers including this power of delegation.
- (3) Section 23AA(2), (3), (4), (5) and (8) of the Acts Interpretation Act 1931 apply to a delegation made under subsection (1).

Division 3 - Staff of Integrity Commission

Subdivision 1 - Chief executive officer

17. Chief executive officer

- (1) The chief executive officer is to be appointed by the Governor on the recommendation of the Premier.
- (2) Before a person is appointed as chief executive officer, the Premier is to consult the Joint Committee.
- (3) If the members of the Joint Committee have not been appointed or Parliament has been prorogued, the Premier is to consult –
- (a) the President of the Legislative Council; and
 - (b) the Parliamentary leader of each political party represented in the House of Assembly.
- (4) The chief executive officer is not eligible to hold the office of member of the Board.
- (5) The chief executive officer –
- (a) holds office for such period as is specified in his or her instrument of appointment; and
 - (b) is entitled to such remuneration and allowances as are specified in his or her instrument of appointment; and
 - (c) is taken to be an employee for the purposes of the Long Service Leave (State Employees) Act 1994 ; and
 - (d) holds office on such terms and conditions with respect to matters not provided for in this section as are specified in the instrument of appointment.
- (6) A person who is a member of a House of Parliament of the Commonwealth, or of a State or Territory of the Commonwealth, or a candidate for election as a member of such House of Parliament, is disqualified from being appointed as chief executive officer and, if a person holding the office of chief executive officer becomes a candidate for election as such a member, that person vacates that office on becoming such a candidate.
- (7) For the purposes of subsection (6), a person becomes a candidate for election as a member of a House of Parliament when nominated for that election in accordance with the law regulating the election.
- (8) *[Section 17 Subsection (8) substituted by No. 54 of 2016, s. 53, Applied:31 Mar 2017]* The chief executive officer is an employee for the purposes of the Public Sector Superannuation Reform Act 2016 .
- (9) *[Section 17 Subsection (9) omitted by No. 54 of 2016, s. 53, Applied:31 Mar 2017]*
- (10) *[Section 17 Subsection (10) omitted by No. 54 of 2016, s. 53, Applied:31 Mar 2017]*
- (11) *[Section 17 Subsection (11) omitted by No. 54 of 2016, s. 53, Applied:31 Mar 2017]*
- (12) *[Section 17 Subsection (12) omitted by No. 54 of 2016, s. 53, Applied:31 Mar 2017]*
- (13) Unless the contrary intention appears, an expression used in this section has the same meaning as in the State Service Act 2000 .

18. Responsibilities of chief executive officer

- (1) The chief executive officer is responsible to the Board for the general administration, management and operations of the Integrity Commission.
- (2) The chief executive officer –

(a) must perform any functions or carry out any responsibilities imposed on the chief executive officer, and may exercise any other powers conferred on the chief executive officer, by this or any other Act; and

(b) must carry out any responsibilities, and may perform any functions or exercise any powers, delegated by the Board.

(3) The State Service Act 2000 applies to the chief executive officer in his or her capacity as the Head of Agency within the meaning of that Act.

19. Delegation by chief executive officer

The chief executive officer may delegate any of his or her responsibilities, functions or powers, other than this power of delegation.

Subdivision 2 - Officers, employees and authorised persons

20. Officers and employees

Subject to and in accordance with the State Service Act 2000 , persons may be appointed for the purpose of this Act.

21. Authorised persons

(1) The chief executive officer may make arrangements with the principal officer of any public authority for a public officer of that authority to be made available to undertake work on behalf of the Integrity Commission.

(2) If a person is to be made available under subsection (1) , the chief executive officer is to, by written notice, authorise the person to perform the functions or exercise the powers under this Act that are specified in the notice.

(3) An arrangement made under subsection (1) may allow the authorised person to remain an employee of the public authority, but to report to the chief executive officer or other person nominated by the chief executive officer in relation to the work being undertaken on behalf of the Integrity Commission.

(4) At the request of the chief executive officer, the Commissioner of Police is to make available, in accordance with an agreement referred to in subsection (10) , police officers to undertake investigations and assist with inquiries on behalf of the Integrity Commission.

(5) The chief executive officer may make arrangements with a law enforcement authority (however described) of the Commonwealth or another State or a Territory for officers or employees of that authority to be made available to undertake investigations and assist with inquiries on behalf of the Integrity Commission.

(6) If a person is to be made available under subsection (4) or (5) , the chief executive officer is to, by written notice, authorise the person to perform the functions or exercise the powers of an investigator or inquiry officer under this Act.

(7) While undertaking work on behalf of the Integrity Commission, an authorised person who is a police officer continues to have the functions and powers of a police officer but reports to the chief executive officer, or other person nominated by the chief executive officer, in relation to the work being undertaken on behalf of the Integrity Commission.

(8) Nothing in this section or the Police Service Act 2003 requires a police officer who is made available under subsection (4) to report to, provide information to or take direction from the Commissioner of Police or any senior officer within the meaning of that Act.

(9) The Commissioner of Police is to appoint, with or without restrictions, as a special constable any person made available under subsection (5) unless the Commissioner of Police lodges a written objection with the Chief Commissioner stating the grounds of the objection.

(10) The Commissioner of Police and the chief executive officer are to enter into a written agreement concerning the provision of police officers to undertake investigations and assist with inquiries on behalf of the Integrity Commission.

PART 3 - Relationship with Parliament

Division 1 - Preliminary

22. Interpretation: Part 3, Division 1

In this Part –

integrity entity does not include the Auditor-General.

Division 2 - Joint Standing Committee on Integrity

23. Joint Standing Committee on Integrity

- (1) The Joint Standing Committee on Integrity is established.
- (2) The Joint Committee consists of 6 Members of Parliament of whom –
 - (a) 3 are to be Members of the Legislative Council; and
 - (b) 3 are to be Members of the House of Assembly.
- (3) Of the members of the Joint Committee referred to in subsection (2)(b), at least one member of any political party that has 3 or more members in the House of Assembly is to be a member of the Joint Committee.
- (4) The Joint Committee is to be appointed at the commencement of the first session of each Parliament according to the practice regulating the appointment of Members of Parliament to serve on select committees of the Legislative Council and House of Assembly respectively.
- (5) Schedule 4 has effect with respect to the membership of the Joint Committee.
- (6) Schedule 5 has effect with respect to the proceedings of the Joint Committee.

24. Functions and powers of Joint Committee

- (1) The Joint Committee has the following functions:
 - (a) to monitor and review the performance of the functions of an integrity entity;
 - (b) to report to both Houses of Parliament, as it considers appropriate, on the following matters:
 - (i) matters relevant to an integrity entity;
 - (ii) matters relevant to the performance of an integrity entity's functions or the exercise of an integrity entity's powers;
 - (c) to examine the annual reports of an integrity entity and any other report of an integrity entity and report to both Houses of Parliament on any matter appearing in or arising out of such reports;
 - (d) to report to the Legislative Council or House of Assembly on any matter relevant to an integrity entity's functions that is referred to it by the Legislative Council or House of Assembly;
 - (e) to review the functions, powers and operations of the Integrity Commission at the expiration of the period of 3 years commencing on the commencement of this section and to table in both Houses of Parliament a report regarding any action that should be taken in relation to this Act or the functions, powers and operations of the Integrity Commission;
 - (f) to provide guidance and advice relating to the functions of an integrity entity under this Act;
 - (g) to refer any matter to the Integrity Commission for investigation or advice;
 - (h) to comment on proposed appointments to be made under section 14(1)(e), (f) or (g), section 15 and section 27.
- (2) Nothing in this Part authorises the Joint Committee –

- (a) to investigate any matter relating to a complaint that is being dealt with by the Integrity Commission; or
- (b) to review a decision of the Integrity Commission to investigate, not investigate or discontinue an investigation or inquire into or not inquire into a particular complaint; or
- (c) to make findings, recommendations, determinations or decisions in relation to a particular investigation or inquiry of a complaint that is being or has been dealt with by the Integrity Commission.

25. Resignation

A member of the Joint Committee may resign his or her office as a member of the Joint Committee by writing under his or her hand addressed to the presiding officer of the House of Parliament of which the member is a Member of Parliament.

26. Report to Parliament

- (1) By 30 November in each year the Joint Committee is to make a report of its proceedings under this Act and cause a copy of the report to be laid before both Houses of Parliament.
- (2) If the Joint Committee is unable to comply with subsection (1) because a House of Parliament is not sitting on 30 November in any year, the Joint Committee is to on or before that day, provide a copy of the report to the Clerk of the Legislative Council and the Clerk of the House of Assembly.
- (3) Upon presentation to the Clerk of the Legislative Council and the Clerk of the House of Assembly the report is taken to have been laid before each House of Parliament and ordered to be printed.
- (4) The Clerk of the Legislative Council and the Clerk of the House of Assembly are to cause a copy of the report to be laid before each House of Parliament within the first 3 sitting-days after receipt of the report.

Division 3 - Parliamentary standards

27. Parliamentary Standards Commissioner

- (1) The office of Parliamentary Standards Commissioner is established.
- (2) Before a person is appointed as Parliamentary Standards Commissioner, the Minister is to consult the Joint Committee.
- (3) If the members of the Joint Committee have not been appointed or Parliament has been prorogued, the Minister is to consult –
 - (a) the President of the Legislative Council; and
 - (b) the Parliamentary leader of each political party represented in the House of Assembly.
- (4) *[Section 27 Subsection (4) omitted by No. 13 of 2017, s. 9, Applied: 13 Jun 2017]*
- (5) A person is not eligible to be appointed as Parliamentary Standards Commissioner if that person is a member of a political party or a member of a similar organisation.
- (6) The Parliamentary Standards Commissioner is to be appointed by the Governor for a 5-year term and is eligible for reappointment once.
- (7) The Parliamentary Standards Commissioner holds office on such terms and conditions as are specified in his or her instrument of appointment.
- (8) For the avoidance of doubt, the Parliamentary Standards Commissioner may be appointed on a part-time basis.
- (9) The Parliamentary Standards Commissioner may not be an officer or employee under the State Service Act 2000 .
- (10) The Parliamentary Standards Commissioner is not subject to the direction or control of the Minister in respect of the performance or exercise of his or her functions or powers under this Act.

28. Function of Parliamentary Standards Commissioner

(1) The function of the Parliamentary Standards Commissioner is to provide advice to Members of Parliament and the Integrity Commission –

- (a) about conduct, propriety and ethics and the interpretation of any relevant codes of conduct and guidelines relating to the conduct of Members of Parliament; and
- (b) relating to the operation of the Parliamentary disclosure of interests register, declarations of conflicts of interest register and any other register relating to the conduct of Members of Parliament; and
- (c) relating to guidance and training for Members of Parliament and persons employed in the offices of Members of Parliament on matters of conduct, integrity and ethics; and
- (d) relating to the operation of any codes of conduct and guidelines that apply to Members of Parliament.

(2) The advice provided under subsection (1) may be provided by the Parliamentary Standards Commissioner on a confidential basis.

29. Restriction of functions of Parliamentary Standards Commissioner

The Parliamentary Standards Commissioner is not to be involved in the assessment or investigation of, or any inquiry in relation to, a complaint under this Act, if the Parliamentary Standards Commissioner has provided advice about a matter that relates to that complaint.

30. Functions of chief executive officer in relation to Members of Parliament

The chief executive officer is to –

- (a) monitor the operation of the Parliamentary disclosure of interests register, declarations of conflicts of interest register and any other register relating to the conduct of Members of Parliament; and
- (b) prepare guidance and provide training for Members of Parliament and persons employed in the offices of Members of Parliament on matters of conduct, integrity and ethics; and
- (c) review, develop and monitor the operation of any codes of conduct and guidelines that apply to Members of Parliament; and
- (d) where appropriate, propose to a Parliamentary integrity entity possible modifications of any code of conduct or guidelines.

PART 4 - Educative, Preventative and Advisory Functions of Commission

31. Educative, preventative and advisory functions

The Integrity Commission has the following educative, preventative and advisory functions:

- (a) to take such steps as the Integrity Commission considers necessary to uphold, promote and ensure adherence to standards of conduct, propriety and ethics in public authorities;
- (b) to review and make recommendations about practices, procedures and standards in relation to conduct, propriety and ethics in public authorities and to evaluate their application within those authorities;
- (c) to provide advice to public officers and the public about standards of conduct, propriety and ethics in public authorities;
- (d) to consult with, and provide assistance to, principal officers of public authorities in relation to the development and implementation of codes of conduct relevant to those authorities;
- (e) to evaluate the adequacy of systems and procedures in public authorities for ensuring compliance with relevant codes of conduct;
- (f) to develop and coordinate education and training programs for public authorities in relation to ethical conduct;
- (g) to enter into contracts, agreements and partnerships with other entities to support its educative, preventative and advisory functions;
- (h) undertake research into matters related to ethical conduct and investigatory processes;
- (i) to prepare information and material and provide educative resources to increase awareness of ethical conduct in the community.

32. Public officers to be given education and training relating to ethical conduct

- (1) The principal officer of a public authority is to ensure that public officers of the public authority are given appropriate education and training relating to ethical conduct.
- (2) In particular, the education and training must relate to –
 - (a) the operation of this Act and any Act that relates to the conduct of the public officer; and
 - (b) the application of ethical principles and obligations to public officers; and
 - (c) the content of any code of conduct that applies to the public authority; and
 - (d) the rights and obligations of public officers in relation to contraventions of any code of conduct that applies to public officers.

PART 5 - Complaints

Division 1 - Receipt of complaints

33. Complaints

(1) A complaint is to be made in writing to the Integrity Commission by a person about alleged misconduct in a manner and form approved by the Board.

(1A) [Section 33 Subsection (1A) inserted by No. 55 of 2011, s. 7, Applied:22 Dec 2011] A complaint under subsection (1) may be made anonymously.

(2) A complaint under subsection (1) may be made about a person who was a public officer at the time the alleged misconduct specified in the complaint occurred, whether or not that person is a public officer when the complaint is made.

34. Registration of complaints

(1) On receipt of a complaint, the Integrity Commission must enter the details of the complaint in a register of complaints.

(2) The register of complaints is to be in a form approved by the Board.

Division 2 - Actions on receipt of complaint

35. Assessment of complaint

(1) On receipt of a complaint, the chief executive officer may –

- (a) dismiss the complaint under section 36 ; or
- (b) accept the complaint for assessment; or
- (c) refer the complaint to an appropriate person for action; or
- (d) recommend to the Board that the Board recommend to the Premier that a commission of inquiry be established under the Commissions of Inquiry Act 1995 in relation to the matter.

(2) If the chief executive officer accepts a complaint for assessment, the chief executive officer is to appoint an assessor to assess the complaint as to whether the complaint should be accepted for investigation.

(3) If the assessor conducts an assessment in relation to a complaint about a public officer, the assessor may, if he or she considers it appropriate, give written notice of his or her intention to conduct the assessment to –

- (a) the principal officer of the relevant public authority; and
- (b) the complainant; and
- (c) any public officer to whom the complaint relates.

(4) In conducting an assessment under subsection (3) , the assessor may exercise any of the powers of an investigator under Part 6 if the assessor considers it is reasonable to do so.

(5) Section 98 applies to a notice under subsection (3) if the notice provides that it is a confidential document.

(6) In referring the complaint to an appropriate person under subsection (1)(c) , the chief executive officer may also –

- (a) require the person to provide a report on what action the person intends to take in relation to the complaint; or
- (b) monitor any action taken by the person in relation to the complaint; or
- (c) audit an action taken by the person in relation to the complaint.

36. Dismissal of complaint

- (1) The chief executive officer may dismiss a complaint for investigation if he or she considers that –
 - (a) it is frivolous or vexatious; or
 - (b) it was not made in good faith; or
 - (c) it lacks substance or credibility; or
 - (d) it does not relate to the functions of the Integrity Commission; or
 - (e) investigating the complaint would be an unjustifiable use of resources; or
 - (f) it is not in the public interest for the Integrity Commission to investigate the complaint; or
 - (g) in the case of a complaint about misconduct occurring after the commencement of this section, if the complainant had had knowledge of the subject matter of the complaint for more than a year and fails to give a satisfactory explanation for the delay in making the complaint.
- (2) Factors which the chief executive officer may consider in determining the public interest under subsection (1)(f) include, but are not limited to –
 - (a) the nature and seriousness of the alleged misconduct; and
 - (b) the time that has elapsed since the alleged misconduct occurred; and
 - (c) the availability of evidence and the recollection of any witnesses; and
 - (d) the likely degree of culpability, in connection with the alleged misconduct, of any public officer about whom the complaint has been made; and
 - (e) whether the alleged misconduct could be of significant public concern; and
 - (f) whether the alleged misconduct has been previously investigated and appropriately dealt with; and
 - (g) whether the alleged misconduct is being appropriately dealt with; and
 - (h) the sanctions available to deal with the alleged misconduct; and
 - (i) whether the alleged misconduct may be indicative of, or may expose, entrenched or systemic behaviour.
- (3) The applicability of and weight to be given to other relevant factors specified in subsection (2) and any other factors depend on the particular circumstances of each complaint.

37. Report of assessor

- (1) On completion of an assessment or review of a complaint, the assessor is to prepare a report of his or her assessment and forward that report to the chief executive officer.
- (2) The report of the assessor is to recommend that the complaint –
 - (a) *[Section 37 Subsection (2) amended by No. 55 of 2011, s. 8, Applied: 22 Dec 2011]* be dismissed under section 36 or not accepted; or
 - (b) be referred to the principal officer of any relevant public authority for investigation and action; or
 - (c) be referred to an appropriate integrity entity for investigation and action; or
 - (d) be referred to a Parliamentary integrity entity for investigation and action; or
 - (e) be referred to the Commissioner of Police for investigation if the assessor considers a crime or other offence may have been committed; or
 - (f) be referred to any other person who the assessor considers appropriate for investigation and action; or
 - (g) be investigated by the Integrity Commission.

(3) In making his or her recommendation to the chief executive officer, the assessor may consider any or all of the following:

- (a) the principles of operation of the Integrity Commission specified in section 9 ;
- (b) the nature and seriousness of the alleged misconduct if it were to be proven;
- (c) the capacity of any relevant public authority to investigate the complaint;
- (d) whether it is in the public interest, or is likely to increase public confidence, for the Integrity Commission to investigate the complaint;
- (e) any other matters the assessor considers relevant.

38. Actions of chief executive officer on receipt of assessment

(1) On receipt of a report from an assessor prepared under section 37 , the chief executive officer is to make a determination –

- (a) to dismiss or not accept the complaint; or
- (b) to refer the complaint to which the report relates, any relevant material and the report to any relevant public authority with recommendations for investigation and action; or
- (c) to refer the complaint to which the report relates, any relevant material and the report to an appropriate integrity entity with recommendations for investigation and action; or
- (d) to refer the complaint to which the report relates, any relevant material and the report to an appropriate Parliamentary integrity entity; or
- (e) to refer the complaint to which the report relates, any relevant material and the report to the Commissioner of Police with a recommendation for investigation; or
- (f) to refer the complaint to which the report relates, any relevant material and the report to any person who the chief executive officer considers appropriate for action; or
- (g) that the Integrity Commission investigate the complaint.

(2) The chief executive officer is to give written notice of his or her determination under subsection (1) to the principal officer of any relevant public authority and may, if he or she considers it appropriate, give written notice to –

- (a) the complainant; and
- (b) any public officer to whom the complaint relates.

(3) Section 98 applies to a notice under subsection (2) if the notice provides that it is a confidential document.

39. Referral of complaint to relevant public authority

(1) If a complaint is referred to a relevant public authority under section 38(1)(b) , the chief executive officer is to notify the principal officer of that public authority in writing that the chief executive officer is to be informed of the outcome of the investigation, including any action taken, or to be taken, by the public authority.

(2) The chief executive officer may also –

- (a) require the relevant public authority to provide progress reports on the investigation at such times as the chief executive officer considers necessary; or
- (b) monitor the conduct of the investigation; or
- (c) audit the investigation after it has been completed.

40. Referral of complaint to integrity entity

If a complaint is referred to an integrity entity under section 38(1)(c) , the chief executive officer is to notify the integrity entity in writing that the chief executive officer is to be informed of the outcome of the investigation including any action taken, or to be taken, by the integrity entity.

41. Referral of complaint to Parliamentary integrity entity

If a complaint is referred to a Parliamentary integrity entity under section 38(1)(d) , the chief executive officer is to notify the Parliamentary integrity entity in writing that the chief executive officer is to be informed of the outcome of the investigation including any action taken, or to be taken, by the Parliamentary integrity entity.

42. Referral of complaint to Commissioner of Police

(1) If a complaint is referred to the Commissioner of Police under section 38(1)(e) , the chief executive officer is to notify the Commissioner of Police in writing that the chief executive officer is to be informed of the outcome of the investigation including any action taken, or to be taken, by the Commissioner of Police.

(2) The chief executive officer may also –

- (a) require the Commissioner of Police to provide progress reports on the investigation at such times as the chief executive officer considers necessary; or
- (b) monitor the investigation; or
- (c) audit the investigation after it has been completed.

43. Referral of complaint to other person

(1) If a complaint is referred to a person under section 38(1)(f) , the chief executive officer is to notify the person in writing that the chief executive officer is to be informed of the outcome of the investigation including any action taken, or to be taken, by the person.

(2) The chief executive officer may also –

- (a) require the person to provide progress reports on the investigation at such times the chief executive officer considers necessary; or
- (b) monitor the investigation; or
- (c) audit the investigation after it has been completed.

PART 6 - Investigations

Division 1 - Conduct of investigations

44. Appointment of investigator

- (1) If the chief executive officer makes a determination that the Integrity Commission should investigate a complaint, the chief executive officer is to appoint an investigator to conduct an investigation of the complaint.
- (2) If a determination to investigate a complaint is made, the chief executive officer may, if he or she considers it appropriate, give written notice to –
 - (a) the principal officer of any relevant public authority; and
 - (b) the complainant; and
 - (c) any public officer who is the subject of the complaint –that an investigator has been appointed to investigate the complaint.
- (3) Any notice given under subsection (2) –
 - (a) may include details of the complaint; and
 - (b) may include, if the chief executive officer considers it appropriate, any report of the assessor in relation to the complaint.
- (4) Section 98 applies to a notice under subsection (2) if the notice provides that it is a confidential document.

45. Own-motion investigations

- (1) *[Section 45 Subsection (1) amended by No. 55 of 2011, s. 9, Applied:22 Dec 2011]* The Board may determine to conduct an investigation on its own motion in respect of any matter that is relevant to the achievement of the objectives of this Act in relation to misconduct, including but not limited to –
 - (a) an investigation into misconduct by a public officer; and
 - (b) an investigation into misconduct by a designated public officer; and
 - (c) an investigation into misconduct or serious misconduct generally; and
 - (d) an investigation into any of the policies, practices or procedures of a public authority or of a public officer, or the failure of those policies, practices or procedures.
- (2) *[Section 45 Subsection (2) amended by No. 55 of 2011, s. 9, Applied:22 Dec 2011]* If the Board makes a determination under subsection (1), it is to advise the chief executive officer of the determination and the chief executive officer is to appoint an investigator to conduct an investigation –
 - (a) into whether or not any particular public officer, designated public officer or other person may have committed misconduct; or
 - (b) *[Section 45 Subsection (2) amended by No. 55 of 2011, s. 9, Applied:22 Dec 2011]* into whether or not any serious misconduct or other misconduct has occurred; or
 - (c) *[Section 45 Subsection (2) amended by No. 55 of 2011, s. 9, Applied:22 Dec 2011]* into whether or not any person under investigation who was a public officer at any relevant time is still a public officer at the time of the investigation; or
 - (d) *[Section 45 Subsection (2) amended by No. 55 of 2011, s. 9, Applied:22 Dec 2011]* into any of the policies, practices or procedures of a public authority or of a public officer, or the failure of those policies, practices or procedures.
- (3) If the Board makes a determination under subsection (1), the chief executive officer may, if he or she considers it appropriate, give written notice of the investigation to –

- (a) the principal officer of any relevant public authority; and
- (b) any responsible Minister; and
- (c) any public officer suspected of misconduct.

(4) Section 98 applies to a notice under subsection (3) if the notice provides that it is a confidential document.

46. Procedure on investigation

(1) Subject to this Act and any directions issued by the chief executive officer under subsection (4) , an investigator –

- (a) may conduct an investigation in any lawful manner he or she considers appropriate; and
- (b) may obtain information from any persons in any lawful manner he or she considers appropriate; and
- (c) must observe the rules of procedural fairness; and
- (d) may make any investigations he or she considers appropriate.

(2) The investigator may take into account in an investigation any information obtained by an assessor in the course of conducting an assessment under section 35 .

(3) The chief executive officer may authorise any person to assist an investigator.

(4) The chief executive officer may issue directions relating to the conduct of investigations.

47. Conduct of investigation

(1) In conducting an investigation under section 46(1) , the investigator, by written notice given to a person, may require or direct the person to do any or all of the following:

- (a) to provide the investigator or any person assisting the investigator with any information or explanation that the investigator requires;
- (b) to attend and give evidence before the investigator or any person assisting the investigator;
- (c) to produce to the investigator or any person assisting the investigator any record, information, material or thing in the custody or possession or under the control of a person.

(2) The investigator may require or direct that –

- (a) the information, explanation or answers to questions be given orally or in writing, as the investigator requires; and
- (b) the information, explanation or answers to questions be verified or the person give an oath or affirmation that the information or evidence the person has given is true.

(3) The investigator may administer an oath or affirmation for the purposes of this Act.

(4) If a person required or directed to give evidence to an investigator is –

- (a) a prisoner or detainee under the Corrections Act 1997 or the Youth Justice Act 1997 ; or
- (b) *[Section 47 Subsection (4) amended by No. 69 of 2013, Sched. 1, Applied: 17 Feb 2014]* a patient detained in an approved hospital under the Mental Health Act 2013 ; or
- (c) a person who is subject to a restriction under the Criminal Justice (Mental Impairment) Act 1999 –

the notice requiring or directing the person to provide any information or explanation authorises and requires the Director of Corrective Services, the Secretary within the meaning of the Youth Justice Act 1997 , the controlling authority of the approved hospital or the responsible medical officer, within the meaning of the Criminal Justice (Mental Impairment) Act 1999 , to allow the person to provide that information or explanation to the investigator in accordance with the notice.

(5) For the purpose of obtaining any record, information, material or thing under subsection (1) , the investigator may –

- (a) inspect and take copies of or take extracts from any such record, information, material or thing; and
- (b) require or direct any person to give such assistance as may be required.

(6) Any record, information, material or thing obtained by the investigator may be used for the purposes of the investigation or any subsequent inquiry under Part 7 .

(7) Section 98 applies to a notice under subsection (1) if the notice provides that it is a confidential document.

48. Investigation to be conducted in private unless otherwise authorised by chief executive officer

An investigation by an investigator is to be conducted in private unless otherwise authorised by the chief executive officer.

49. Representation

A person required or directed to give evidence or answer questions as part of an investigation may be represented by a legal practitioner or other agent.

50. Investigator's power to enter premises

(1) For the purpose of conducting an investigation an investigator and any person assisting an investigator may, after obtaining a written notice of authorisation from the chief executive officer, enter any premises of a public authority without the need for consent or a search warrant and may enter other premises at any reasonable time with the consent of the occupier or under the authority of a search warrant issued under section 51 .

(2) The investigator or other person referred to in subsection (1) must as soon as reasonably practicable after entering any premises produce the written notice of authorisation and show it to the person apparently in charge of the premises or any other person on request.

51. Search warrants

(1) For the purpose of conducting an investigation, an investigator may apply to a magistrate for a warrant to enter premises.

(2) The magistrate may, on application made under this section, issue a search warrant to an investigator if the investigator satisfies the magistrate that there are reasonable grounds to suspect that material relevant to the investigation is located at the premises.

(3) A search warrant authorises an investigator and any person assisting an investigator –

- (a) to enter the premises specified in the warrant at the time or within the period specified in the warrant; and

- (b) to exercise the powers in section 52 .

(4) The warrant must state –

- (a) that the investigator and any person assisting the investigator may, with any necessary force, enter the premises and exercise the investigator's powers under this Part; and

- (b) the reason for which the warrant is issued; and

- (c) the hours when the premises may be entered; and

- (d) the date, within 28 days after the day of the warrant's issue, of the warrant's expiry.

(5) *[Section 51 Subsection (5) omitted by No. 55 of 2011, s. 10, Applied:22 Dec 2011]*

(6) Except as provided in this section, the provisions in respect of search warrants under the Search Warrants Act 1997 extend and apply to warrants issued under this section.

52. Powers of investigator while on premises

(1) An investigator or any person assisting an investigator who enters premises under this Part may exercise any or all of the following powers:

- (a) to search the premises and examine anything on the premises;

- (b) to search for any record, information, material or thing relating to the matter to which the investigation relates;
 - (c) to operate equipment or facilities on the premises for a purpose relevant to the investigation;
 - (d) to take possession of any record, information, material or thing and retain it for as long as may be necessary to examine it to determine its evidentiary value;
 - (e) to make copies of any record, information, material or thing or any part of any record, information, material or thing;
 - (f) to seize and take away any record, information, material or thing or any part of any record, information, material or thing;
 - (g) to use (free of charge) photocopying equipment on the premises for the purpose of copying any record, information, material or thing;
 - (h) in respect of any computer or other equipment that the investigator suspects on reasonable grounds may contain any record, information, material or thing –
 - (i) to inspect and gain access to the computer or equipment; and
 - (ii) to download or otherwise obtain any record, information, material or thing; and
 - (iii) to make copies of any record, information, material or thing held in it; and
 - (iv) to seize and take away the computer or equipment or any part of it;
 - (i) if any record, information, material or thing found on the premises cannot be conveniently removed, to secure it against interference;
 - (j) to require or direct any person who is on the premises to do any of the following:
 - (i) to state his or her full name, date of birth and address;
 - (ii) to answer (orally or in writing) questions asked by the investigator relevant to the investigation;
 - (iii) to produce any record, information, material or thing;
 - (iv) to operate equipment or facilities on the premises for a purpose relevant to the investigation;
 - (v) to provide access (free of charge) to photocopying equipment on the premises the investigator reasonably requires to enable the copying of any record, information, material or thing;
 - (vi) to give other assistance the investigator reasonably requires to conduct the investigation;
 - (k) to do anything else reasonably necessary to obtain information or evidence for the purposes of the investigation.
- (2) Any record, information, material or thing obtained by the investigator may be used for the purposes of the investigation or any subsequent inquiry under Part 7 .
- (3) If an investigator takes anything away from the premises, the investigator must issue a receipt in a form approved by the Board and –
- (a) if the occupier or a person apparently responsible to the occupier is present, give it to him or her; or
 - (b) otherwise, leave it on the premises in an envelope addressed to the occupier.
- (4) An investigator and any assistants authorised to enter premises under a search warrant may use such force as is reasonably necessary for the purpose of entering the premises and conducting the search.
- (5) A person required or directed to do anything under subsection (1)(j) must not, without reasonable excuse, fail to comply with the requirement or direction.
- Penalty: Fine not exceeding 2 000 penalty units.

53. Application for use of surveillance device

(1) In the case of a complaint of serious misconduct, an investigator with the approval of the chief executive officer may apply for a warrant under Part 2 of the Police Powers (Surveillance Devices) Act 2006 as if the investigator were a law enforcement officer within the meaning of that Act and a reference in that Part to a relevant offence were read as a reference to misconduct.

(2) *[Section 53 Subsection (2) amended by No. 38 of 2015, s. 34, Applied:13 Oct 2015]* Divisions 2 and 3 of Part 5 of the Police Powers (Surveillance Devices) Act 2006 apply to the Integrity Commission as if the Integrity Commission were a law enforcement agency within the meaning of that Act.

54. Offences relating to investigations

(1) A person who, without reasonable excuse, fails to comply with a requirement or direction under section 47 within 14 days of receiving it commits an offence.

Penalty: Fine not exceeding 5 000 penalty units.

(2) A person must not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to another person for or on account of that other person having given evidence to an investigator or produced or surrendered any record, information, material or thing to an investigator.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

(3) A person must not obstruct or hinder an investigator or any person assisting an investigator in the performance of a function or the exercise of a power under section 47 .

Penalty: Fine not exceeding 2 000 penalty units.

Division 2 - Reports and subsequent action

55. Investigator's report

(1) On completion of an investigation, the investigator is to prepare a report of his or her findings for the chief executive officer.

(2) The chief executive officer is to submit a report of the investigation to the Board.

56. Opportunity to provide comment on report

(1) Before finalising any report for submission to the Board, the chief executive officer may, if he or she considers it appropriate, give a draft of the report to –

(a) the principal officer of the relevant public authority; and

(b) *[Section 56 Subsection (1) amended by No. 55 of 2011, s. 12, Applied:22 Dec 2011]* the public officer who is the subject of the investigation; and

(c) any other person who in the chief executive officer's opinion has a special interest in the report.

(2) A notice may be attached to a draft of a report specifying that the draft of the report is a confidential document.

(3) A person referred to in subsection (1)(a) , (b) or (c) may give the chief executive officer written submissions or comments in relation to the draft of the report within such time and in such a manner as the chief executive officer directs.

(4) The chief executive officer must include in his or her report prepared under section 57 any submissions or comments given to the chief executive officer under subsection (3) or a fair summary of those submissions or comments.

(5) Section 98 applies to a notice under subsection (2) if the notice provides that the draft of the report is a confidential document.

57. Report by chief executive officer

(1) The chief executive officer is to give to the Board a report of the investigation that includes –

(a) the investigator's report; and

(b) submissions or comments given under section 56 ; and

(c) a recommendation referred to in subsection (2) .

(2) The chief executive officer is to recommend –

(a) that the complaint be dismissed; or

(b) *[Section 57 Subsection (2) amended by No. 55 of 2011, s. 13, Applied:22 Dec 2011]* that the report of any findings and any other information obtained in the conduct of the investigation be referred to –

(i) the principal officer of the relevant public authority for action; or

(ii) an appropriate integrity entity for action; or

(iii) an appropriate Parliamentary integrity entity; or

(iv) the Commissioner of Police or DPP for action; or

(v) the responsible Minister; or

(vi) a person who the chief executive officer considers appropriate for action; or

(c) that the Board recommend to the Premier that a commission of inquiry be established under the Commissions of Inquiry Act 1995 in relation to the matter; or

(d) *[Section 57 Subsection (2) amended by No. 55 of 2011, s. 13, Applied:22 Dec 2011]* that an inquiry be conducted by an Integrity Tribunal into the matter.

(3) *[Section 57 Subsection (3) inserted by No. 55 of 2011, s. 13, Applied:22 Dec 2011]* The chief executive officer may in accordance with section 35(1)(d) recommend that the Board recommend to the Premier that a commission of inquiry be established under the Commissions of Inquiry Act 1995 in relation to the matter.

58. Determination of Board

(1) *[Section 58 Subsection (1) amended by No. 55 of 2011, s. 14, Applied:22 Dec 2011]* On receipt of a report under section 57(1) or a recommendation under section 57(3) , the Board may make a determination referred to in subsection (2) in relation to the subject matter of the report or recommendation.

(2) The Board may –

(a) dismiss the complaint; or

(b) *[Section 58 Subsection (2) amended by No. 55 of 2011, s. 14, Applied:22 Dec 2011]* refer the report of the investigation and any information obtained in the conduct of the investigation to –

(i) the principal officer of the relevant public authority for action; or

(ii) an appropriate integrity entity for action; or

(iii) an appropriate Parliamentary integrity entity; or

(iv) the Commissioner of Police or DPP for action; or

(v) the responsible Minister; or

(vi) a person who the Board considers appropriate; or

(c) recommend to the Premier that a commission of inquiry be established under the Commissions of Inquiry Act 1995 in relation to the matter; or

(d) *[Section 58 Subsection (2) amended by No. 55 of 2011, s. 14, Applied:22 Dec 2011]* require that a further investigation be conducted by the investigator; or

(e) *[Section 58 Subsection (2) amended by No. 55 of 2011, s. 14, Applied:22 Dec 2011]* determine that an inquiry be undertaken by an Integrity Tribunal under Part 7 .

(3) In referring a matter to a person under subsection (2)(b) , the Board may make a recommendation as to appropriate action that it considers should be taken in relation to the matter.

(4) *[Section 58 Subsection (4) amended by No. 55 of 2011, s. 14, Applied:22 Dec 2011]* A person to whom a report is referred under subsection (2)(b) must notify the Board of any action taken in relation to the report within such time and in such manner as the Board may require.

59. Persons to whom notice of determination is to be given

(1) The Board –

(a) is to give written notice of its determination to the principal officer of the relevant public authority;
or

(b) may, if it considers it appropriate, give written notice of its determination to –

(i) *[Section 59 Subsection (1) amended by No. 55 of 2011, s. 15, Applied:22 Dec 2011]* the public officer who was the subject of the investigation; or

(ii) any other person who, in the opinion of the chief executive officer, has a special interest in the matter.

(2) Section 98 applies to a notice under subsection (1) if the notice provides that it is a confidential document.

PART 7 - Inquiry by Integrity Tribunal

Division 1 - Integrity Tribunal

60. Power of Board to convene Integrity Tribunal

If the Board determines that an inquiry be conducted, the Chief Commissioner is to convene an Integrity Tribunal for the purpose of conducting that inquiry.

61. Function of Integrity Tribunal

(1) *[Section 61 Subsection (1) amended by No. 55 of 2011, s. 16, Applied:22 Dec 2011]* The function of an Integrity Tribunal is to conduct an inquiry into a matter in respect of which the Board has determined under section 58 that an inquiry be undertaken and make findings and determinations in respect of that matter.

(2) In conducting an inquiry, the Integrity Tribunal may –

- (a) hold hearings; and
- (b) receive submissions or evidence; and
- (c) inform itself in any matter it considers appropriate; and
- (d) exercise all or any of the powers conferred on it by this Act.

62. Constitution of Integrity Tribunal

(1) An Integrity Tribunal convened under section 60 is to consist of –

- (a) the Chief Commissioner sitting alone; or
- (b) *[Section 62 Subsection (1) amended by No. 13 of 2012, s. 33, Applied:30 May 2012]* the Chief Commissioner and not more than two other persons appointed by the Chief Commissioner who the Chief Commissioner considers have the requisite experience and expertise relevant to the inquiry to be undertaken by the Integrity Tribunal.

(2) Any person specified in subsection (1)(b), other than a member of the Board, is to be appointed by the Chief Commissioner on such terms and conditions as are specified in his or her instrument of appointment.

(3) If the Chief Commissioner considers that he or she has a conflict of interest in being a member of an Integrity Tribunal, the Chief Commissioner is to nominate another member of the Board to perform the functions or exercise the powers of the Chief Commissioner in relation to the Integrity Tribunal.

(4) Any other person proposed to be appointed to an Integrity Tribunal who considers that he or she has a conflict of interest in being a member of the Integrity Tribunal is not to accept the appointment.

63. Persons appointed to assist Integrity Tribunal

(1) An Integrity Tribunal may appoint one or more of the following persons to assist it in its inquiry:

- (a) a legal practitioner;
- (b) an expert in any field to provide technical or specialist advice.

(2) An Integrity Tribunal may require an officer or employee of the Integrity Commission or other person authorised under section 21 to assist with the conduct of an inquiry.

Division 2 - Conduct of inquiry

64. Powers of Integrity Tribunal on inquiry

(1) In respect of an inquiry, an Integrity Tribunal may do any or all of the following:

- (a) require or direct any person, whose evidence, in the opinion of the Integrity Tribunal, appears to be material to the inquiry, to appear before the Integrity Tribunal;

- (b) proceed to hold a hearing in the absence of any person who has been duly required or directed to appear;
- (c) take evidence by affidavit or by statutory declaration;
- (d) take evidence on oath or affirmation and, for that purpose, administer oaths and affirmations;
- (e) require or direct any person to produce or to authorise another person to produce any records, information, material or things in that person's possession or subject to that person's control that, in the opinion of the Integrity Tribunal, appear to be material to the inquiry;
- (f) require or direct a person to answer any questions that, in the opinion of the Integrity Tribunal, appear to be material to the inquiry;
- (g) adjourn the inquiry from place to place and from time to time.

(2) An Integrity Tribunal at an inquiry may –

- (a) receive in evidence the transcript of evidence in any proceeding before a court, tribunal or other integrity entity and draw any conclusion of fact from that transcript; and
- (b) receive any transcript of any proceedings of either House of Parliament or a Parliamentary Committee; and
- (c) receive any transcript or minute of any proceedings of a local authority; and
- (d) take into account any finding or decision of a court, tribunal or other integrity entity; and
- (e) receive in evidence any investigation report of an investigator; and
- (f) receive in evidence any evidence taken on oath or by affirmation during the course of an investigation under Part 6 .

(3) In respect of any inquiry, an Integrity Tribunal is not bound to observe the rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit.

65. Notice of inquiry

(1) *[Section 65 Subsection (1) amended by No. 55 of 2011, s. 17, Applied:22 Dec 2011]* At the commencement of an inquiry by an Integrity Tribunal the Integrity Tribunal must give the public officer who is the subject of the inquiry written notice of the inquiry including –

- (a) the allegation of misconduct; and
- (b) the substance of the evidence supporting the allegation.

(2) Section 98 applies to a notice referred to in subsection (1) if the notice specifies that it is a confidential document.

66. Right of representation

(1) *[Section 66 Subsection (1) amended by No. 55 of 2011, s. 18, Applied:22 Dec 2011]* A public officer who is the subject of an inquiry is entitled to be represented by a legal practitioner or other agent when appearing before an Integrity Tribunal during the inquiry.

(2) A witness appearing before an Integrity Tribunal may, with its approval, be represented by a legal practitioner or other agent.

(3) A legal practitioner or agent who represents any person at a hearing of the Integrity Tribunal may examine or cross-examine witnesses on behalf of the person.

67. Right of appearance

(1) An Integrity Tribunal may allow any person or any person's legal practitioner or agent to participate in an inquiry, to the extent that the Integrity Tribunal considers appropriate.

(2) In making a decision under subsection (1) , an Integrity Tribunal may have regard to –

- (a) any direct or special interest a person may have in the matters relevant to an inquiry; and
- (b) the probability that an inquiry may make a finding adverse to that person's interests; and
- (c) the ability of a person to assist an inquiry.

68. Directions conference

- (1) Before an inquiry is held, an Integrity Tribunal may conduct a directions conference in relation to the inquiry.
- (2) An Integrity Tribunal, by written notice, may require or direct any person to –
 - (a) attend a directions conference; and
 - (b) provide and produce any specified record, information, material or thing at a directions conference.
- (3) A person, without reasonable excuse, must not fail to comply with a requirement or direction notified under subsection (2) .
Penalty: Fine not exceeding 10 penalty units.
- (4) A directions conference is to be held in private.
- (5) An Integrity Tribunal may give any directions it considers necessary to ensure that the inquiry is conducted fairly and expeditiously.
- (6) An Integrity Tribunal may adjourn a directions conference from place to place and from time to time.

69. Procedure of inquiry

- (1) Subject to this Act and any directions issued by the Chief Commissioner under subsection (2) , an Integrity Tribunal –
 - (a) may conduct an inquiry in any manner it considers appropriate; and
 - (b) must observe the rules of procedural fairness; and
 - (c) is not required to hold a hearing for an inquiry; and
 - (d) may obtain information from any persons in any manner it considers appropriate; and
 - (e) may make any inquiries it considers appropriate; and
 - (f) may determine its own procedure in conducting an inquiry.
- (2) The Chief Commissioner may issue directions regarding the conduct of inquiries.

70. Response to notice of inquiry

[Section 70 Amended by No. 55 of 2011, s. 19, Applied:22 Dec 2011] A public officer who receives notice of an inquiry under section 65 may respond to that notice by doing any or all of the following:

- (a) making oral or written submissions to the Integrity Tribunal;
- (b) giving evidence to the Integrity Tribunal to contradict or explain the allegation or evidence;
- (c) *[Section 70 Amended by No. 55 of 2011, s. 19, Applied:22 Dec 2011]* cross-examining any person making any statement in relation to the inquiry;
- (d) *[Section 70 Amended by No. 55 of 2011, s. 19, Applied:22 Dec 2011]* calling witnesses on matters relevant to the inquiry or evidence;
- (e) producing any record, information, material or thing.

71. Conduct of inquiry

- (1) An Integrity Tribunal may, by notice served on a person, require or direct that person to attend an inquiry to do either or both of the following:
 - (a) give evidence;

(b) produce to the Integrity Tribunal, or a person designated by the Integrity Tribunal, any record, information, material or thing in that person's possession or control which the Integrity Tribunal considers relevant to its inquiry.

(2) If the Integrity Tribunal considers it expedient to do so because of the distance a person resides from the place at which the Integrity Tribunal would otherwise require or direct that person to attend to give evidence, or because of any other circumstance, the Integrity Tribunal may appoint a person to take the evidence of that person and provide that evidence to the Integrity Tribunal.

(3) The Integrity Tribunal may permit a person to participate in an inquiry by –

- (a) telephone; or
- (b) video conference; or
- (c) any other means of communication approved by the Integrity Tribunal.

(4) If a person required or directed to give evidence to an Integrity Tribunal is –

- (a) a prisoner or detainee under the Corrections Act 1997 or the Youth Justice Act 1997 ; or
- (b) *[Section 71 Subsection (4) amended by No. 69 of 2013, Sched. 1, Applied:17 Feb 2014]* a patient detained in an approved hospital under the Mental Health Act 2013 ; or
- (c) a person who is subject to a restriction under the Criminal Justice (Mental Impairment) Act 1999 –

the notice requiring or directing the person to provide any information or explanation authorises and requires the Director of Corrective Services, the Secretary within the meaning of the Youth Justice Act 1997 , the controlling authority of the approved hospital or the responsible medical officer, within the meaning of the Criminal Justice (Mental Impairment) Act 1999 , to allow the person to provide that information or explanation to the Integrity Tribunal in accordance with the notice.

(5) An Integrity Tribunal may, by notice served on a person, require or direct that person to do either or both of the following:

- (a) provide the Integrity Tribunal or an inquiry officer with any information or explanation either orally or in writing that the Integrity Tribunal or inquiry officer requires;
- (b) produce to the Integrity Tribunal or an inquiry officer any record, information, material or thing in the custody or possession or under the control of that person.

(6) Any record, information, material or thing obtained by the inquiry officer may be used for the purposes of the inquiry.

(7) For the purpose of obtaining any record, information, material or thing under subsection (1) , the Integrity Tribunal may –

- (a) inspect and take copies of or take extracts from that record, material or thing; and
- (b) require or direct any person to give such assistance as may be required.

(8) Section 98 applies to a notice under subsection (1) if the notice provides that it is a confidential document.

72. Power to enter premises

(1) An inquiry officer, for the purpose of assisting with the conduct of an inquiry, may, after obtaining a written notice of authorisation from the Chief Commissioner, enter any premises of a public authority without the need for consent or a search warrant and may enter other premises at any reasonable time with the consent of the occupier or under the authority of a search warrant issued under section 73 .

(2) The inquiry officer referred to in subsection (1) must as soon as reasonably practicable after entering any premises produce the written notice of authorisation and show it to the person apparently in charge of the premises or any other person on request.

73. Search warrants

- (1) For the purpose of conducting an inquiry, an inquiry officer, with the approval of the Chief Commissioner, may apply to a magistrate for a warrant to enter premises.
- (2) The magistrate may, on application made under this section, issue a search warrant to an inquiry officer if the inquiry officer satisfies the magistrate that there are reasonable grounds to suspect that material relevant to the inquiry is located at the premises.
- (3) A search warrant authorises an inquiry officer –
 - (a) to enter the premises specified in the warrant at the time or within the period specified in the warrant; and
 - (b) to exercise the powers under section 74 .
- (4) The warrant must state –
 - (a) that the inquiry officer and any person assisting the inquiry officer may, with any necessary force, enter the premises and exercise the inquiry officer's powers under this Part; and
 - (b) the reason for which the warrant is issued; and
 - (c) the hours when the premises may be entered; and
 - (d) the date, within 28 days after the day of the warrant's issue, of the warrant's expiry.
- (5) Section 98 applies to a warrant if the warrant specifies that it is a confidential document.
- (6) Except as provided in this section, the provisions in respect of search warrants under the Search Warrants Act 1997 extend and apply to warrants issued under this section.

74. Powers of inquiry officer while on premises

- (1) An inquiry officer who enters premises under this Part may exercise any or all of the following powers:
 - (a) search the premises and examine anything on the premises;
 - (b) search for any record, information, material or thing relating to the matter to which the inquiry relates;
 - (c) operate equipment or facilities on the premises for a purpose relevant to the inquiry;
 - (d) take possession of any record, information, material or thing and retain it for as long as may be necessary to examine it to determine its evidentiary value;
 - (e) make copies of any record, information, material or thing or any part of any record, information, material or thing;
 - (f) seize and take away any record, information, material or thing or any part of any record, information, material or thing;
 - (g) use (free of charge) photocopying equipment on the premises for the purpose of copying any record, information, material or thing;
 - (h) in respect of any computer or other equipment that the investigator suspects on reasonable grounds may contain any record, information, material or thing –
 - (i) inspect and gain access to the computer or equipment; and
 - (ii) download or otherwise obtain any record, information, material or thing; and
 - (iii) make copies of any record, information, material or thing held in it; and
 - (iv) seize and take away the computer or equipment or any part of it;
 - (i) if any record, information, material or thing found on the premises cannot be conveniently removed, secure it against interference;
 - (j) require or direct any person who is on the premises to do any or all of the following:

- (i) to state his or her full name, date of birth and address;
 - (ii) to answer (orally or in writing) questions asked by the inquiry officer relevant to the inquiry;
 - (iii) to produce any record, information, material or thing;
 - (iv) to operate equipment or facilities on the premises for a purpose relevant to the inquiry;
 - (v) to provide access (free of charge) to photocopying equipment on the premises the inquiry officer reasonably requires to enable the copying of any record, information, material or thing;
 - (vi) to give other assistance the inquiry officer reasonably requires to conduct the inquiry;
 - (k) do anything else reasonably necessary to obtain information or evidence for the purposes of the inquiry.
- (2) Any record, information, material or thing obtained by the inquiry officer may be used for the purposes of the inquiry.
- (3) If an inquiry officer takes anything away from the premises, the inquiry officer must issue a receipt in a form approved by the Integrity Commission and –
- (a) if the occupier or a person apparently responsible to the occupier is present, give it to him or her; or
 - (b) otherwise, leave it on the premises in an envelope addressed to the occupier.
- (4) An inquiry officer and any assistants authorised to enter premises under a search warrant may use such force as is reasonably necessary for the purpose of entering the premises and conducting the search.
- (5) A person required or directed to do anything under subsection (1)(j) must not, without reasonable excuse, fail to comply with the request.
- Penalty: Fine not exceeding 2 000 penalty units.

75. Application for use of surveillance device

- (1) In the case of a complaint of serious misconduct, an inquiry officer, with the approval of the Chief Commissioner or other person nominated under section 62(3), may apply for a warrant under Part 2 of the Police Powers (Surveillance Devices) Act 2006 as if the inquiry officer were a law enforcement officer within the meaning of that Act and a reference in that Part to a relevant offence were read as a reference to misconduct.
- (2) *[Section 75 Subsection (2) amended by No. 38 of 2015, s. 35, Applied: 13 Oct 2015]* Divisions 2 and 3 of Part 5 of the Police Powers (Surveillance Devices) Act 2006 apply to the Integrity Commission as if the Integrity Commission were a law enforcement agency within the meaning of that Act.

76. Hearings of Integrity Tribunal

If an Integrity Tribunal holds a hearing, Schedule 6 applies to the conduct of that hearing.

77. Presiding at hearings

- (1) The Chief Commissioner or the member nominated under section 62(3) is to preside at all hearings of an Integrity Tribunal at which he or she is present.
- (2) If the Chief Commissioner or the member nominated under section 62(3) is not present at a hearing of an Integrity Tribunal, a member of the Integrity Tribunal specified by the Chief Commissioner or the person nominated under section 62(3) is to preside at the hearing.

Division 3 - Procedure after inquiry

78. Determination of Integrity Tribunal

- (1) At the conclusion of an inquiry, an Integrity Tribunal may make a determination in relation to the complaint or matter that was the subject of the inquiry.
- (2) An Integrity Tribunal may do any one or more of the following:
- (a) dismiss the complaint;

(b) make a finding that misconduct or serious misconduct has occurred;

(c) recommend to the Premier that a commission of inquiry be established under the Commissions of Inquiry Act 1995 in relation to the matter;

(d) make such report as it considers appropriate in relation to the matter.

(3) If the Integrity Tribunal makes a determination under subsection (2)(b), it may refer the determination and any material that it considers relevant to –

(a) the principal officer of the relevant public authority for action; or

(b) an appropriate integrity entity for action; or

(c) an appropriate Parliamentary integrity entity; or

(d) the Commissioner of Police or DPP for action; or

(e) the responsible Minister for action; or

(f) a person who the Tribunal considers is appropriate for action.

(4) In referring a matter to a person or body under subsection (3), an Integrity Tribunal may make a recommendation as to appropriate sanctions that should be imposed or action that should be taken in relation to the matter.

(5) The Integrity Tribunal may require the person referred to in subsection (3) to report on any action taken in relation to the determination referred to in this section.

(6) An Integrity Tribunal must serve notice of its determination under subsection (2)(b) on the principal officer of the relevant public authority and, if the Integrity Tribunal considers it appropriate, may serve notice of its determination on –

(a) [Section 78 Subsection (6) amended by No. 55 of 2011, s. 20, Applied: 22 Dec 2011] the person who is the subject of the inquiry; and

(b) the responsible Minister.

(7) Section 98 applies to a notice referred to in subsection (6) if the notice specifies that it is a confidential document.

(8) The Integrity Tribunal may publish, in such manner as it thinks fit, its determination.

79. Review of determination

A determination of the Integrity Tribunal under section 78 is a reviewable matter under the Judicial Review Act 2000.

Division 4 - Offences

80. Offences relating to Integrity Tribunal

(1) A person must not intentionally prevent or intentionally try to prevent a person who is required by an Integrity Tribunal to appear before it from attending as a witness or producing any record, information, material or thing to the Integrity Tribunal.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

(2) A person must not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage in relation to another person for or on account of –

(a) that other person having given evidence before an Integrity Tribunal or produced or surrendered any record, information, material or thing to an Integrity Tribunal; or

(b) any evidence given by that other person before an Integrity Tribunal or any record, information, material or thing produced or surrendered by that other person to an Integrity Tribunal.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

(3) If an Integrity Tribunal is holding a hearing, a person must not –

- (a) insult a member of the Integrity Tribunal in relation to the performance of his or her functions as a member; or
- (b) interrupt proceedings of the Integrity Tribunal; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the Integrity Tribunal is sitting; or
- (d) do anything that would, if the Integrity Tribunal were a court of record, constitute a contempt of that court.

Penalty: Fine not exceeding 2 000 penalty units.

(4) A person must not obstruct or improperly influence the conduct of an inquiry of the Integrity Tribunal or attempt to do so.

Penalty: Fine not exceeding 2 000 penalty units.

(5) A person who fails without reasonable excuse to –

- (a) attend an inquiry of the Integrity Tribunal as required by the Integrity Tribunal; or
- (b) take an oath or make an affirmation at an inquiry of the Integrity Tribunal; or
- (c) produce or authorise another person to produce any record, information, material or thing when required by the Integrity Tribunal to do so; or
- (d) answer any question when required by the Integrity Tribunal to do so; or
- (e) assist in the course of an inquiry of the Integrity Tribunal –

is guilty of an offence.

Penalty: Fine not exceeding 5 000 penalty units.

81. Offences against inquiry officers

(1) A person who, without reasonable excuse, fails to comply with a requirement or direction of an inquiry officer within 14 days of receiving it commits an offence.

Penalty: Fine not exceeding 5 000 penalty units.

(2) A person must not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage in relation to another person for or on account of that other person having given evidence to an inquiry officer or produced or surrendered any record, information, material or thing to an inquiry officer.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

(3) A person must not obstruct or hinder an inquiry officer or any person assisting an inquiry officer in the performance of a function or the exercise of a power under section 74 .

Penalty: Fine not exceeding 5 000 penalty units.

Division 5 - Costs and expenses

82. Interpretation

In this Division –

witness means a person who –

- (a) is required to appear before an Integrity Tribunal; or
- (b) is requested by an Integrity Tribunal to attend at a place to be interviewed.

83. Legal costs of witnesses

(1) A witness may apply to the chief executive officer for financial assistance in relation to the witness's legal costs.

(2) In determining whether to approve the payment of financial assistance to a witness, the chief executive officer may have regard to the following matters:

- (a) whether the witness has shown that he or she had a valid reason to seek legal representation;
- (b) the significance of the evidence that the witness is to give or appears likely to give;
- (c) whether in all the circumstances, it would be a hardship or injustice for the witness to bear the costs;
- (d) the nature and possible effect of any findings made about the witness;
- (e) any other relevant matter.

(3) If legal costs of the witness are approved to be paid under subsection (1) , the costs are to be taxed by a taxing officer of the Supreme Court.

(4) If the chief executive officer approves the payment of financial assistance to a witness, the chief executive officer may authorise the payment of the financial assistance.

(5) The financial assistance may be provided unconditionally or subject to conditions determined by the chief executive officer.

(6) The chief executive officer may delegate any of his or her functions under this section.

84. Allowances to witnesses

(1) A witness is entitled to receive such of the following as are applicable to that person:

- (a) an allowance for meals;
- (b) an allowance for travelling;
- (c) an allowance for accommodation;
- (d) any other allowance that the Integrity Tribunal considers reasonable.

(2) A person who appears before an Integrity Tribunal otherwise than as a witness to an inquiry may apply in writing to the chief executive officer for such of the following as are applicable to that person:

- (a) an allowance for meals;
- (b) an allowance for travelling;
- (c) an allowance for accommodation;
- (d) any other allowance that the chief executive officer considers reasonable.

(3) On an application under subsection (2) , the chief executive officer in his or her discretion may, having regard to such matters as he or she considers relevant, approve that the applicant be paid such allowances as the chief executive officer specifies.

(4) An allowance under this section is payable on the same terms and at the same rate as is prescribed from time to time for the equivalent allowance in the Tasmanian State Service Award made under the Industrial Relations Act 1984 .

85. Compensation to witnesses for loss of income

(1) A person who appears as a witness at an Integrity Tribunal may apply in writing to the chief executive officer for compensation for loss of income.

(2) On an application under subsection (1) , the chief executive officer in his or her discretion may, having regard to such matters as he or she considers relevant, approve that the applicant be paid compensation for loss of income.

86. Costs and expenses of inquiry, &c.

[Section 86 Amended by No. 4 of 2017, Sched. 1, Applied:01 Jul 2019] The following are a charge on the Public Account and are payable out of the Public Account without further appropriation than this section:

- (a) the costs and expenses incurred in, or in connection with, the conduct of an inquiry under this Act;
- (b) the amount of any legal costs approved to be paid under section 83(1) that have been taxed under section 83(3) ;
- (c) the amount of any allowance that a person is entitled to receive or approved to be paid under section 84 ;
- (d) the amount of any compensation that a person is entitled to receive or is approved to be paid under section 85 .

PART 8 - Misconduct by Certain Public Officers

Division 1 - Misconduct by designated public officers

87. Investigation or dealing with misconduct by designated public officers

- (1) *[Section 87 Subsection (1) amended by No. 55 of 2011, s. 21, Applied:22 Dec 2011]* The Integrity Commission is to assess, investigate, inquire into or otherwise deal with, in accordance with Parts 6 and 7 , complaints relating to misconduct by a designated public officer.
- (2) In assessing, investigating, inquiring into or otherwise dealing with a complaint under subsection (1) , the Integrity Commission may have regard to –
- (a) established procedures or procedures of the relevant public authority; and
 - (b) any codes of conduct relevant to the designated public officer who is the subject of the complaint; and
 - (c) any statutory obligations or relevant law relating to that designated public officer.

Division 2 - Police misconduct

88. Integrity Commission's role in relation to police misconduct

- (1) The Integrity Commission may, having regard to the principles stated in section 9 –
- (a) assess, investigate, inquire into or otherwise deal with complaints relating to serious misconduct by a police officer in accordance with Parts 6 and 7 ; or
 - (b) provide advice in relation to the conduct of investigations by the Commissioner of Police into police misconduct; or
 - (c) audit the way the Commissioner of Police has dealt with police misconduct, in relation to either a particular complaint or a class of complaint; or
 - (d) assume responsibility for and complete in accordance with Parts 6 and 7 an investigation commenced by the Commissioner of Police into misconduct by a police officer.
- (2) If requested by the Integrity Commission, the Commissioner of Police is to give the Integrity Commission reasonable assistance –
- (a) to undertake a review or audit; or
 - (b) to assume responsibility for an investigation.
- (3) If the Integrity Commission assumes responsibility for an investigation, the Commissioner of Police must stop his or her investigation or any other action that may impede the investigation if directed to do so by the Integrity Commission.

89. Own-motion investigations

- (1) *[Section 89 Subsection (1) amended by No. 55 of 2011, s. 22, Applied:22 Dec 2011]* The Board, on its own motion, may determine that the Integrity Commission should conduct an investigation in accordance with Parts 6 and 7 in respect of any matter that is relevant to police misconduct, including but not limited to –
- (a) an investigation into the conduct of a commissioned police officer; or
 - (b) an investigation into police misconduct generally; or
 - (c) an investigation into any of the policies, practices or procedures of Tasmania Police in relation to misconduct.
- (2) *[Section 89 Subsection (2) amended by No. 55 of 2011, s. 22, Applied:22 Dec 2011]* For the purposes of subsection (1) , the Integrity Commission may conduct an investigation into –

- (a) whether or not any particular police officer or other person may have committed misconduct; or
- (b) *[Section 89 Subsection (2) amended by No. 55 of 2011, s. 22, Applied:22 Dec 2011]* whether or not any person under investigation who was a police officer at any relevant time is still a police officer at the time of the investigation; or
- (c) *[Section 89 Subsection (2) amended by No. 55 of 2011, s. 22, Applied:22 Dec 2011]* any of the policies, practices or procedures of Tasmania Police in relation to misconduct.

(3) *[Section 89 Subsection (3) amended by No. 55 of 2011, s. 22, Applied:22 Dec 2011]* The Board may give written notice of its determination to conduct an investigation on its own motion to the Commissioner of Police.

(4) Section 98 applies to a notice under subsection (3) if the notice provides that it is a confidential document.

90. Consultation with Commissioner of Police

If, at any time during the course of an investigation into police misconduct, it appears to the Integrity Commission that there may be grounds for making a report adverse to Tasmania Police, the Integrity Commission may, before making the report, give the Commissioner of Police the opportunity to comment on the report.

91. Commissioner of Police to respond to Integrity Commission

(1) If the Integrity Commission requests the Commissioner of Police to take any action, or to conduct a further investigation, the Commissioner of Police must give a written response to the Integrity Commission stating –

- (a) whether or not the Commissioner of Police proposes to take the action or conduct the further investigation; and
- (b) if the Commissioner of Police proposes not to take the action or not to conduct the further investigation, the reasons for that decision.

(2) Following the completion of any investigation under subsection (1) , the Commissioner of Police is to report the outcome of that investigation to the Integrity Commission.

PART 9 - Miscellaneous

92. Claims of privilege

(1) This section applies if a person claims privilege in respect of –

- (a) any requirement or direction of an assessor exercising the powers of an investigator under Part 6 ;
and
- (b) any requirement or direction given to a person by an investigator or the chief executive officer under Part 6 ; and
- (c) any requirement or direction given to a person by the Integrity Tribunal or an inquiry officer under Part 7 –

to provide information or explanation, answer any question or produce any record, information, material or thing.

(2) A person may, during an assessment of a complaint under section 35 , an investigation under Part 6 or an inquiry under Part 7 , claim privilege and refuse to –

- (a) answer any question or provide any information or explanation; or
- (b) produce any record, material or thing.

(3) If a claim of privilege is made under subsection (2) , the assessor, investigator, chief executive officer, inquiry officer or Integrity Tribunal may withdraw the requirement or direction to –

- (a) answer any question or provide any information or explanation; or
- (b) produce any record, material or thing.

(4) If the requirement or direction to –

- (a) answer any question or provide any information or explanation; or
- (b) produce any record, material or thing –

is not withdrawn, the assessor, investigator, chief executive officer, inquiry officer or Integrity Tribunal must issue a notice to comply with the requirement or direction.

(5) A person must comply with the requirement or direction under subsection (4) or make application to the Supreme Court, within 14 days of being given notice to comply, for the Court to determine the claim of privilege.

(6) A person who makes application to the Supreme Court under subsection (5) must give notice of the application to the Integrity Commission and the Integrity Commission is taken to be a party to the application.

(7) The Supreme Court may determine that the answer, information or material is –

- (a) privileged; or
- (b) not privileged; or
- (c) partly privileged.

(8) The assessor, investigator, chief executive officer, inquiry officer or Integrity Tribunal must give effect to any determination or order or other direction made by the Supreme Court.

(9) The Supreme Court may make Rules of Court relating to applications under subsection (5) .

(10) If a person who is subject to a notice to comply does not apply under subsection (5) , the person is not entitled to claim privilege as a reasonable excuse in respect of –

- (a) any requirement or direction of an assessor exercising the powers of an investigator under Part 6 ;
and

(b) any requirement or direction given to a person by an investigator or the chief executive officer under Part 6 ; and

(c) any requirement or direction given to a person by the Integrity Tribunal or an inquiry officer under Part 7 –

to provide information or explanation, answer any question or produce any record, information, material or thing.

(11) If the Supreme Court does not determine that a claim of privilege exists and the person who is subject to the notice to comply does not comply with the notice, that person is not entitled to claim privilege as a reasonable excuse for not complying with the requirement or direction of an assessor, investigator, chief executive officer, inquiry officer or Integrity Tribunal.

(12) Nothing in this section prevents a person entitled to claim privilege from waiving its application to any record, information, material or thing and a waiver once made cannot later be revoked.

93. Notice to person charged with offence

(1) An assessor, investigator, chief executive officer, inquiry officer or Integrity Tribunal must not require a person to give evidence about a matter if that person has been charged with a crime or an offence in respect of that matter.

(2) Subsection (1) does not apply if the charge has been finally disposed of.

94. Information confidential

(1) This section applies to a person who is or has been –

- (a) a member of the Board; or
- (b) the Parliamentary Standards Commissioner; or
- (c) an officer or employee of the Integrity Commission; or
- (d) a person authorised or appointed under section 21 to undertake work on behalf of the Integrity Commission; or
- (e) an assessor or investigator; or
- (f) a member of the Joint Committee; or
- (g) a member of an Integrity Tribunal; or
- (h) an inquiry officer or other person appointed to assist an Integrity Tribunal.

(2) A person to whom this subsection applies must preserve confidentiality in respect of all matters that come to the person's knowledge in the course of employment or duties under this Act and if the person discloses, without authorisation from the Board, the chief executive officer or an Integrity Tribunal, any information as to matters of that kind to any person, except –

- (a) as may be required in connection with the administration or operation of this Act; or
- (b) as may be required in connection with any proceedings under this Act, any other written law or the Criminal Code ; or
- (c) as authorised by the Board, the chief executive officer or an Integrity Tribunal; or
- (d) to any other prescribed person –

the person is guilty of an offence.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding 2 years.

95. Protection from personal liability

(1) No civil or criminal proceedings lie in respect of any action done, or omission made, in good faith in the exercise or intended exercise of, any powers or functions under this Act by the following persons:

- (a) the Board;
- (b) any members of the Board;
- (c) the Parliamentary Standards Commissioner;
- (d) an Integrity Tribunal;
- (e) any persons appointed to assist the Integrity Tribunal;
- (f) legal representatives of any witness at an inquiry;
- (g) the chief executive officer;
- (h) an assessor, investigator or inquiry officer;
- (i) officers and employees of the Integrity Commission;
- (j) any persons authorised or appointed under section 21 to undertake work on behalf of the Integrity Commission.

(2) No civil proceedings lie against a person for loss, damage or injury of any kind suffered by another person by the providing of any information or the making of any statement in good faith to any of the following persons:

- (a) the Board;
- (b) any members of the Board;
- (c) the Parliamentary Standards Commissioner;
- (d) an Integrity Tribunal;
- (e) any persons appointed to assist the Integrity Tribunal;
- (f) legal representatives of any witness at an inquiry;
- (g) the chief executive officer;
- (h) an assessor, investigator or inquiry officer;
- (i) officers and employees of the Integrity Commission;
- (j) any persons authorised or appointed under section 21 to undertake work on behalf of the Integrity Commission.

96. False or misleading statements

A person, in making a complaint, giving any information or advice or producing any record under this Act, must not –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

97. Destruction or alteration of records or things

A person must not knowingly destroy, dispose of or alter any record or thing required to be produced under this Act for the purpose of misleading any investigation or inquiry.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

98. Certain notices to be confidential documents

(1) *[Section 98 Subsection (1) substituted by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* A person on whom a notice that is a confidential document was served or to whom such a notice was given under this Act must not disclose to another person –

- (a) the existence of the notice; or
- (b) the contents of the notice; or
- (c) any matters relating to or arising from the notice –

unless the person on whom the notice was served or to whom the notice was given has a reasonable excuse.
Penalty: Fine not exceeding 2 000 penalty units.

(1A) *[Section 98 Subsection (1A) inserted by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* A person to whom the existence of a notice that is a confidential document was disclosed must not disclose to another person –

- (a) the existence of that notice; or
- (b) the contents of the notice; or
- (c) any matters relating to or arising from the notice –

unless the person to whom the existence of the notice was disclosed has a reasonable excuse.
Penalty: Fine not exceeding 2 000 penalty units.

(1B) *[Section 98 Subsection (1B) inserted by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* For the purposes of subsections (1) and (1A), matters relating to or arising from a notice include but are not limited to –

- (a) obligations or duties imposed on any person by the notice; and
- (b) any evidence or information produced or provided to the Integrity Commission or an Integrity Tribunal; and
- (c) the contents of any document seized under this Act; and
- (d) any information that might enable a person who is the subject of an investigation or inquiry to be identified or located; and
- (e) the fact that any person has been required or directed by an investigator or an Integrity Tribunal to provide information, attend an inquiry, give evidence or produce anything; and
- (f) any other matters that may be prescribed.

(2) It is a reasonable excuse for a person to disclose the existence of a notice that is a confidential document if –

- (a) the disclosure is made for the purpose of –
 - (i) seeking legal advice in relation to the notice or an offence against subsection (1); or
 - (ii) obtaining information in order to comply with the notice; or
 - (iii) the administration of this Act; and

(b) *[Section 98 Subsection (2) amended by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* the person informs the person to whom the disclosure is made that it is an offence to disclose the existence of the notice to another person unless the person to whom the disclosure was made has a reasonable excuse.

(3) *[Section 98 Subsection (3) inserted by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* The Integrity Commission or an Integrity Tribunal may advise a person on whom a notice was served or to whom a notice was given under this Act that the notice is no longer confidential.

(4) *[Section 98 Subsection (4) inserted by No. 55 of 2011, s. 23, Applied:22 Dec 2011]* If the Integrity Commission or an Integrity Tribunal advises a person referred to in subsection (3) that a notice is no longer confidential, subsections (1) and (1A) do not apply.

99. Injunctions

(1) The Supreme Court may, on application made by the Integrity Commission, grant an injunction restraining any conduct in which a person (whether or not a public authority or public officer) is engaging or in which such a person appears likely to engage, if the conduct is the subject of, or affects the subject of –

- (a) an investigation or proposed investigation by an investigator; or
- (b) an inquiry or proposed inquiry by an Integrity Tribunal.

(2) The conduct referred to in subsection (1) does not include conduct relating to a proceeding in Parliament.

100. Privileges of Parliament not affected

Nothing in this Act is taken, or held or construed, directly or indirectly, by implication or otherwise, to affect, in any manner, any power or privilege possessed by either House of Parliament before the passing of this Act.

101.

[Section 101 Repealed by No. 55 of 2011, s. 24, Applied:22 Dec 2011]

102. Personal information may be disclosed to Integrity Commission

A personal information custodian, within the meaning of the Personal Information Protection Act 2004 , is authorised to disclose personal information, within the meaning of that Act, to the Integrity Commission for the purpose of and in accordance with this Act.

103. Non-application of Act to certain allegations, &c.

This Act does not apply to a code of conduct allegation that was made, or to an investigation relating to such an allegation that was commenced but not finally disposed of, before the commencement of this section.

104. Amendment of Schedule 1

(1) The Governor may, by order, amend Column 1 of Schedule 1 –

- (a) by omitting the name of any public authority; or
- (b) by inserting the name of any public authority; or
- (c) where the name of a public authority is changed, by omitting the name of that public authority and substituting its new name.

(2) The Governor may, by order, amend Column 2 of Schedule 1 by inserting, opposite the name of a public authority, the title or other description of a principal officer or by omitting or amending that title or other description.

(3) The Governor may, by order, omit Schedule 1 and substitute a Schedule containing in Column 1 the names of public authorities and containing in Column 2 the titles or other descriptions of principal officers.

105. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied, approved or regulated by any person specified in the regulations.

106. Independent review of Act

(1) The Minister must commission an independent review of this Act as soon as possible after 31 December 2015 to enable consideration of –

- (a) the operation of the Act in achieving its object and the objectives of the Integrity Commission; and
- (b) the operation of the Integrity Commission, including the exercise of its powers, the investigation of complaints and the conduct of inquiries; and
- (c) the operation of the Parliamentary Standards Commissioner; and
- (d) the operation of the Joint Committee; and

(e) the effectiveness of orders and regulations made under this Act in furthering the object of this Act and the objectives of the Integrity Commission; and

(f) any other matters relevant to the effect of this Act in improving ethical conduct and public confidence in public authorities.

(2) The independent review is to be undertaken by a person appointed by the Governor.

(3) Before a person is appointed to undertake the independent review, the Minister is to consult the Joint Committee or, if the Joint Committee has not been appointed or Parliament has been prorogued, the Minister is to consult –

(a) the President of the Legislative Council; and

(b) the Parliamentary leader of each political party represented in the House of Assembly.

(4) The person who undertakes the independent review must invite submissions relevant to the review from the public and give due consideration to the content of any such submissions.

(5) The person who undertakes the independent review must give the Minister a written report of the review.

(6) The Minister is to –

(a) transmit a copy of the report of the independent review to the President of the Legislative Council and the Speaker of the House of Assembly; and

(b) cause a copy of that report to be laid before each House of Parliament within 14 sitting-days of receiving it.

(7) In this section –

independent review means a review undertaken by a person who –

(a) holds or has held office as a judge of a court of the Commonwealth or of an Australian State or Territory; and

(b) is not otherwise employed by this State, a State Service Agency or a statutory authority.

107. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

(a) the administration of this Act is assigned to the Minister for Justice; and

(b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

PART 10 - Acts Interpretation Act 1931 Amended

108.

The amendments effected by this Part have been incorporated into the authorised version of the Acts Interpretation Act 1931 .

109.

The amendments effected by this Part have been incorporated into the authorised version of the Acts Interpretation Act 1931 .

PART 11 - Audit Act 2008 Amended

110.

The amendments effected by this Part have been incorporated into the authorised version of the Audit Act 2008

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111.

The amendments effected by this Part have been incorporated into the authorised version of the Audit Act 2008

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112.

The amendments effected by this Part have been incorporated into the authorised version of the Audit Act 2008

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113.

The amendments effected by this Part have been incorporated into the authorised version of the Audit Act 2008

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PART 12 - Commissions of Inquiry Act 1995 Amended

114.

The amendments effected by this Part have been incorporated into the authorised version of the Commissions of Inquiry Act 1995 .

115.

The amendments effected by this Part have been incorporated into the authorised version of the Commissions of Inquiry Act 1995 .

116.

The amendments effected by this Part have been incorporated into the authorised version of the Commissions of Inquiry Act 1995 .

PART 13 - Financial Management and Audit Act 1990 Amended

117.

The amendments effected by this Part have been incorporated into the authorised version of the Financial Management and Audit Act 1990 .

118.

The amendments effected by this Part have been incorporated into the authorised version of the Financial Management and Audit Act 1990 .

PART 14 - Judicial Review Act 2000 Amended

119.

The amendments effected by this Part have been incorporated into the authorised version of the Judicial Review Act 2000 .

120.

The amendments effected by this Part have been incorporated into the authorised version of the Judicial Review Act 2000 .

PART 15 - Ombudsman Act 1978 Amended

121.

The amendments effected by this Part have been incorporated into the authorised version of the Ombudsman Act 1978 .

122.

The amendments effected by this Part have been incorporated into the authorised version of the Ombudsman Act 1978 .

123.

The amendments effected by this Part have been incorporated into the authorised version of the Ombudsman Act 1978 .

PART 16 - Personal Information Protection Act 2004 Amended

124.

The amendments effected by this Part have been incorporated into the authorised version of the Personal Information Protection Act 2004 .

125.

The amendments effected by this Part have been incorporated into the authorised version of the Personal Information Protection Act 2004 .

PART 17 - State Service Act 2000 Amended

126.

The amendments effected by this Part have been incorporated into the authorised version of the State Service Act 2000 .

127.

The amendments effected by this Part have been incorporated into the authorised version of the State Service Act 2000 .

128.

The amendments effected by this Part have been incorporated into the authorised version of the State Service Act 2000 .

129.

The amendments effected by this Part have been incorporated into the authorised version of the State Service Act 2000 .

SCHEDULE 1 - Principal Officers

PART 1 - Entities

Section 4

	Public authority	Principal officer
1.	State Service Agency	Head of Agency
2.	Police Service	Commissioner of Police
3.	Local authority	General Manager of a council or other principal officer of the local authority
4.	Council-owned company	Chief executive officer of that council-owned company
5.	Government Business Enterprise	Chief executive officer of that Government Business Enterprise
6.	State-owned company	Chief executive officer of that State-owned company
7.	Public authority specified in section 5(1)(g) , (i) , (j) and (n)	President, chairperson or other principal or presiding member of the public authority or, if the public authority comprises a single person, that person

PART 2 - Persons

	Public authority	Principal officer
1.	Person performing functions or exercising powers under the Parliamentary Privilege Act 1898 in the House of Assembly	Clerk of the House of Assembly
2.	Person performing functions or exercising powers under the Parliamentary Privilege Act 1898 in the Legislative Council	Clerk of the Legislative Council
3.	Person performing functions or exercising powers under the Parliamentary Privilege Act 1898 for the Legislature-General	Clerk of a House of Parliament
4.	Person employed in an office of a Minister, Parliamentary Secretary or other Member of Parliament, whether in accordance with State Service Act 2000 , Parliamentary Privilege Act 1898 or otherwise	Minister, Parliamentary Secretary or other Member of Parliament responsible for the office
5.	Principal officer of a local authority that is not a council	Minister administering the Local Government Act 1993
6.	Persons performing functions and exercising powers under the Governor of Tasmania Act 1982	Official Secretary
7.	General Manager of a council	Mayor or Lord Mayor
8.	Councillors of a council	Mayor of the council
9.	Clerk of the Legislative Council	President of the Legislative Council
10.	Clerk of the House of Assembly	Speaker of the House of Assembly
11.	Head of a State Service Agency	Premier
12.	Commissioner of Police	Premier
13.	Official Secretary	Premier
14.	Mayor of a council	Deputy Mayor
15.	Chief executive officer of a council-owned company	Chairperson of the council-owned company
16.	Chief executive officer of a Government Business Enterprise that is not a State Service Agency	Chairperson of the Board of the Government Business Enterprise
17.	Chairperson of the Board of a Government Business Enterprise	Portfolio Minister within the meaning of the Government Business Enterprises Act 1995
18.	Chief executive officer of a State-owned company	Chairperson of the Board of the State-owned company
19.	Chairperson of the Board of a State-owned company	Treasurer
20.	A person appointed to an office by the Governor or a Minister under an Act	The Minister responsible for the administration of the Act
21.	Minister	Premier
22.	Parliamentary Secretary	Premier

SCHEDULE 2 - Membership of Board of Integrity Commission

Section 14(7)

1. Interpretation

In this Schedule –

[Schedule 2 Amended by No. 13 of 2017, s. 10, Applied: 13 Jun 2017] **member** means a member of the Board appointed under section 14(1)(e), (f) or (g).

2. Term of office

A member is appointed for such period, not exceeding 5 years, as is specified in the member's instrument of appointment and, if eligible, may be reappointed.

3. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the functions of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. State Service Act 2000

- (1) The State Service Act 2000 does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as are specified in the member's instrument of appointment.
- (2) A member who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the State Service Act 2000.
- (3) A member holds office on such terms and conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Leave of absence

The Governor may grant a member leave of absence on such terms and conditions as the Governor determines.

7. Resignation

A member may resign office by written notice given to the Governor.

8. Suspension or removal of member from office

- (1) A member may, at any time, be removed from office by the Governor by resolution of each House of Parliament.
- (2) The Governor may suspend a member from office if the Governor is satisfied that the member –
 - (a) is incapable of properly performing the functions of a member; or
 - (b) has shown himself or herself incompetent to properly perform those functions or has neglected to perform those functions; or
 - (c) has been absent without leave granted under clause 6 from 3 consecutive meetings of the Integrity Commission; or

(d) is or has become bankrupt or has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with the member's creditors or made an assignment of the member's remuneration or estate for their benefit; or

(e) has been convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer or a fine of 300 penalty units or more; or

(f) has contravened clause 8 of Schedule 3 ; or

(g) *[Schedule 2 Amended by No. 13 of 2017, s. 10, Applied:13 Jun 2017]* has been guilty of conduct, or an attempt to engage in conduct, which if engaged in by a public officer is misconduct.

(3) If a member has been suspended from office under subclause (2) , the member is to be restored to office unless –

(a) a statement of the grounds of the member's suspension is laid before each House of Parliament during the first 7 sitting-days of the House following the suspension; and

(b) each House of Parliament, during the session of the House in which the statement is so laid, and within 30 sitting-days of the statement being so laid, passes a resolution requesting the removal of the member from office.

9. Acting members

(1) In the absence of a member, the Governor may appoint a person to act in the place of the member if that person is eligible for appointment as a member.

(2) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that –

(a) the occasion for the person's appointment had not arisen; or

(b) there is a defect or irregularity in connection with the person's appointment; or

(c) the person's appointment ceased to have effect; or

(d) the occasion for the person to act had not arisen or had ceased.

10. Validation of proceedings, &c.

(1) *[Schedule 2 Amended by No. 13 of 2017, s. 10, Applied:13 Jun 2017]* An act or proceeding of the Integrity Commission or of a person acting under any direction of the Integrity Commission is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member or in the office of Chief Commissioner.

(2) All acts and proceedings of the Integrity Commission or of a person acting under a direction of the Integrity Commission are, despite the subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Integrity Commission had been fully constituted.

(3) *[Schedule 2 Amended by No. 13 of 2017, s. 10, Applied:13 Jun 2017]* All acts and proceedings of the Integrity Commission or of a person acting under a direction of the Integrity Commission are, despite the subsequent discovery of a defect in the appointment of a person to the office of Chief Commissioner or that any other person was disqualified from acting as, or incapable of being, appointed to the office of Chief Commissioner, as valid as if the Chief Commissioner had been duly appointed and was qualified to act as, or capable of being, the Chief Commissioner, and as if the Integrity Commission had been fully constituted.

11. Presumptions

In any proceeding by or against the Integrity Commission, unless evidence is given to the contrary, proof is not required of –

(a) the constitution of the Integrity Commission; or

(ab) *[Schedule 2 Amended by No. 13 of 2017, s. 10, Applied: 13 Jun 2017]* the appointment of a person to the office of Chief Commissioner; or

(b) the appointment of any member.

SCHEDULE 3 - Meetings of Board of Integrity Commission

Section 14(8)

1. Interpretation

In this Schedule –*[Schedule 3 Amended by No. 13 of 2017, s. 11, Applied:13 Jun 2017]*

[Schedule 3 Amended by No. 13 of 2017, s. 11, Applied:13 Jun 2017] **member** means the Chief Commissioner and a member of the Board appointed under section 14(1)(e) , (f) or (g) .

2. Convening of meetings

The Chief Commissioner is to convene such meetings of the Board as are necessary for the efficient conduct of its functions.

3. Presiding at meetings

- (1) The Chief Commissioner is to preside at all meetings of the Board at which he or she is present.
- (2) If the Chief Commissioner is not present at a meeting of the Board, another member is to preside.

4. Quorum and voting at meetings

- (1) *[Schedule 3 Amended by No. 13 of 2017, s. 11, Applied:13 Jun 2017]* Three members constitute a quorum at a meeting of the Board.
- (2) A meeting of the Board at which a quorum is present is competent to transact any business of the Board.
- (3) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also a casting vote.

5. Conduct of meetings

- (1) Subject to this Act, the Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Board may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Board.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1) , the Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

6. Resolutions without meetings

- (1) If all members appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.
- (2) If a resolution is taken to have been passed under subclause (1) , each member is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1) , 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

7. Minutes

The Board is to keep accurate minutes of its meetings.

8. Disclosure of interests

(1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the Board at a meeting of the Board, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the Integrity Commission.

(2) The disclosure is to be recorded in the minutes of the Board and, unless the Board otherwise determines, a member who has made a disclosure under subclause (1) in relation to a matter must not –

(a) be present during any deliberation of the Board in relation to the matter; or

(b) take part in any decision of the Board in relation to the matter.

(3) For the purpose of the making of a determination under subclause (2), the member to whom the matter relates must not –

(a) be present during any deliberation of the Board for the purpose of making the determination;
or

(b) take part in making the determination.

(4) Subclause (1) does not apply in respect of an interest that arises only because the member is also a State Service officer or State Service employee.

(5) Subclause (1) does not apply in respect of an interest that arises only because the member is also the holder of an office specified in section 14(1)(b), (c) or (d).

9. General procedure

(1) Except as provided by this Act, the Board may regulate its own proceedings.

(2) The Board may inform itself on any matter in such manner as it thinks fit.

10. Presumptions

In any proceeding by or against the Board, unless evidence is given to the contrary, proof is not required of –

(a) any resolution of the Board; and

(b) the presence of a quorum at any meeting of the Board.

SCHEDULE 4 - Membership of Joint Standing Committee on Integrity

Section 23(5)

1. Vacancies

- (1) The office of a member of the Joint Committee becomes vacant for any reason that would vacate his or her seat as a member of the Legislative Council or House of Assembly, as the case may be.
- (2) Where a vacancy occurs in the office of a member of the Joint Committee, it is to be filled by appointment as provided in section 23(4) within the next 10 sitting-days of the House of Parliament by which he or she was appointed as a member of the Joint Committee.
- (3) If a vacancy occurs when Parliament is not in session, the Governor may appoint a Member of the House of Parliament to temporarily fill the vacancy until it is filled as provided in section 23(4) .

2. Proceedings of Joint Committee

There is to be a chairperson and vice-chairperson of the Joint Committee, who is to be elected by the members of the Joint Committee at the first meeting of the Joint Committee or as soon after the first meeting as is practicable.

3. Secretary of Joint Committee

The President of the Legislative Council and the Speaker of the House of Assembly jointly are to appoint an officer of one of the Houses of Parliament to be the secretary of the Joint Committee.

4. Membership of Joint Committee not an office of profit

The office of a member of the Joint Committee is not an office of profit or emolument within the meaning of the Constitution Act 1934 and the acceptance and holding of such an office does not –

- (a) render the holder of the office incapable of sitting or voting as a member of either House of Parliament; or
- (b) make void the election of the holder of the office as a member of either House of Parliament.

SCHEDULE 5 - Meetings of Joint Standing Committee on Integrity

Section 23(6)

1. Proceedings of Joint Committee

- (1) Any 3 members of the Joint Committee, constitute a quorum of the Joint Committee, but the quorum may not be made up of members exclusively of one House of Parliament.
- (2) The chairperson of the Joint Committee, or, in the case of his or her absence or other inability to act as chairperson, the vice-chairperson of the Joint Committee, is to preside at all meetings of the Joint Committee at which he or she is present.
- (3) At a meeting of the Joint Committee at which a quorum is present, the members in attendance may, in the absence of the chairperson of the Joint Committee and vice-chairperson of the Joint Committee, appoint one of their number then present to be the temporary chairperson of the Joint Committee, and the temporary chairperson of the Joint Committee has, during the absence of the chairperson of the Joint Committee and vice-chairperson of the Joint Committee, all the powers of the chairperson of the Joint Committee.
- (4) The Joint Committee is to cause minutes of its proceedings to be kept.
- (5) The Joint Committee may sit and transact business during any adjournment or recess, and may sit at such times and in such places, and conduct its proceedings in such manner, as it thinks fit.

2. Voting at meeting of Joint Committee

- (1) At meetings of the Joint Committee –
 - (a) the chairperson of the Joint Committee or, in his or her absence, the vice-chairperson of the Joint Committee, has a deliberative vote only; and
 - (b) when the votes on a question are equal, the question passes in the negative.
- (2) Where a division is called for on any question, the names of the members voting are to be stated in the minutes and in the report of the Joint Committee.
- (3) A question is decided by the majority of votes of the members voting, where the vote is taken at a meeting of which a majority of members appointed by each House to serve on the Joint Committee is present.

3. Evidence before Joint Committee

- (1) The Joint Committee may summon witnesses to appear before it to give evidence and to produce documents, and for that purpose has all the power and authority of a Select Committee of the House of Assembly.
- (2) A witness who is summoned to appear, or who appears, before the Joint Committee has the same protection and privileges as a witness in an action tried in the Supreme Court.
- (3) Except where it considers that there is good and sufficient reason to take evidence in private, all evidence is to be taken by the Joint Committee in public.
- (4) In deciding to take evidence in private, the Joint Committee may seek advice from the Board about whether to take the evidence in private.
- (5) Notwithstanding anything in subclause (3) , the Joint Committee, when requested so to do by a witness, must take in private any evidence that, in the opinion of the Joint Committee, relates to a secret or confidential matter.
- (6) Subject to subclause (7) , the Joint Committee may, in its discretion, disclose or publish, or authorise the disclosure or publication of evidence taken in private.

(7) If there is taken in private any evidence of a witness that the Joint Committee considers relates to a secret or confidential matter and the witness requests that that evidence be not published, the Joint Committee must not, without the consent in writing of the witness, disclose or publish, or authorise the disclosure or publication of, that evidence, unless it has already been lawfully published.

(8) If evidence is taken by the Joint Committee in private, no person (whether a member of the Joint Committee or not) may, without the authority of the Joint Committee given in writing by the chairperson of the Joint Committee, disclose or publish that evidence unless it has already been lawfully published.

(9) References in this section to evidence are to be construed as including references to documentary evidence, and references in this section to evidence given by a witness is to be construed as including references to any part of the evidence so given.

(10) Any person who discloses or publishes any evidence contrary to the provisions of this section is guilty of an offence.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding one year.

(11) Sections 2A and 2B of the Parliamentary Privilege Act 1858 apply to any matter being examined by the Joint Committee under this Act.

4. Continuation of proceedings

If the Joint Committee, as constituted at any time, has taken evidence in relation to any matter, but the Joint Committee as so constituted has ceased to exist before reporting on that matter, the Joint Committee as next constituted may consider that evidence as if it had been given before it.

5. Witnesses' expenses

A witness who appears before the Joint Committee to give evidence is entitled to be paid such fees and travelling expenses as the chairperson or vice-chairperson of the Joint Committee sees fit to allow, being fees and travelling expenses calculated in accordance with the scale for the time being prescribed under section 27 of the Public Works Committee Act 1914 .

SCHEDULE 6 - Provisions in Respect of Hearings of Integrity Tribunal

Section 76

1. Hearings to be open to public

- (1) Except as provided in subclause (2), a hearing of an Integrity Tribunal is to be open to the public.
- (2) An Integrity Tribunal may do any or all of the following at a hearing if it considers that there are reasonable grounds for doing so:
 - (a) make an order that the hearing be closed to the public;
 - (b) make an order excluding any person from the hearing;
 - (c) make an order prohibiting the reporting or other disclosure of all or any of the proceedings at the hearing or prohibiting the reporting or other disclosure of particular information in respect of the hearing.
- (3) If the Integrity Tribunal makes an order under subclause (2)(b), the Integrity Tribunal may determine who, other than the parties or their representative, may be present before it at any stage of the proceedings.

2. Requirement to attend hearing

- (1) If an Integrity Tribunal holds a hearing, it is to serve a notice in writing, not less than 14 days before the date of the hearing, on the person who is the subject of the complaint and the principal officer of the relevant public authority requesting that that person attend the hearing.
- (2) An Integrity Tribunal may, by written notice served on a person, require that person to attend a hearing if in the opinion of the Integrity Tribunal that person appears to be material to the hearing.
- (3) A person who has been required by the Integrity Tribunal to attend a hearing must continue to attend the hearing from day to day until the Integrity Tribunal excuses that person from so attending.
- (4) An Integrity Tribunal may apply to a magistrate for a warrant to have a person referred to in subclause (1) or (2) apprehended and brought before the Integrity Tribunal.
- (5) A magistrate to whom an application under subclause (4) is made may issue a warrant if satisfied that the person who is the subject of the application –
 - (a) has been served with a notice under subclause (1) or (2); and
 - (b) has failed, without reasonable excuse, to attend before the Integrity Tribunal or produce any record, information, material or thing specified in the notice.
- (6) A warrant issued under this section authorises any police officer to –
 - (a) apprehend the person named in the warrant and bring that person before the Integrity Tribunal that applied for the warrant; and
 - (b) detain that person in custody to secure the person's attendance before that Integrity Tribunal.
- (7) A police officer executing a warrant issued under this section is, for that purpose, authorised to enter and search any place, building, vehicle or vessel, using such force as is reasonably necessary.
- (8) A person who is apprehended and detained in custody pursuant to a warrant issued under this section may apply to a judge of the Supreme Court to be released from custody.
- (9) The release of a person from custody under this section may be made subject to any conditions the judge considers appropriate.

3. Control of proceedings at hearing

- (1) An Integrity Tribunal has power to –

(a) control its proceedings; and

(b) maintain order at any hearing or other proceeding conducted by the Integrity Tribunal.

(2) An Integrity Tribunal may request the Commissioner of Police to assist it in maintaining order at any hearing or other proceeding conducted by it.

(3) The Commissioner of Police is authorised and required to accede to a request made under subclause (2) .

4. Control of public reporting of hearing

(1) An Integrity Tribunal may, by order, prohibit or restrict the public reporting of a hearing or the publishing of any evidence taken or received by it if it is satisfied that the public interest in the reporting of that hearing or the publishing of that evidence is outweighed by any other consideration, including public security, privacy of personal or financial affairs or the right of any person to a fair trial.

(2) An order under subclause (1) is to be made during a hearing which is open to the public, and on making the order an Integrity Tribunal must state, in general terms, the reasons for making the order.