



Australian Capital Territory

Integrity Commission Amendment Act 2022

A2022-17

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Australian Capital Territory

Integrity Commission Amendment Act 2022

A2022-17

An Act to amend the *Integrity Commission Act 2018*

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

1 Name of Act

This Act is the *Integrity Commission Amendment Act 2022*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Integrity Commission Act 2018*.

**4 Confidentiality notices—content
New section 80 (3)**

insert

- (3) Subsection (2) does not apply to the following permitted disclosures:
- (a) a disclosure mentioned in section 81 (ea);
 - (b) a disclosure authorised or required under section 90A or section 147A.

**5 Meaning of *permitted disclosure* of restricted information—pt 3.2
Section 81, definition of *permitted disclosure*, new paragraph (ea)**

insert

- (ea) reasonably necessary for a claim of parliamentary privilege to be made or dealt with by the Legislative Assembly; or

6 New section 85A

in part 3.3, insert

85A Meaning of *Assembly information*

In this Act, *Assembly information*—

- (a) means information—
 - (i) created for and received by, or created by—
 - (A) a committee of the Legislative Assembly; or
 - (B) the Office of the Legislative Assembly; or
 - (C) a current or former member of the Legislative Assembly in the course of their parliamentary duties; or
 - (ii) otherwise created for and received by, or created by, the Legislative Assembly; and
- (b) includes metadata about a record containing information mentioned in paragraph (a).

Examples—metadata about a record

- author
- content
- creation date
- location

**7 Power to request information from head of public sector entity
Section 89 (1)**

substitute

- (1) In carrying out a preliminary inquiry, the commission may ask—
 - (a) the head of a public sector entity to give information (other than Assembly information) held by the entity to the commission; or

- (b) the Speaker to give Assembly information held by a public sector entity to the commission.
- (1A) The commission may only ask for information that the commission considers relevant to the preliminary inquiry.
- (1B) If the Speaker has been asked to give Assembly information relating to a current or former member of the Legislative Assembly, the Speaker must give a copy of the request to the member.

8 Section 89 (2), new note

insert

Note The head of a public sector entity other than the Speaker must not give Assembly information to the commission unless authorised by the Speaker (see s 89A).

9 Section 89, new notes

after subsection (4), insert

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

10 New section 89A

insert

89A Dealing with request for Assembly information

- (1) This section applies if the head of a public sector entity (other than the Speaker)—
 - (a) has been asked by the commission to give information under section 89; and
 - (b) considers that all or part of the information requested is Assembly information.

- (2) The head of the public sector entity must—
- (a) not give the commission the information; and
 - (b) give the Speaker a copy of the request; and
 - (c) tell the commission that they have taken the step mentioned in paragraph (b); and
 - (d) deal with the request in accordance with section 89, to the extent that it does not relate to Assembly information; and
 - (e) if the Speaker authorises the head to give the Assembly information to the commission—give the information to the commission.
- (3) On being given a copy of the request, the Speaker must deal with the request, to the extent that it relates to Assembly information, in accordance with section 89.

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

11 Power to issue preliminary inquiry notice

Section 90 (1), new note

insert

Note 2 A person (other than a current or former member of the Legislative Assembly) must not produce a document or thing containing Assembly information to the commission unless authorised by the Speaker (see s 90A).

12 New section 90A

insert

90A Dealing with preliminary inquiry notice for Assembly information

- (1) This section applies if a person (other than a current or former member of the Legislative Assembly)—
 - (a) has been issued a preliminary inquiry notice; and
 - (b) considers that the notice requires the production of a document or other thing containing Assembly information.
- (2) The person must—
 - (a) not produce the document or thing to the commission; and
 - (b) give the Speaker a copy of the preliminary inquiry notice; and
 - (c) tell the commission that they have taken the step mentioned in paragraph (b); and
 - (d) comply with the preliminary inquiry notice, to the extent that it does not relate to Assembly information; and
 - (e) if the Speaker authorises the person to produce the document or thing to the commission—produce the document or thing to the commission.

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

13 Preliminary inquiry notice—content
New section 91 (2) (b) (va)

after the note, insert

- (va) that the person must deal with the preliminary inquiry notice in accordance with section 90A if—
 - (A) the document or other thing required to be produced contains Assembly information; and
 - (B) the person is not a current or former member of the Legislative Assembly;

14 General powers on entry to premises
Section 120, new notes

insert

Note 2 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 3 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

15 Warrants—generally
Section 122, new note

insert

Note This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

16 Search warrants—claiming privilege
Section 127 (4), note

substitute

Note For the claim of parliamentary privilege relating to the execution of a search warrant, see s 130A.

17 New sections 130A and 130B

in division 3.5.3, insert

130A Search warrants—claiming parliamentary privilege

- (1) This section applies if—
 - (a) an investigator executing a search warrant wishes to inspect, copy or seize a document or other thing under the search warrant; and
 - (b) a current or former member of the Legislative Assembly (the *claimant*) claims that the document or other thing is the subject of parliamentary privilege.
- (2) The investigator must either—
 - (a) stop exercising the power under the search warrant in relation to the document or other thing; or
 - (b) require the claimant to immediately secure the document or other thing (by sealing in an envelope or otherwise) and give it to the investigator.
- (3) In taking an action under subsection (2), the investigator must not inspect the document or other thing.

Note 1 The Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

130B Search warrants—investigator to give secured documents etc to clerk

- (1) This section applies if the investigator requires the claimant to secure the document or other thing and give it to the investigator under section 130A (2) (b).

- (2) The investigator must—
- (a) notify the commissioner about the claim as soon as possible; and
 - (b) immediately give the secured document or other thing to the clerk of the Legislative Assembly to be held in safe custody.
- (3) In this section:

clerk of the Legislative Assembly includes, if the clerk is unavailable, the deputy clerk of the Legislative Assembly.

unavailable—the clerk of the Legislative Assembly is ***unavailable*** if—

- (a) the clerk is absent or suspended from duty; or
- (b) there is a vacancy in the office of the clerk; or
- (c) the clerk has an actual or perceived conflict of interest that would prevent the clerk from properly carrying out the functions of the clerk under this section; or
- (d) the clerk cannot, for any other reason, exercise the functions of the clerk.

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

18 Power to issue examination summons

Section 147 (1), new notes

insert

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

19 New section 147A

insert

147A Dealing with examination summons for Assembly information

- (1) This section applies if a person (other than a current or former member of the Legislative Assembly)—
 - (a) has been issued with an examination summons; and
 - (b) considers that the summons requires the giving of evidence, or the production of a document or other thing, containing Assembly information.
- (2) The person must—
 - (a) not give the evidence, or produce the document or thing; and
 - (b) give the Speaker a copy of the examination summons; and
 - (c) tell the commission that they have taken the step mentioned in paragraph (b); and
 - (d) comply with the examination summons to the extent that it does not relate to Assembly information; and
 - (e) if the Speaker authorises the person to give the evidence, or produce the document or thing, to the commission—give the evidence, or produce the document or thing.

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

20 Examination summons—content
New section 148 (3) (b) (xia)

after the note, insert

- (xia) that the person must deal with the examination summons in accordance with section 147A if—
 - (A) the evidence required to be given, or document or other thing required to be produced, contains Assembly information; and
 - (B) the person is not a current or former member of the Legislative Assembly;

21 New section 158A

insert

158A Examination—dealing with Assembly information discovered

- (1) This section applies if—
 - (a) a person (other than a current or former member of the Legislative Assembly) appears before the commission under an examination summons; and
 - (b) the commission becomes aware, at any time during the examination, that the evidence given, or the document or other thing produced by the person, contains Assembly information.
- (2) The commission must immediately—
 - (a) stop dealing with the evidence, or the document or other thing; and

- (b) secure the following (the *secured evidence*) by sealing in an envelope or otherwise:
 - (i) any video recordings, transcripts or notes created of the evidence;
 - (ii) the document or other thing produced; and
- (c) give the secured evidence to the clerk of the Legislative Assembly to be held in safe custody.

(3) In this section:

clerk of the Legislative Assembly includes, if the clerk is unavailable, the deputy clerk of the Legislative Assembly.

unavailable—the clerk of the Legislative Assembly is *unavailable* if—

- (a) the clerk is absent or suspended from duty; or
- (b) there is a vacancy in the office of the clerk; or
- (c) the clerk has an actual or perceived conflict of interest that would prevent the clerk from properly carrying out the functions of the clerk under this section; or
- (d) the clerk cannot, for any other reason, exercise the functions of the clerk.

Note 1 This Act does not affect the law relating to the privileges of the Legislative Assembly (see s 7).

Note 2 A claim of parliamentary privilege must be dealt with by the Legislative Assembly (see s 177).

**22 Public sector entity may disclose information to
 commission
 New section 195 (2)**

insert

- (2) However, the head of a public sector entity must not disclose any Assembly information held by the public sector entity to the commission unless the Speaker has authorised the disclosure.

23 Dictionary, new definition of *Assembly information*

insert

Assembly information—see section 85A.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 9 June 2022.

2 Notification

Notified under the [Legislation Act](#) on 28 October 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Integrity Commission Amendment Bill 2022, which was passed by the Legislative Assembly on 13 October 2022.

Clerk of the Legislative Assembly

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