

2022

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Speaker)

# Integrity Commission Amendment Bill 2022

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# Integrity Commission Amendment Bill 2022

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## A Bill for

An Act to amend the *Integrity Commission Act 2018*

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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

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**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 or by, or received 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 or by, or received 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

1 (b) the Speaker to give Assembly information held by a public  
2 sector entity to the commission.

3 (1A) The commission may only ask for information that the commission  
4 considers relevant to the preliminary inquiry.

5 (1B) If the Speaker has been asked to give Assembly information relating  
6 to a current or former member of the Legislative Assembly, the  
7 Speaker must give a copy of the request to the member.

8 **8 Section 89 (2), new note**

9 *insert*

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

13 **9 Section 89, new notes**

14 *after subsection (4), insert*

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

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

19 **10 New section 89A**

20 *insert*

21 **89A Dealing with request for Assembly information**

22 (1) This section applies if the head of a public sector entity (other than  
23 the Speaker)—

24 (a) has been asked by the commission to give information under  
25 section 89; and

26 (b) considers that all or part of the information requested is  
27 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).

- 1 (2) The investigator must—
- 2 (a) notify the commissioner about the claim as soon as possible; and
- 3 (b) immediately give the secured document or other thing to the
- 4 clerk of the Legislative Assembly to be held in safe custody.
- 5 (3) In this section:
- 6 *clerk of the Legislative Assembly* includes, if the clerk is unavailable,
- 7 the deputy clerk of the Legislative Assembly.
- 8 *unavailable*—the clerk of the Legislative Assembly is *unavailable*
- 9 if—
- 10 (a) the clerk is absent or suspended from duty; or
- 11 (b) there is a vacancy in the office of the clerk; or
- 12 (c) the clerk has an actual or perceived conflict of interest that
- 13 would prevent the clerk from properly carrying out the functions
- 14 of the clerk under this section; or
- 15 (d) the clerk cannot, for any other reason, exercise the functions of
- 16 the clerk.
- 17 *Note 1* This Act does not affect the law relating to the privileges of the
- 18 Legislative Assembly (see s 7).
- 19 *Note 2* A claim of parliamentary privilege must be dealt with by the Legislative
- 20 Assembly (see s 177).

## 21 **18 Power to issue examination summons**

### 22 **Section 147 (1), new notes**

23 *insert*

- 24 *Note 1* This Act does not affect the law relating to the privileges of the
- 25 Legislative Assembly (see s 7).
- 26 *Note 2* A claim of parliamentary privilege must be dealt with by the Legislative
- 27 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

- 1 (b) secure the following (the *secured evidence*) by sealing in an  
2 envelope or otherwise:
- 3 (i) any video recordings, transcripts or notes created of the  
4 evidence;
- 5 (ii) the document or other thing produced; and
- 6 (c) give the secured evidence to the clerk of the Legislative  
7 Assembly to be held in safe custody.
- 8 (3) In this section:
- 9 *clerk of the Legislative Assembly* includes, if the clerk is unavailable,  
10 the deputy clerk of the Legislative Assembly.
- 11 *unavailable*—the clerk of the Legislative Assembly is *unavailable*  
12 if—
- 13 (a) the clerk is absent or suspended from duty; or
- 14 (b) there is a vacancy in the office of the clerk; or
- 15 (c) the clerk has an actual or perceived conflict of interest that  
16 would prevent the clerk from properly carrying out the functions  
17 of the clerk under this section; or
- 18 (d) the clerk cannot, for any other reason, exercise the functions of  
19 the clerk.
- 20 *Note 1* This Act does not affect the law relating to the privileges of the  
21 Legislative Assembly (see s 7).
- 22 *Note 2* A claim of parliamentary privilege must be dealt with by the Legislative  
23 Assembly (see s 177).

- 1 **22 Public sector entity may disclose information to**  
 2 **commission**  
 3 **New section 195 (2)**
- 4 *insert*
- 5 (2) However, the head of a public sector entity must not disclose any  
 6 Assembly information held by the public sector entity to the  
 7 commission unless the Speaker has authorised the disclosure.
- 8 **23 Dictionary, new definition of *Assembly information***
- 9 *insert*
- 10 *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 2022.
- 3 **Republications of amended laws**  
 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).