

Public Corruption Bill 1991

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DRAFT

(Prepared by Parliamentary Counsel's Office)

Public Corruption Bill 1991

A BILL FOR

An Act to establish a Committee to receive information relating to allegations of corruption of public officials and public authorities and to refer that information to investigative agencies and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

5

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Public Corruption Act 1991*.

Commencement

10 2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

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(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

5 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 2 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Cessation of operation

3. This Act, unless sooner repealed, ceases to be in force at the expiration of 3 years after the date of commencement of sections 1 and 2.

10 Crown

4. This Act binds the Crown.

Interpretation

5. In this Act, unless the contrary intention appears—

“appropriate agency”, in relation to a matter—

- 15 (a) means the person or body (whether corporate or not) considered by the Committee to be the appropriate person or body to investigate the matter; and
- (b) includes—
- (i) the Ombudsman;
- 20 (ii) the Auditor-General; and
- (iii) the Australian Federal Police;

“Chairperson” means the member appointed under section 22 as Chairperson of the Committee;

25 “Committee” means the Public Corruption Committee established under section 18;

“corrupt conduct” means conduct which, by virtue of subsection 6 (1), is to be taken to be corrupt;

30 “investigations unit” means that part of the relevant administrative unit responsible for investigations of fraud and other offences against a law of the Territory by public servants;

“member” means a member of the Committee appointed under section 21;

“officer” means a person who is or has been—

- (a) a member;

- (b) a member of the staff of the Committee; or
- (c) a person acting under the direction of a member;

"Public Accounts Committee" means the Public Accounts Committee of the Legislative Assembly;

"public authority" means—

- (a) the Legislative Assembly;
- (b) a committee appointed by the Legislative Assembly under its standing or temporary orders;
- (c) the Executive; or
- (d) a body (whether corporate or not) established by or under an Act, or by the Executive;

"public official" means—

- (a) a member of the Legislative Assembly;
- (b) a member of the Executive;
- (c) a public servant;
- (d) the holder of an office established by or under an Act, or by the Executive;
- (e) a person who is employed by or on behalf of the Territory under a contract of service or a contract for services;
- (f) a person otherwise authorised to perform functions on behalf of the Territory;
- (g) a person who constitutes a public authority;
- (h) a member or director of a public authority, or a deputy of such a member or director;
- (i) a person employed in the service of a public authority, whether under a contract of service or a contract for services; or
- (j) a person otherwise authorised by a public authority to perform any functions of the authority on its behalf;

"relevant administrative unit" means the administrative unit of the Public Service that is the responsibility of the Minister for the time being administering this Act;

"selection panel" means a panel referred to in section 21;

"Speaker" means the member of the Legislative Assembly elected for the purposes of section 11 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

Corrupt conduct

5 6. (1) For the purposes of this Act, conduct is to be taken to be corrupt if—

(a) it is of a type referred to in subsection (2); and

(b) it could constitute—

10 (i) a criminal offence;

(ii) a disciplinary offence; or

(iii) reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of a public official who is engaged in it.

15 (2) Paragraph (1) (a) applies in relation to the following types of conduct:

(a) conduct of a person (whether or not a public official) that adversely affects, or could adversely affect, either directly or indirectly, the honest or impartial performance of official functions by a public official or public authority;

20 (b) conduct of a public official which amounts to the performance of any of his or her official functions dishonestly or with partiality;

(c) conduct of a public official, a former public official or a public authority that amounts to a breach of public trust;

25 (d) conduct of a public official, a former public official or a public authority that amounts to the misuse of information or material acquired in the course of the performance of official functions (whether for the benefit of that person or authority or otherwise);

(e) a conspiracy or attempt to engage in conduct referred to in paragraphs (a) to (d) (inclusive).

30 (3) In this section—

"criminal offence" means an offence against a law in force in the Territory;

"disciplinary offence" means conduct that constitutes grounds for disciplinary action under a law in force in the Territory.

PART II—ALLEGATIONS OF CORRUPTION

Information about corrupt conduct

7. (1) A person may give information, orally or in writing, about a matter to the Committee.

5 (2) The Committee shall put any information given orally to it in writing.

(3) Information may be given anonymously.

Information from administrative heads and public authorities

8. (1) Where—

10 (a) the Head of Administration;

(b) an Associate Head of Administration;

(c) a director or member of a body (whether corporate or not) established by or under an Act, or by the Executive; or

15 (d) the holder of an office established by or under an Act, or by the Executive;

suspects, on reasonable grounds, that corrupt conduct may have occurred in relation to the performance or exercise of the functions or powers for which the relevant agency is responsible, that person shall refer any relevant information to the Committee.

20 (2) Subsection (1) does not apply in respect of information which relates to a matter within the guidelines in force under section 32.

(3) In this section—

“relevant agency” means—

25 (a) in relation to the Head of Administration—the Public Service;

(b) in relation to an Associate Head of Administration—the administrative unit of the Public Service for which he or she is responsible;

30 (c) in relation to a person referred to in paragraph (1) (c)—the relevant body; or

(d) in relation to a person referred to in paragraph (1) (d)—the relevant office.

Notice to persons on receipt of information

9. The Committee shall, within a reasonable time after receiving information, give notice in writing of that receipt setting out particulars of the information received—

- 5 (a) if possible—to the person to whom the information relates; and
 (b) if the information appears to relate to the performance of the functions for which an administrative unit of the Public Service is responsible—
- 10 (i) to the responsible Minister;
 (ii) to the Head of Administration; or
 (iii) to the responsible Associate Head of Administration;

unless to do so might unduly compromise any investigation of the matter.

Consideration of information

15 10. (1) The Committee shall consider any information received and—

- (a) if satisfied on reasonable grounds that the information may relate to corrupt conduct—shall refer the matter to the appropriate agency; or
 (b) if satisfied that—
- 20 (i) when giving the information, the informant was acting frivolously or vexatiously or was not acting in good faith;
 (ii) the information relates to a matter which is trivial;
 (iii) the information relates to a matter which can be adequately investigated without the intervention of the Committee;
 25 (iv) the information does not relate to corrupt conduct; or
 (v) for any other reason, no further action with respect to the information is necessary;

may decline to take any further action.

30 (2) The Committee may, on its own initiative, refer a matter to an appropriate agency if the Committee considers that the matter may relate to corrupt conduct.

(3) A referral under subsection (1) or (2)—

- (a) shall be in writing;
 (b) shall—

- 5
- (i) if the agency is the director of the investigations unit—direct him or her to investigate the matter specified in the notice; or
 - (ii) in any other case—request the agency to investigate the matter specified in the notice; and
- (c) shall—
- (i) set out particulars of the matter to be investigated and any information received in relation to that matter under section 7 or 8;
 - 10 (ii) include any other information which the Committee considers relevant; and
 - (iii) be accompanied by any documents or copies of documents which the Committee considers relevant.
- (4) The Committee shall give notice in writing of the action taken by it under this section—
- 15
- (a) if possible—to the informant; and
 - (b) where notice has been given to a person referred to in paragraph 9 (a) or (b)—to that person.

Production of things

20 11. (1) Where the Committee has reasonable grounds for believing that a person is capable of producing a thing relevant to the Committee's consideration of a matter under this Act, the Committee may, by notice in writing given to the person, direct the person to produce the thing to the Committee within the period (being not less than 7 days after the date of the notice) and at the place specified in the notice.

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(2) A person shall not, without reasonable excuse, fail to comply with a direction under subsection (1).

Penalty: \$5,000.

30 (3) Where a person is convicted of an offence under subsection (2), the court may, on application by the Committee and in addition to any penalty imposed on the person, order the person to produce the thing to the Committee.

- (4) The Committee may—
- (a) inspect; or
 - 35 (b) in the case of a document—copy in whole or in part;
a thing produced under this section.

(5) The Committee may retain a thing produced under this section for such period as is necessary and reasonable for the Committee's consideration of the matter.

5 (6) The Committee may, by instrument, delegate the exercise of a power under this section to a member or a member of the staff of the Committee.

Search warrants

12. (1) Where the Chairperson lays before a magistrate an information on oath—

10 (a) alleging that there are reasonable grounds for suspecting—

(i) that there may be, at that time or within the next following 24 hours, in or on any premises, a thing of a particular kind relevant to the consideration by the Committee of whether a matter should be investigated (in this section referred to as a "thing of the relevant kind"); and

15

(ii) that, if a search warrant were not issued, the thing might be concealed, lost, mutilated, destroyed or disposed of; and

(b) setting out those grounds;

the magistrate may issue a search warrant.

20 (2) A magistrate shall not issue a search warrant unless—

(a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

25 (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A search warrant shall authorise a police officer or an authorised person named in the warrant with such assistance, and by such force, as is necessary and reasonable—

30 (a) to enter the premises;

(b) to search the premises for things of the relevant kind;

(c) to seize any things of the relevant kind; and

(d) to deliver any things so seized to the Committee.

(4) A search warrant shall—

35 (a) state the purpose for which it is issued;

- (b) specify particular hours during which the entry is authorised or state that entry is authorised at any time of the day or night;
- (c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and
- 5 (d) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.

10 (5) A search warrant may be executed, in accordance with its terms, at any time during the period commencing on the date of the warrant and ending at the expiration of the date specified for the purpose of paragraph (4) (d).

(6) A person executing a search warrant shall, on request by an occupant of the premises to which the warrant relates, show the warrant to that occupant.

15 (7) A reference in subsection (1) to the Chairperson shall be read as including a reference to a member authorised by the Chairperson to act under that subsection.

(8) In this section—

20 “authorised person” means a person declared in writing by the Chairperson to be an authorised person for the purposes of this section;

“premises” includes—

- (a) a building or other structure;
- (b) an aircraft, vehicle or vessel; and
- (c) a place, whether enclosed or built on, or not.

25 **Monitoring investigations**

13. (1) Where the Committee has referred a matter to an appropriate agency—

- (a) if the agency is the director of the investigations unit—
 - 30 (i) the Committee may, by notice in writing, direct him or her to give to it a written report within 14 days, or such longer period as is specified in the notice, setting out the progress of the investigation; and
 - (ii) the director shall give to the Committee a written report as soon as practicable after the conclusion of the investigation setting out the results of the investigation; or
- 35 (b) in any other case—

- (i) the Committee may, by notice in writing, request the agency to give to it a report of the kind referred to in subparagraph (a) (i); and
- 5 (ii) the Committee shall, by notice in writing, request the agency to give to it a report of the kind referred to in subparagraph (a) (ii).

(2) After considering a report under subsection (1), the Committee may request further information from the appropriate agency.

Notification of results

- 10 14. (1) The Committee shall—
- (a) where a matter was referred to an appropriate agency for investigation—
- (i) as soon as practicable after receiving a report under subparagraph 13 (1) (a) (ii) or (b) (ii); or
- 15 (ii) if the agency refuses, or fails within a reasonable time, to comply with a request under that subparagraph; or
- (b) where a matter was not so referred—after considering the matter, give notice in writing in accordance with subsection (2) or (3)—
- (c) if possible—to the informant;
- 20 (d) where notice was given to a person under paragraph 9 (a)—to that person; and
- (e) where notice was given to a person under paragraph 9 (b)—to that person.
- (2) A notice given to a person referred to in paragraph (1) (c) or (e)—
- 25 (a) shall set out particulars of the matter investigated or considered;
- (b) shall set out—
- (i) the name of the agency to which the matter was referred; or
- (ii) the reasons for not referring the matter and the results of the Committee's consideration;
- 30 (c) shall—
- (i) if subparagraph (1) (a) (i) applies—be accompanied by a copy of the report and any further information obtained by the Committee under subsection 13 (2); or

(ii) if subparagraph (1) (a) (ii) applies—state whether the Committee has presented, or intends to present, to the Public Accounts Committee a report under section 17; and

(d) shall specify whether the Committee has referred, or intends to refer, the matter to the Director of Public Prosecutions under section 16.

(3) A notice given to a person referred to in paragraph (1) (d) shall set out the results of the investigation or consideration.

Director of investigations unit to comply

15. The director of the investigations unit shall comply with any direction given, or request made, by the Committee under this Part.

Referral to Director of Public Prosecutions

16. The Committee may refer a matter to the Director of Public Prosecutions.

Dissatisfaction with investigations

17. If—

(a) the Committee is not satisfied with the conduct of an investigation; or

(b) an appropriate agency refuses, or fails within a reasonable time, to comply with a request under paragraph 13 (1) (b) or subsection 13 (2);

the Committee may present to the Public Accounts Committee a report—

(c) stating its dissatisfaction and specifying the reasons for that dissatisfaction; or

(d) stating that the agency has so refused or failed.

PART III—PUBLIC CORRUPTION COMMITTEE

Division 1—Establishment and functions

Establishment

18. A Public Corruption Committee is established.

Functions

19. The Committee has the following functions:

(a) to consider whether matters which could relate to corrupt conduct justify further investigation;

- (b) where the Committee considers it justified—to refer those matters to appropriate agencies for investigation;
- (c) to monitor the progress of such investigations.

Division 2—Constitution, meetings and staff

5 **Membership**

20. (1) The Committee shall consist of—

(a) 1 person who has held—

- 10 (i) office as a Judge of the Supreme Court, of a court created by the Commonwealth Parliament, of a court of a State or another Territory or of New Zealand; or
- (ii) office as a Magistrate of the Territory, a State, another Territory or New Zealand; and

(b) 2 other persons who are not public officials and of whom—

- 15 (i) one may be a person who has held office as a member of the public service for, or the police force of, a State or the Northern Territory; and
- (ii) the other may be a person who has been an eminent member of the accounting profession.

(2) A person who is or has been a member of—

- 20 (a) the public service for the Territory or the Commonwealth; or
- (b) the Australian Federal Police;

is not entitled to be a member.

Appointments

25 21. Each member shall be appointed in writing by a panel consisting of—

- (a) the Chief Minister;
- (b) the Attorney-General; and
- (c) 3 other persons—

- 30 (i) who are members of the Legislative Assembly—
 - (A) elected by those members of the Legislative Assembly who are not also members of the governing political party or parties; and
 - (B) of whom no 2 are members of the same political party; or

- g (ii) in the event that sub-subparagraph (i) (B) cannot be satisfied—
- (A) one of whom is elected in accordance with sub-subparagraph (i) (A);
 - 5 (B) one of whom is the Chief Magistrate; and
 - (C) one of whom is the President of the Administrative Appeals Tribunal.

Chairperson

10 22. (1) A member shall be appointed in writing by the Executive pursuant to the recommendation of the selection panel as the Chairperson of the Committee.

(2) A person holding office as Chairperson ceases to hold the office if the person ceases to be a member.

Terms of appointment

15 23. A member holds office, subject to this Act—

- (a) until the expiration of the date (not being later than 3 years after the date of commencement of sections 1 and 2) specified in the instrument of appointment; and
- 20 (b) on the terms and conditions (if any) determined in writing by the Minister.

Leave of absence

24. The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines in writing.

Resignation

25 25. A member may resign the office of member or Chairperson by notice in writing signed by the member and delivered to the Minister.

Removal from office

30 26. (1) The Executive may remove a member from office on an address praying for his or her removal on the ground of misbehaviour or physical or mental incapacity being presented to the Executive by the Legislative Assembly.

- (2) The Executive shall remove a member from office if the member—
- 35 (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

- (b) without reasonable excuse, contravenes section 29;
- (c) is absent without leave under section 24 from 3 consecutive meetings of the Committee; or
- (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for a period exceeding 1 year.

Acting members

27. (1) A selection panel may appoint a member to act as the Chairperson—

- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chairperson is absent from duty or from the Territory or is, for any other reason, unable to perform the duties of that office;

but a member appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) A selection panel may appoint a person to act as a member other than the Chairperson—

- (a) during a vacancy in the office of that member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when that member is—
 - (i) acting as the Chairperson; or
 - (ii) absent from duty or from the Territory or is, for any other reason, unable to perform the duties of that office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(3) 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;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Meetings

28. (1) The Chairperson shall convene such meetings of the Committee as he or she considers necessary for the efficient performance of the Committee's functions.

- 5 (2) At a meeting, 3 members constitute a quorum.
(3) Procedure at a meeting shall be determined by the Committee.

Disclosure of interests at meetings

10 29. (1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Committee shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.

(2) Unless the Committee otherwise determines, the member shall not—

- 15 (a) be present during any deliberation of the Committee with respect to that matter; or
(b) take part in any decision of the Committee with respect to that matter.
(3) A member referred to in subsection (2) shall not—
20 (a) be present during any deliberation of the Committee for the purpose of considering whether to make a determination under that subsection in relation to that member; or
(b) take part in the making by the Committee of such a determination.

Disclosure of interests

25 30. (1) Each member shall make to the Minister a written disclosure of the financial interests of the member equivalent to the disclosure of financial interests required to be made by members of the Legislative Assembly.

(2) A member shall make a disclosure 1 month after being appointed as a member.

- 30 (3) A member shall from time to time make such further disclosures as are necessary to ensure that the information available to the Minister about the financial interests of that member is up-to-date.

Staff

35 31. The staff of the Committee shall consist of not more than 3 persons selected by the Committee from applicants in response to an advertisement for members of the staff of the Committee published in a newspaper circulating in the Territory.

Division 3—Guidelines, reports and information**Guidelines**

32. For the purpose of subsection 8 (2), the Committee may issue, in writing, guidelines with respect to the kinds of matters which, in the Committee's opinion, need not be referred to it.

Reports on specific matters

33. The Committee may present to the Speaker a report on any matter it considers under this Act.

Reports on administrative and policy matters

34. The Committee may present to the Speaker a report on any matter of a general administrative or policy nature which relates to the functions of the Committee.

Annual reports

35. (1) The Committee shall, within 4 months after the end of each financial year, present to the Speaker a report relating to activities of the Committee during that year.

(2) Any guidelines issued under section 32 shall be set out in the annual report relating to each financial year during which the guidelines are in force.

(3) The Committee shall give a copy of each annual report to the Public Accounts Committee.

Tabling of reports

36. (1) The Speaker shall lay a copy of a report presented by the Committee under section 33, 34 or 35 before the Legislative Assembly within 5 sitting days of the Assembly after the day on which the Speaker received the report.

(2) If the Committee includes in a report a recommendation that the report be made public as soon as possible, the Speaker may make the report public whether or not the Legislative Assembly is sitting and whether or not the report has been laid before the Assembly.

(3) A report which is made public by the Speaker before it is laid before the Legislative Assembly attracts the same privileges and immunities as if the report had been laid before the Assembly.

(4) The Speaker need not inquire whether a condition precedent has been satisfied in relation to a report purporting to have been prepared and presented in accordance with this Act.

(5) A person who publishes a report which has not been laid before the Legislative Assembly, or made public, by the Speaker is guilty of an

offence punishable, on conviction, by a fine not exceeding \$20,000 or imprisonment for a period not exceeding 2 years.

Bulletins

37. The Committee may publish bulletins for the purpose of informing the public of the general conduct of its operations.

Non-disclosure of information

38. (1) A report or bulletin presented or published by the Committee under this Division shall not—

- (a) identify a person as being suspected of having committed an offence; or
- (b) identify a person as having committed an offence unless that person has been convicted of that offence.

(2) The Committee shall take reasonable care not to disclose in a report or bulletin presented or published under this Division any matter the disclosure of which could prejudice—

- (a) the safety or reputation of a person; or
- (b) the fair trial of a person who has been or may be charged with an offence.

PART IV—MISCELLANEOUS

Division 1—Offences

False or misleading statements

39. (1) A person shall not knowingly or recklessly make a false or misleading statement, orally or in writing, to a member or a member of the staff of the Committee engaged in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

Penalty: \$5,000 or imprisonment for 6 months, or both.

(2) In subsection (1)—

“misleading statement” includes a statement which is made with the intention of misleading the person to whom the statement is made, or the Committee, whether or not the statement actually misleads that person or the Committee.

Intimidation or dismissal of whistleblowers and other informants

40. (1) A person shall not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage on or to another person because the other person gave, or proposes to give, information to the Committee.

Penalty: \$5,000 or imprisonment for 6 months, or both.

(2) A person shall not—

- 5
- (a) dismiss an employee from his or her employment, or prejudice an employee in his or her employment, because the employee gives or proposes to give information to the Committee; or
 - (b) threaten so to dismiss, or so to prejudice, an employee because the employee proposes to give information to the Committee.

Penalty: \$5,000 or imprisonment for 6 months, or both.

10 (3) If all the elements of an offence against subsection (2) other than the reason for the person's action are proved, the onus of proving that the dismissal or prejudice was not because the employee gave, or proposed to give, information is on the person.

15 (4) Where a person is convicted of an offence under this section, the court may, in addition to any penalty imposed, make 1 or more of the following orders:

- (a) an order that the person pay to the employee a specified sum by way of reimbursement for the salary or wages lost by the employee;
- 20 (b) an order that the employee be reinstated in his or her former position or in a similar position;
- (c) any other order as the court sees fit to compensate for any loss or disadvantage suffered by—
 - (i) in the case of an offence under subsection (1)—the other person; or
 - 25 (ii) in the case of an offence under subsection (2)—the employee.

Hindering or obstructing members etc.

41. A person shall not wilfully hinder or obstruct—

- 30
- (a) a member;
 - (b) a member of the staff of the Committee; or
 - (c) a person acting under the direction of a member;

engaged in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Division 2—General

Public Accounts Committee

42. The Public Accounts Committee—

- 5
- (a) shall monitor and review the performance by the Public Corruption Committee of its functions; and
 - (b) may submit to the Legislative Assembly a report in relation to any matter connected with that performance to which, in the opinion of the Public Accounts Committee, the attention of the Legislative Assembly should be drawn.

10 **Protection of members etc.**

15 43. An officer is not liable to an action or other proceeding in relation to an act done or omitted to be done by that person in good faith in the performance or exercise, or purported performance or exercise, of a function, power or authority conferred on that person in that capacity for the purposes of this Act.

Protection of whistleblowers and other informants

44. No suit or other civil action or proceeding lies against a person in respect of the giving of information to the Committee.

Secrecy

20 45. (1) A person—

- (a) who is an officer; or
- (b) who is or has been a member of the Public Accounts Committee;

25 shall not, either directly or indirectly, make a record of, or divulge or communicate to any person, any information concerning another person acquired by the first-mentioned person by reason of—

- (c) holding an office or appointment; or
- (d) performing or exercising a function or power;

under this Act.

Penalty: \$5,000 or imprisonment for 6 months, or both.

30 (2) Subsection (1) does not prevent—

- (a) an officer—
 - 35 (i) from making a record of, or divulging or communicating to any person, information for purposes connected with the performance or exercise of a function or power under this Act;

- (ii) from divulging or communicating information with the prior consent of the person to whom the information relates and in accordance with any conditions subject to which that consent was given; or
- 5 (iii) from divulging or communicating information to the Director of Public Prosecutions; or
- (b) the Committee from divulging or communicating information to a law enforcement agency if, in the Committee's opinion, it is in the public interest to do so.
- 10 (3) An officer shall not be required to divulge or communicate any information concerning another person to the Legislative Assembly or a committee appointed by the Legislative Assembly under its standing or temporary orders.
- (4) In subsection (2)—
- 15 "law enforcement agency" means—
 - (a) the Australian Federal Police;
 - (b) the police force of a State or the Northern Territory; or
 - (c) any other authority or person responsible for the enforcement of the laws of the Territory, the Commonwealth, a State or the Northern Territory.
- 20

Conduct of directors, servants and agents

46. (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

- 25 (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
- (b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.
- (2) A reference in subsection (1) to the state of mind of a body or person is to be read as including a reference to—
- 30 (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
- (b) the body's or person's reasons for the intention, opinion, belief or purpose.
- 35 (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to

be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

5 (4) Where—

- (a) a natural person is convicted of an offence against this Act; and
- (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

10 (5) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.

15 (6) A reference in this section to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

Corporations—penalties

20 47. Where a body corporate is convicted of an offence against this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

Regulations

48. The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- 25 (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.