NORTHERN TERRITORY OF AUSTRALIA

INDEPENDENT COMMISSIONER AGAINST CORRUPTION ACT 2017

As in force at 1 June 2026

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 June 2026

INDEPENDENT COMMISSIONER AGAINST CORRUPTION ACT 2017

An Act to establish an Independent Commissioner Against Corruption, to provide for the protection of whistleblowers, to repeal the *Public Interest Disclosure Act 2008*, and for related purposes

Part 1 Introduction

Division 1 Preliminary matters

1 Short title

This Act may be cited as the *Independent Commissioner Against Corruption Act 2017*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Object of Act and how object to be achieved

(1) The object of this Act is to address wrongdoing in, or connected with, public administration by:

(a) preventing or minimising the occurrence of improper conduct; and

(b) improving public confidence that improper conduct will be detected and dealt with appropriately; and

(c) providing mechanisms to deal with improper conduct when it occurs.

(2) This Act achieves its object:

(a) primarily by establishing the ICAC; and

(b) by conferring functions in relation to improper conduct on the ICAC and on referral entities; and

(c) by providing incentives and reducing disincentives to persons, to assist in the detection, reporting, investigation, prosecution and prevention of improper conduct; and

(d) by protecting persons who put themselves at risk of harm by exposing or reporting improper conduct; and

(e) by requiring the ICAC to help public bodies to prevent, and to identify and deal effectively and appropriately with, improper conduct.

(3) For subsection (2)(a), the primary purpose of establishing the ICAC is to augment the Territory's existing framework for responding to improper conduct by providing for the ICAC to:

(a) investigate the most serious, systemic and sensitive improper conduct; and

(b) ensure that other improper conduct is dealt with, either by an appropriate existing entity or, if the ICAC considers it appropriate, by the ICAC; and

(c) coordinate a response to improper conduct when multiple entities have jurisdiction in relation to the matter; and

(d) refer information and evidence for the prosecution of offences involving improper conduct.

(4) This Act:

(a) primarily empowers the ICAC to investigate cases of corrupt conduct and anti-democratic conduct; and

(b) empowers the ICAC to refer cases of misconduct and unsatisfactory conduct to referral entities to investigate.

Note for section 3

For improper conduct – see section 9.

4 Definitions

In this Act:

acting in an official capacity, in relation to a person, means the person is performing functions under, or otherwise related to the administration of, this Act.

anti-democratic conduct, see section 15.

Assembly Committee means the committee (if any) designated under section 5.

associated entity, see section 176 of the *Electoral Act 2004*.

authorised officer means:

(a) the ICAC; or

(b) a person appointed as an authorised officer under section 131.

breach of public trust, see section 13.

claimant, for Part 5, Division 2, see section 84.

claimant's representative, for Part 5, Division 2, see section 84.

Clerk, for Part 5, Division 2, see section 84.

closed session, for Part 5, Division 1, see section 78.

conduct means an act or an omission to perform an act.

conflict of interest, see section 10(6).

connected to public affairs, in relation to conduct, means:

(a) conduct in the course of, or closely related to, the performance of official functions, including conduct engaged in otherwise than in the performance of official functions that adversely affects or could adversely affect, directly or indirectly, the honest, impartial or effective performance of those functions; or

(b) conduct that affects the use, allocation or receipt of public resources to which a public officer has access in connection with being a public officer; or

(c) conduct involving the use of authority or perceived authority that a person has as a result of being a public officer or representing themselves as a public officer.

corrupt conduct, see section 10.

engage in conduct means:

(a) perform an act; or

(b) omit to perform an act.

engage in retaliation, see section 95.

examination means an examination under section 34 for an investigation.

function includes duty and power.

general report, see section 48(1).

give evidence includes answer a question, give information and produce an item.

harm:

(a) generally – includes any of the following:

(i) injury, loss or damage;

(ii) intimidation or harassment;

(iii) discrimination, disadvantage or adverse treatment (including disciplinary action), in relation to employment, career, profession, trade or business; or

(b) for protection of protected persons – see section 112(4).

Health Complaints Commissioner means the Commissioner for Health and Community Services Complaints referred to in section 9 of the *Health and Community Services Complaints Act 1998.*

health practitioner means:

(a) a medical practitioner; or

(b) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student).

ICAC means the Independent Commissioner Against Corruption established by section 17.

ICAC Minister means the minister administering this Act.

identifying information means information identifying, or tending to identify, a protected person.

IEC Act means the *Integrity and Ethics Commissioner Act 2025*.

improper conduct, see section 9.

independent entity means any of the following:

(a) the Speaker;

(b) the Deputy Speaker;

(c) a court;

(ca) the Judicial Commission;

(d) a judicial officer;

(e) a board, commission, tribunal or other body established under an Act that has judicial or quasi-judicial functions in the performance of its deliberative functions;

(f) a member of an entity mentioned in paragraph (e);

(g) a coroner;

(h) the Director of Public Prosecutions;

(i) the Auditor-General;

(j) the Ombudsman;

(k) the Anti-Discrimination Commissioner;

(l) the Children's Commissioner;

(m) the Electoral Commissioner;

(n) the Commissioner of Police in relation to a referral if:

(i) the matter referred does not involve an allegation of corrupt conduct of a police officer or a person employed or engaged by the Commissioner of Police; or

(ii) the matter referred involves an allegation of improper conduct of a police officer or a person employed or engaged by the Commissioner of Police and the ICAC considers the ICAC has no good reason to maintain oversight of the matter;

(o) a law enforcement agency of another jurisdiction;

(p) an agency of another Australian jurisdiction that has functions similar to those of the ICAC;

(q) an entity prescribed, or of a class prescribed, by regulation.

Inspector means the Inspector referred to in section 23 of the IEC Act.

Inspector staff, see section 3 of the IEC Act.

investigation means an investigation under Part 3, Division 5 including a joint investigation under section 38.

investigation report, see section 50(1).

irrelevant criminal record, see section 4(1) of the *Anti-Discrimination Act 1992*.

item means a document or other thing.

judicial officer means any of the following:

(a) a Supreme Court Judge;

(b) a Local Court Judge;

(c) an Associate Judge;

(d) a judicial officer acting as a coroner;

(e) a judicial officer performing duties as the President or Deputy President of the Civil and Administrative Tribunal.

law enforcement agency means an entity, in the Territory or elsewhere in Australia, that has functions in relation to the investigation of offences or the prosecution of persons for offences.

local councillor means a member of a local government council.

member of ICAC staff means a person mentioned in section 123(1).

misconduct, see section 11.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

MLA means member of the Legislative Assembly.

nominated recipient, see section 97.

non-disclosure direction means a direction under section 147.

non-NT political party, for Part 7, see section 112A(1).

occurs, in relation to conduct, means the conduct is engaged in.

official information means information known to, or held by or on behalf of, a public officer or public body in relation to official functions, whether the information:

(a) has or has not been recorded; or

(b) is held alone or jointly with another person or body; or

(c) is in the Territory or elsewhere.

open session, for Part 5, Division 1, see section 78.

parliamentary privilege, see section 83.

perform a function includes exercise a power.

political opinion, affiliation or activity has the same meaning as in the *Anti-Discrimination Act 1992*.

political party, see section 3 of the *Electoral Act 2004*.

premises includes:

(a) land; and

(b) a permanent or temporary building or structure on land; and

(c) an aircraft, vehicle or vessel.

prohibited reason, in relation to retaliation, see section 95(2).

proper officer, for Part 5, Division 2, see section 84.

protected action, see section 92.

protected communication, see section 93.

protected person:

(a) generally – means a person who takes or has taken protected action; and

(b) for retaliation – includes a person whom the person engaging in retaliation believes or suspects is taking or has taken protected action.

public body, see section 16(1).

public inquiry means an inquiry under Part 3, Division 6.

public officer, see section 16(2).

public resources, see section 14.

public statement means a statement by the ICAC under section 55.

recent political affiliation, for Part 7, see section 112A(2).

referral means a referral of a matter by the ICAC under Part 3, Division 4.

referral entity means any person or body identified in section 25 or 25A to whom or to which a matter may be referred.

report concerning recommendations means a report by the ICAC under section 58.

reportable donation, for Part 7, see section 112A(1).

representation, for Part 5, Division 1, see section 78.

responsible Minister, for a public body or public officer, means the minister having responsibility for the area or activity of government that is applicable to the public body or public officer.

*Note for definition **responsible Minister***

See section 19(3) of the Interpretation Act 1978.

retaliation, see section 95.

retention notice, see section 71(1)(e).

search warrant, means a search warrant issued under section 68.

secured item, for Part 5, Division 2, see section 84.

subject of privilege, for Part 5, Division 2, see section 85.

superior Court means:

(a) the Supreme Court; or

(b) a Supreme Court of a State or another Territory; or

(c) the High Court of Australia; or

(d) the Federal Court of Australia.

unsatisfactory conduct, see section 12.

victim, in relation to retaliation, see section 95.

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

5 Assembly Committee

The Legislative Assembly may, by resolution, designate a committee of the Legislative Assembly to receive reports, and perform other functions, in relation to the ICAC.

6 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

7 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 7

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Division 2 Important concepts

8 Meaning of *conduct*

(1) Without limiting the conduct to which this Act applies, this Act extends to the following:

(a) conduct occurring before the commencement of this Act;

(b) conduct occurring outside the Territory;

(c) conduct engaged in:

(i) by a person who was a public officer at the time it was engaged in but who has since ceased to be a public officer; or

(ii) by an entity that was a public body at the time it was engaged in but that has since ceased to be a public body or has ceased to exist.

(2) A public body engages in conduct if:

(a) the conduct is engaged in by a person or body with the authority to act on behalf of the public body; or

(b) the conduct occurs and a person or body with the authority to act on behalf of the public body expressly, tacitly or impliedly authorises or permits it to occur; or

(c) the conduct occurs and a corporate culture exists in the public body that directs, encourages, tolerates or leads to it occurring; or

(d) the conduct occurs and the public body has failed to create and maintain a corporate culture to deter or prevent it occurring.

Note for section 8

See also section 4, definitions ***conduct****,* ***engage in conduct*** *and* ***occurs****.*

9 Meaning of *improper conduct*

(1) Each of the following is ***improper conduct***:

(a) corrupt conduct;

(b) misconduct;

(c) unsatisfactory conduct;

(d) anti-democratic conduct;

(e) conduct constituting an offence against this Act;

(f) conduct (the ***secondary conduct***) engaged in by any person in relation to conduct mentioned in paragraphs (a) to (e) (the ***primary conduct***) as provided by subsection (2).

(2) For subsection (1)(f), ***secondary conduct*** is conduct that would constitute an offence against one of the following sections of the Criminal Code on the assumption that the primary conduct is an offence, whether or not the primary conduct is in fact an offence:

(a) section 43BF (attempt);

(b) section 43BG (complicity and common purpose);

(c) section 43BH (innocent agency);

(d) section 43BI (incitement);

(e) section 43BJ (conspiracy).

(3) Secondary conduct is taken to be the same type of improper conduct as the primary conduct to which it relates.

Examples for section 9

1 An attempt to engage in corrupt conduct would be improper conduct, whether or not the corrupt conduct is itself an offence.

2 An attempt to engage in corrupt conduct would also be corrupt conduct.

10 Meaning of *corrupt conduct*

(1) Conduct is ***corrupt conduct*** if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known) or by a public body:

(a) that constitutes an offence, whether in the Territory or elsewhere, for which the maximum penalty is imprisonment for a term of at least 2 years, with or without a fine; and

(b) that is connected to public affairs.

Note for subsection (1)(b)

*See section 4, definition **connected to public affairs**.*

(2) Conduct is also ***corrupt conduct*** if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known):

(a) that constitutes reasonable grounds for dismissing or terminating the services of the public officer; and

(b) that is connected to public affairs; and

(c) that involves or results in any of the following:

(i) dishonesty;

(ii) failure to manage adequately an actual or perceived conflict of interest;

(iii) a breach of public trust;

(iv) the illegal, unauthorised or otherwise inappropriate performance of official functions;

(v) inappropriate conduct in relation to official information;

(vi) an adverse effect on the honest, impartial or effective performance of official functions by any public officer or public body or group of public officers or public bodies.

(3) Conduct is also ***corrupt conduct*** if it is conduct engaged in by a public body, a minister, an MLA or a local councillor:

(a) that is connected to public affairs; and

(b) that involves a serious breach of public trust by the public body, minister, MLA or councillor.

(4) Conduct is also ***corrupt conduct*** if it is conduct engaged in by a person (whether or not a public officer or public body) that could impair public confidence in public administration and that involves any of the following:

(a) collusive tendering;

(b) intentionally or recklessly providing false or misleading information in relation to an application for a licence, permit or other authority under an Act;

(c) misappropriating or misusing public resources;

(d) assisting in, or dishonestly benefitting from, the misappropriation or misuse of public resources;

(e) dishonestly obtaining or retaining employment or appointment as a public officer.

(5) Conduct is also ***corrupt conduct*** if it is conduct engaged in by a person (whether or not a public officer or public body) that constitutes:

(a) an offence against Part IV, Divisions 1 to 5 of the Criminal Code; or

(b) an offence against section 118 or 119 of the Criminal Code; or

(c) an offence:

(i) that adversely affects, directly or indirectly, the honest, impartial or effective performance of official functions by any public officer or public body or group of public officers or public bodies; and

(ii) that is prescribed by regulation.

(6) For subsection (2)(c)(ii), ***conflict of interest*** includes the obtaining of a benefit by, or the causing of a detriment to, a person or body, including:

(a) any benefit or detriment, whether pecuniary or otherwise; and

(b) placing the person or body in a stronger or weaker position in relation to a reasonably foreseeable future benefit or detriment.

(7) For subsection (4), in determining whether conduct could impair public confidence in public administration it is irrelevant whether or not the conduct is likely to become public knowledge.

11 Meaning of *misconduct*

(1) Conduct is ***misconduct*** if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known) or by a public body:

(a) that constitutes an offence, whether in the Territory or elsewhere, for which the maximum penalty is:

(i) a fine; or

(ii) imprisonment for a term of less than 2 years, with or without a fine; and

(b) that is connected to public affairs.

Note for subsection (1)(b)

See section 4, definition ***connected to public affairs****.*

(2) Conduct is also ***misconduct*** if it is conduct engaged in by a public officer other than a judicial officer (whether or not the identity of the public officer is known):

(a) that constitutes reasonable grounds for taking disciplinary action against the officer (short of dismissal or termination of appointment) or varying the terms of the officer's appointment; and

(b) that is connected to public affairs; and

(c) that is conduct mentioned in section 10(2)(c).

(3) Conduct is also ***misconduct*** if it is conduct engaged in by a judicial officer, the Director of Public Prosecutions, a public body, a minister, an MLA or a local councillor:

(a) that is connected to public affairs; and

(b) that involves:

(i) for a judicial officer or the Director of Public Prosecutions – a breach of public trust; or

(ii) for a public body, minister, MLA or councillor – a breach of public trust not amounting to a serious breach of public trust.

12 Meaning of *unsatisfactory conduct*

(1) Conduct is ***unsatisfactory conduct*** if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known) or by a public body:

(a) that involves:

(i) illegality or impropriety; or

(ii) negligence; or

(iii) incompetence; and

(b) that is connected to public affairs; and

(c) that results in:

(i) substantial mismanagement of public resources; or

(ii) the inappropriate or significantly inefficient use of public resources; or

(iii) substantial mismanagement in relation to the performance of official functions; or

(iv) substantial detriment to the public interest.

(2) For subsection (1)(a)(iii), ***incompetence***:

(a) is conduct that would not be engaged in by a reasonable public officer or public body:

(i) having the skills and knowledge reasonably expected of a person or body with the role of the public officer or public body; and

(ii) having taken appropriate steps to obtain adequate resources, information and advice; but

(b) does not include conduct:

(i) that is less than best practice; or

(ii) that is a matter of policy about which reasonable public officers or public bodies may disagree.

(3) Despite subsection (1), unsatisfactory conduct does not include any conduct engaged in by a judicial officer in the performance of judicial functions.

13 Meaning of *breach of public trust*

(1) ***Breach of public trust*** means conduct by a public body or public officer that is intentionally or recklessly inconsistent with the functions of the body or officer, including the duty of the body or officer to act in the public interest.

(2) If a public body is a public body of a kind mentioned in section 16(1)(l), a breach of public trust can only occur if the conduct affects the use of public resources or the carrying out of functions on behalf of the Territory, another public body or a public officer.

(3) If a public officer is a public officer of a public body of a kind mentioned in section 16(1)(l), a breach of public trust can only occur if the conduct affects the use of public resources or the carrying out of functions on behalf of the Territory, another public body or a public officer.

14 Meaning of *public resources*

(1) ***Public resources*** means:

(a) money, assets and infrastructure of the Territory or a public body; or

(b) intellectual property of, and licences held by, the Territory or a public body; or

(c) human resources of the Territory or a public body or public officer; or

(d) any other resources of, or available to, the Territory or a public body or public officer, including resources held under trust.

(2) If a public body is a public body of a kind mentioned in section 16(1)(l), the resources of that body or of any member, officer or employee of that body are only public resources to the extent that they are resources obtained from another public body or a public officer under an agreement.

15 Meaning of *anti-democratic conduct*

(1) Conduct is ***anti-democratic conduct*** if it is conduct engaged in by a person or body (whether or not a public officer or public body) that:

(a) constitutes an offence against the *Electoral Act 2004*, Chapter 8 of the *Local Government Act 2019* or Chapter 8 of the *Local Government Act 2008* (before its repeal); and

(b) affects, or is part of a course of conduct aimed at affecting:

(i) the behaviour of the community or multiple members of the community in relation to voting in elections; or

(ii) the reputation, power or influence, or resources of a political party or a candidate for election; or

(iii) the ability of the public to ascertain the resources and associated entities of a political party or the resources of a candidate for an election; or

(iv) the Electoral Commissioner's ability to detect and investigate contraventions of the *Electoral Act 2004* or Chapter 8 of the *Local Government Act 2019* and generally to ensure compliance with those Acts.

Examples for subsection (1)

1 An offence against section 215 of the Electoral Act 2004 (failing to make return regarding donations, gifts or expenditure) affecting the ability of the public to ascertain the resources or associated entities of a political party.

2 An offence against section 271 of the Electoral Act 2004 (push-polling) that is intended to influence the votes of multiple electors or affect the reputation of a political party or candidate for election.

(2) Subsection (1)(b)(ii) extends to conduct occurring before the political party was formed or before the candidate for election became a candidate.

(3) In this section:

resources includes loans, gifts and donations, whether monetary or otherwise.

16 Meaning of *public body* and *public officer*

(1) Each of the following is a ***public body***:

(a) an Agency;

(b) a local government council;

(c) the Police Force;

(d) a court;

(e) a board, commission, tribunal or other body established under an Act that has judicial or quasi-judicial functions in the performance of its deliberative functions;

(f) a body, whether incorporated or not, established under an Act;

(g) a body whose members, or a majority of whose members, are appointed by the Administrator or a minister;

(h) a government owned corporation;

(i) a nursing home;

(j) a public hospital;

(k) a university;

(l) any other body, whether incorporated or not:

(i) that receives, directly or indirectly, public resources; or

(ii) performing a public function on behalf of the Territory, a public body or a public officer (whether under contract or otherwise).

(2) Subject to subsection (3), each of the following is a ***public officer***:

(a) a minister;

(b) an MLA;

(c) a judicial officer;

(d) the holder of an office established under an Act who is appointed by the Administrator or a minister;

(e) a member, officer or employee of a public body;

(f) any other person engaged, whether under the *Contracts Act 1978* or otherwise, by or on behalf of a person mentioned in paragraphs (a) to (e) in relation to the performance of official functions.

Examples for subsection (2)

Each of the following is a public officer:

(a) a member of NTCAT

(b) a public sector employee;

(c) a police officer;

(d) a statutory office holder;

(e) an adviser to, or electorate officer of, a minister or an MLA;

(f) a local councillor;

(g) a local council employee.

(3) The following are not public officers:

(a) the Inspector;

(b) Inspector staff in relation to the performance of official functions for the Inspector;

(c) an acting ICAC appointed under section 59 of the IEC Act to conduct an investigation, in relation to the investigation;

(d) a member of ICAC staff assisting an acting ICAC appointed under section 59 of the IEC Act to conduct an investigation, in relation to the investigation.

(4) In this section:

court means the Supreme Court or the Local Court.

nursing home, see section 5 of the *Medical Services Act 1982*.

Police Force, see section 4(1) of the *Police Administration Act 1978*.

public hospital means premises declared under section 6(2) of the *Medical Services Act 1982* to be a hospital, other than a hospital conducted under a licence granted under the *Private Hospitals Act 1981*.

university means:

(a) Charles Darwin University; or

(b) Batchelor Institute of Indigenous Tertiary Education.

Part 2 Independent Commissioner Against Corruption

17 Establishment of ICAC

There is to be an Independent Commissioner Against Corruption.

Notes for section 17

1 *Section 11 of the IEC Act provides that while a person holds office as the Integrity and Ethics Commissioner, the person also holds office as the Independent Commissioner Against Corruption.*

2 *Section 21 of the IEC Act provides that while a person is appointed to act as the Integrity and Ethics Commissioner, the person also acts as the Independent Commissioner Against Corruption.*

3 *Part 4 of the IEC Act gives the Inspector oversight of the ICAC.*

18 Functions

(1) The ICAC has the following functions:

(a) to identify and investigate improper conduct;

(b) to protect persons who have assisted or may assist in detecting, preventing, investigating or otherwise responding to improper conduct;

(c) to prevent, detect and respond to improper conduct by:

(i) developing and delivering education and training; and

(ii) evaluating or reviewing practices, policies and procedures of public bodies and public officers; and

(iii) developing and delivering advice, reports, information and recommendations; and

(iv) referring matters to a referral entity for investigation or further investigation, disciplinary action or prosecution; and

(v) making public comment; and

(vi) gathering intelligence about improper conduct;

(d) to oversee and direct, as required, how referral entities deal with matters referred to them by the ICAC;

(e) to perform other functions conferred on the ICAC under this or another Act.

(2) The ICAC may perform functions under this Act in relation to any matter that may involve improper conduct.

(3) Without limiting subsection (2), the ICAC is to:

(a) give priority to dealing with matters that, in the ICAC's opinion, may involve corrupt conduct or serious anti-democratic conduct; and

(b) refer other matters that may involve improper conduct to a referral entity, unless there is a good reason for the ICAC not to refer the matter.

(4) Without limiting subsection (3)(b), it is a good reason for the ICAC not to refer a matter to a referral entity if referring the matter:

(a) may adversely affect the performance or future performance of the ICAC's functions; or

(b) may reveal the identity of a protected person.

(5) Subject to this Act, the ICAC may perform the ICAC's functions in any manner the ICAC considers appropriate.

18A Limitation on functions

(1) The ICAC must not investigate an allegation of misconduct or unsatisfactory conduct unless:

(a) the alleged misconduct or unsatisfactory conduct arises from the same matter that is the subject of an investigation into corrupt conduct or anti-democratic conduct; or

(b) the gravity of the matter is such that it warrants the use of the powers and resources given to the ICAC because:

(i) the person alleged to have engaged in the misconduct or unsatisfactory conduct is or was an MLA or the Chief Executive Officer or head of a public body or a government owned corporation; or

(ii) in the opinion of the ICAC, the alleged misconduct or unsatisfactory conduct would have a significant effect on the Territory; or

(iii) the alleged misconduct or unsatisfactory conduct gives rise to a suspicion on the part of the ICAC of systemic misconduct or unsatisfactory conduct.

(2) If during the course of an investigation, the ICAC becomes of the opinion that the investigation is likely to lead to a finding of no more than misconduct or unsatisfactory conduct, the ICAC must cease to investigate the matter, unless subsection (1)(a) or (b) applies to the matter.

(3) To avoid doubt, the ICAC has discretion to determine, in accordance subsections (1) and (2), which matters to investigate or to continue to investigate under this Act.

19 Powers

The ICAC may do all things necessary or convenient to be done for, or in relation to, the performance of the ICAC's functions.

Note for section 19

A reference in this Act to a function includes a reference to a power, and performing a function includes exercising a power – see section 4, definitions ***function*** *and* ***perform****.*

20 ICAC to act in public interest

(1) If the ICAC has a discretion in performing a function under this Act, the ICAC is to act in the public interest, taking into account the matters set out in Schedule 1 that the ICAC considers relevant and appropriate in any particular case.

(2) Subject to subsection (3), this section does not create any legal rights in any person or give rise to any civil cause of action.

(3) Subsection (2) does not affect a person's right to seek judicial review of administrative action by the ICAC.

21 Independence of ICAC

(1) The ICAC is not subject to direction by any person about:

(a) the way the ICAC performs the ICAC's functions under this Act; or

(b) the priority given to any particular matters.

(2) Subsection (1) has effect despite anything to the contrary in the *Public Sector Employment and Management Act 1993*.

Part 3 Identifying and dealing with improper conduct

Division 1 Mandatory reporting of suspected improper conduct

22 ICAC to establish system for mandatory reporting

(1) The ICAC must issue, and keep under review, directions and guidelines governing the reporting to the ICAC of improper conduct.

(2) Directions may:

(a) require a public body or public officer to report suspected improper conduct; and

(b) set out the circumstances that constitute suspicion for paragraph (a); and

(c) require matters to be reported even if they have been referred to the public body or public officer under another Act.

Note for subsection (2)

The directions and guidelines must be published on the ICAC's website – see section 130.

(3) Without limiting the directions, they may require different classes of public bodies and public officers to disclose different classes of suspected improper conduct.

Examples for subsection (3)

A direction could require:

(a) all public officers engaged on an executive contract of employment under the Public Sector Employment and Management Act 1993 to report suspected corrupt conduct and suspected serious or systemic misconduct or unsatisfactory conduct; or

(b) all correctional officers under the Correctional Services Act 2014 to report suspected improper conduct related to youth detainees.

(5) A public body or public officer:

(a) must report to the ICAC in accordance with the directions; and

(b) may report to the ICAC any suspected improper conduct.

(6) Despite anything to the contrary in this section or in any directions or guidelines issued under this section, a report in relation to any of the following must be made to the Inspector:

(a) the Health Complaints Commissioner, a staff member as defined in section 4(1) of *the Health and Community Services Complaints Act 1998* or a consultant engaged under section 14(2) of that Act;

(b) the ICAC or a member of ICAC staff;

(c) the Information Commissioner referred to in section 85 of the *Information Act 2002*, a member of the staff of the Information Commissioner or a consultant engaged under section 96(3) of that Act;

(d) the Ombudsman or an officer of the Ombudsman's Office as defined by section 4 of the *Ombudsman Act 2009* as in force immediately before the commencement of section 112 of the *Integrity and Ethics Commissioner Act 2025*;

(e) the Auditor-General, a public sector employee employed for the Auditor-General or a consultant or other person engaged by the Auditor-General for the performance of the Auditor-General's functions under the *Audit Act 1995*.

Division 2 Evaluations and reviews

23 Evaluations and reviews

(1) The ICAC may, at any time, evaluate or review the practices, policies or procedures of a public body or public officer to identify whether improper conduct has occurred, is occurring or is at risk of occurring.

(2) Despite subsection (1), the ICAC cannot evaluate or review the practices, policies or procedures of a court or judicial officer in relation to the performance of judicial functions.

(3) For an evaluation or review, the ICAC may exercise the powers in Part 4.

(4) The ICAC must provide a report in relation to the results of the evaluation or review to a person with responsibility for the public body or public officer the subject of the evaluation or review.

(5) The ICAC is not required to include in a report mentioned in subsection (4) any information that may prejudice a current or future investigation, prosecution or disciplinary action.

Note for section 23

The ICAC may also make a general report in relation to an evaluation or review – see section 48(1)(a).

Division 3 Preliminary inquiries

24 Preliminary inquiries

(1) The ICAC may, at any time, make preliminary inquiries to determine whether:

(a) to refer or investigate a matter that has come to the ICAC's attention that may involve improper conduct; or

(b) to make a recommendation, general report or public statement; or

(c) to otherwise perform the ICAC's functions in relation to improper conduct.

(2) For preliminary inquiries, the ICAC may do any of the following:

(a) collect or receive information from any source;

(b) exercise the powers in Part 4.

24A Power to require preliminary information and items from public bodies and public officers

(1) For the performance of the ICAC's functions under this Act, an authorised officer may, at any time, require a public body or public officer to:

(a) answer specified questions or provide specified information; or

(b) produce specified items, or items of a specified kind, in the body's or officer's possession or control.

(2) When making a requirement under subsection (1), the authorised officer must inform the public body or public officer about the following but is not required to give any other information about the nature or purpose of the requirement:

(a) that the requirement is made for the purposes of the ICAC;

(b) if the body or officer is under investigation – that fact.

(3) A requirement under subsection (1), and accompanying information under subsection (2), may be made:

(a) if an oral response to a question is required – orally; or

(b) otherwise – by written notice.

(4) A written notice to provide information or produce an item may require the person to verify the information or item by statutory declaration.

(5) If an item is produced under this section:

(a) the ICAC may retain possession of the item for a reasonable period and may make copies of, or take extracts from, the item; and

(b) while the item remains in the ICAC's possession, the ICAC must allow the public body or public officer reasonable access to the item.

Note for section 24A

Section 147A creates an offence for failing to comply with a requirement under this section. See also Part 5, Division 1.

Division 4 Referrals

25 Referral to referral entity

(1) The ICAC may, at any time, refer to a ***referral entity*** a matter that has come to the ICAC's attention that may involve improper conduct.

Note for subsection (1)

See also section 18(2).

(2) For a matter that concerns the conduct of a public officer:

(a) who is an MLA (even if the conduct is alleged to have occurred before the person became an MLA), or who was an MLA at the time the conduct is alleged to have occurred, the referral entity is:

(i) the Speaker; or

(ii) if the MLA is the Speaker – the Deputy Speaker; or

(b) who is a Deputy Coroner (even if the conduct is alleged to have occurred before the person became a Deputy Coroner), or who was a Deputy Coroner at the time the conduct is alleged to have occurred, the referral entity is the Territory Coroner; or

(c) who is the Commissioner of Police, the referral entity is:

(i) the Ombudsman; or

(ii) the Minister administering Part II of the *Police Administration Act 1978*; or

(iii) the Anti-Discrimination Commissioner;

(d) who is a police officer other than the Commissioner of Police, the referral entity is:

(i) the Ombudsman; or

(ii) the Commissioner of Police; or

(iii) the Anti-Discrimination Commissioner.

(3) For any matter concerning the conduct of any other public officer or a public body, the ICAC may refer the matter to any entity the ICAC considers appropriate for the public officer or public body's role or function at the time of referral or at the time the conduct is alleged to have occurred, including, but not limited to, the following:

(a) a public body;

(b) the holder of an office established under an Act who is appointed by the Administrator or a minister;

(c) a law enforcement agency;

(d) an agency of another Australian jurisdiction that has functions similar to those of the ICAC;

(e) an entity in Australia that regulates, or has oversight of standards for:

(i) a profession, trade, occupation or group; or

(ii) a type of organisation (for example, corporations or incorporated associations);

(f) an entity prescribed, or of a class prescribed, by regulation.

(4) The ICAC may refer a matter to more than one referral entity or parts of the same matter to different referral entities.

(5) Without limiting subsection (1), the ICAC may, at any time:

(a) refer a matter that may involve the commission of an offence to the Commissioner of Police or another law enforcement agency having jurisdiction to investigate the offence; or

(b) refer a matter to the Director of Public Prosecutions:

(i) to seek the Director's opinion or advice; or

(ii) to request the Director to grant an indemnity from prosecution; or

(c) refer a matter that may involve anti-democratic conduct to the Electoral Commissioner.

(6) Without limiting subsection (2) or (3), each of the following entities is a referral entity in relation to a matter referred, or that may be referred, to the entity under subsection (5):

(a) the Commissioner of Police;

(b) a law enforcement agency;

(c) the Director of Public Prosecutions;

(d) the Electoral Commissioner.

(7) If a matter concerning the conduct of a police officer is referred to the Commissioner of Police, the Commissioner of Police must notify the Ombudsman of the referral.

25A Referral to Judicial Commission

(1) The ICAC may refer to the Judicial Commission, established under the *Judicial Commission Act 2020*, any matter relating to the behaviour or the physical or mental capacity of a judicial officer or a member of NTCAT that could constitute a complaint under the *Judicial Commission Act 2020*.

(2) Despite section 26, the ICAC must consult with the Judicial Commission before referring a matter under this section, unless consultation is not required under a memorandum of understanding or protocol referred to in subsection (3).

(3) The ICAC and the Judicial Commission may enter into a memorandum of understanding or protocol about practices and procedures for referrals.

26 Consultation before referral

The ICAC may consult a referral entity in deciding whether to make a referral to the entity.

27 Information, documents or other items to be provided with referral

(1) The ICAC may provide or disclose to a referral entity any information the ICAC has in relation to a matter referred, or that may be referred, to the entity.

(2) The ICAC is under no obligation to disclose to the referral entity the original source of any information.

(3) The ICAC may provide to a referral entity any documents or other items the ICAC has in relation to a matter referred, or that may be referred, to the entity.

28 Directions to referral entity

(1) Subject to this section, the ICAC may give directions to a referral entity in relation to the referral, including directions as to:

(a) how the referral entity is to deal with the matter; and

(b) reporting requirements of the referral entity in relation to the matter.

(2) Except as provided by subsection (3), the ICAC cannot give directions under subsection (1) to an independent entity.

(3) The ICAC may give directions to an independent entity, other than the Speaker, Deputy Speaker, Judicial Commission or a judicial officer, requiring the entity to report to the ICAC on the actions taken by the entity on the referral and the outcome of those actions.

(4) A referral entity is not obliged to comply with a direction of the ICAC to the extent that compliance is beyond the power, or incompatible with the functions, of the referral entity.

29 Referral entity may disclose information to ICAC

Despite any obligation of non-disclosure on a referral entity, the referral entity may disclose information to the ICAC in relation to a referral or potential referral to the entity.

30 Withdrawal or suspension of referral

The ICAC may, at any time, by written notice to a referral entity, other than an independent entity:

(a) withdraw a referral; or

(b) require the referral entity to suspend dealing with, or taking particular action in relation to, the matter referred:

(i) for the period specified by the ICAC; or

(ii) until further notice from the ICAC.

30A Referral of other matters

Nothing in this Division prevents the ICAC from referring a matter to a referral entity, not being a matter that amounts to improper conduct, that, in the opinion of the ICAC, warrants referral for consideration of any appropriate action by that entity.

Division 5 Investigations

31 Power to investigate

(1) The ICAC may commence an investigation if the ICAC has, or is aware of, information that, if true, would tend to show that improper conduct has occurred, is occurring or is at risk of occurring.

Note for subsection (1)

See also section 18(2).

(2) The ICAC may commence an investigation:

(a) despite a provision of another law of the Territory providing that the subject matter is final or cannot be appealed against, challenged or called into question; and

(b) even if the subject matter is the subject of:

(i) a referral; or

(ii) an investigation under another law of the Territory; or

(iii) legal proceedings.

Note for subsection (2)(b)(ii) and (iii)

Whether the subject matter is the subject of another investigation or of legal proceedings are matters to which the ICAC is to take into account – see Schedule 1, clause 3(b) and (c).

(3) If the ICAC has, or is aware of, information that, if true, would not itself amount to improper conduct but may be directly or indirectly connected with improper conduct, or be part of a course of activity involving improper conduct, the ICAC may commence an investigation based on the information.

(4) For an investigation, the ICAC may exercise the powers in Part 4 in addition to any powers in this Division or Division 6.

32 Power to require information and items for investigation

(1) For an investigation, the ICAC may require a person:

(a) to answer specified questions or provide specified information; or

(b) to produce specified items, or items of a specified kind, in the person's possession or control.

(2) When making a requirement, the ICAC must state the nature of the matters about which the person is to be questioned, or to which the information or items relate, except to the extent the ICAC considers on reasonable grounds doing so would:

(a) be likely to prejudice the conduct of the investigation; or

(b) be contrary to the public interest.

(3) A requirement under subsection (1) may be made:

(a) if an oral response to a question is required – orally; or

(b) otherwise – by written notice.

(4) A written notice to provide information or produce an item:

(a) may require the person to verify the information or item by statutory declaration; and

(b) must state a time within which the person must provide the information or produce the item.

(5) If an item is produced to the ICAC in connection with an investigation:

(a) the ICAC may retain possession of the item for a reasonable period and may make copies of, or take extracts from, the item; and

(b) while the item remains in the ICAC's possession, the ICAC must allow the owner reasonable access to the item.

Note for section 32

Section 148 creates an offence for failing to comply with a requirement under this section.

33 Power to inspect financial records

(1) For an investigation, the ICAC may give a written notice to a deposit holder requiring the deposit holder to permit a person specified in the notice to inspect and take copies of financial records.

(2) The notice must be given to the deposit holder not less than 3 days before the inspection is to occur, unless the ICAC otherwise directs.

(3) For the inspection, the person specified in the notice may give directions to, or impose requirements on, the deposit holder or an officer or employee of the deposit holder.

(4) The ICAC must keep a record of each notice and inspection under this section that identifies:

(a) the investigation to which the inspection relates; and

(b) the relevance of the inspection to the investigation.

(5) In this section:

credit provider means a credit provider within the meaning of the *National Credit Code* in Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth).

deposit holder means:

(a) an ADI; or

(b) a friendly society; or

(c) a person who, or body that, holds money in accounts on behalf of other persons; or

(d) a credit provider; or

(e) a person who carries on business as a pawnbroker; or

(f) an institution of a kind prescribed by regulation.

financial records means any of the following in the possession or control of a deposit holder:

(a) books of account, accounts and accounting records (including working papers and other items necessary to explain the methods and calculations by which accounts are made up);

(b) books, diaries or other records used in the course of carrying on the business of a deposit holder;

(c) cheques, bills of exchange, promissory notes, deposit slips, orders for the payment of money, invoices, receipts and vouchers;

(d) securities and documents of title to securities.

34 Power to require person to attend for examination

(1) For an investigation, the ICAC may require a person to attend the ICAC for examination.

(2) The person must be given a written notice:

(a) requiring the person to attend for examination at a specified time and place; and

(b) comprehensively stating the nature of the matters about which the person is to be questioned, except to the extent the ICAC considers on reasonable grounds doing so would:

(i) be likely to prejudice the conduct of the investigation; or

(ii) be contrary to the public interest; and

(c) if the person is under investigation – stating that fact.

(3) The notice may require the person to bring and produce to the ICAC specified items, or items of a specified kind, in the person's possession or control relevant to the investigation.

(4) The ICAC may require a witness at an examination to do one or more of the following:

(a) take an oath to answer all questions truthfully;

(b) answer a question relevant to the investigation asked by the ICAC or by another person present at the examination;

(c) produce at the examination any items in the possession or control of the witness relevant to the investigation.

(5) If the ICAC gives a person a written notice under subsection (2) to attend the ICAC for examination but, in reliance on subsection (2)(b), does not comprehensively state the nature of the matters about which the person is to be questioned, the ICAC must within 3 days after the notice is given:

(a) give the Inspector a copy of the notice; and

(b) inform the Inspector of the reasonable grounds that form the basis of the ICAC's belief under that subsection.

(6) In this section:

comprehensively stating means stating the following in relation to the matter or matters about which the person is to be questioned:

(a) the factual topics to be addressed;

(b) any applicable dates that are known to the ICAC;

(c) the role the ICAC understands the person played in respect of the factual topics referred to in paragraph (a).

Note for section 34

Section 149 creates an offence for contravening a requirement under this section.

35 Examination to be held in private

An examination must be held in private.

36 Legal or other representation

(1) A witness at an examination may request the ICAC to allow the witness to be represented by a legal practitioner or agent.

(2) The ICAC must grant a request for legal representation unless the request is for representation by a particular legal practitioner the presence of whom the ICAC believes on reasonable grounds would prejudice the investigation because that legal practitioner is:

(a) a witness in the investigation or another investigation; or

(b) the representative of another witness in the investigation or another investigation; or

(c) a person involved in, or suspected of being involved in, a matter being investigated by the ICAC; or

(d) the representative of a person involved in, or suspected of being involved in, a matter being investigated by the ICAC.

(3) The ICAC may grant a request for representation by an agent other than a legal practitioner if the ICAC considers it appropriate to do so.

(4) The legal practitioner or agent may:

(a) make submissions to the ICAC; and

(b) with the ICAC's approval, ask the witness questions relevant to the investigation.

37 Interpreters

(1) If necessary to make the proceeding intelligible to a witness at an examination, the witness must be assisted by an interpreter or other person, unless the ICAC believes on reasonable grounds that the presence of the interpreter or other person would:

(a) be likely to prejudice the conduct of the investigation; or

(b) be contrary to the public interest.

(2) The ICAC must:

(a) make reasonable efforts to obtain the services of the interpreter or other person; and

(b) meet the costs of the interpreter or other person.

38 Joint investigations

(1) The ICAC may conduct an investigation as a joint investigation with a referral entity in relation to a matter, whether or not the ICAC has referred the matter to the entity under Division 4.

(2) For a joint investigation, the ICAC must enter into an agreement with the referral entity setting out the arrangements for the joint investigation, including:

(a) the respective responsibilities of the ICAC and the referral entity in relation to the joint investigation; and

(b) proposed timelines for the joint investigation; and

(c) information-sharing between the ICAC and the referral entity in relation to the joint investigation.

(3) The ICAC or the referral entity may, at any time, do anything in relation to the subject matter of the investigation that the ICAC or entity could have done but for the agreement.

Example for subsection (3)

The ICAC could investigate the subject matter, or part of the subject matter, of a joint investigation as a separate investigation under this Division without involving the referral entity.

(4) The ICAC or referral entity must inform the other party to the agreement if the ICAC or referral entity wishes to terminate the agreement or depart substantially from any of its terms.

(5) Failure to enter an agreement under subsection (2), abide by the terms of the agreement or notify the other party under subsection (4) does not invalidate or otherwise affect anything done by the ICAC or referral entity in relation to the investigation.

38A Use of information, documents and other items

Subject to this Act, information, documents or other items obtained by the ICAC in the lawful performance of functions in relation to an investigation may be used:

(a) by the ICAC for the purposes of any other investigation; or

(b) by a referral entity in relation to a matter referred to it, if provided to the entity under section 27.

Division 6 Public inquiries

39 Public inquiries

(1) The ICAC may hold a public inquiry for an investigation.

(2) The ICAC must make a public announcement of the public inquiry setting out:

(a) the general scope and purpose of the inquiry; and

(b) the time and place of the inquiry.

40 Public inquiries generally to be open to public

A public inquiry is to be open to the public unless the ICAC directs otherwise under section 46.

41 Power to require attendance

Section 34 applies in relation to a public inquiry as if a reference in that section to an examination were a reference to a public inquiry.

42 Appearance generally

(1) A person or body may apply to the ICAC to appear at a public inquiry.

(2) The ICAC may permit the person or body to appear if the person or body satisfies the ICAC that it is appropriate for the person or body to appear at the public inquiry.

(3) A person or body appearing at a public inquiry, or their legal practitioner or agent (if any), may:

(a) make submissions to the ICAC; and

(b) with the ICAC's approval, ask witnesses questions relevant to the inquiry.

43 Right of response if adverse allegations made

(1) If, at a public inquiry, allegations are made against a person or body that, if true, could reasonably affect the ICAC's findings on the subject matter of the inquiry, the ICAC must give the person or body a reasonable opportunity to respond to the allegations.

(2) The ICAC may determine whether the opportunity to respond is to be given by allowing the person or body to make written submissions to the inquiry or appear at the inquiry or both.

44 Legal or other representation

(1) A witness, or another person or body appearing, at a public inquiry may request the ICAC to allow the witness, person or body to be represented by a legal practitioner or agent.

(2) The ICAC must grant a request for legal representation unless the request is for representation by a particular legal practitioner the presence of whom the ICAC believes on reasonable grounds would prejudice the investigation because that legal practitioner is:

(a) a witness in the investigation or another investigation; or

(b) the representative of another witness in the investigation or another investigation; or

(c) a person involved in, or suspected of being involved in, a matter being investigated by the ICAC; or

(d) the representative of a person involved in, or suspected of being involved in, a matter being investigated by the ICAC.

(3) The ICAC may grant a request for representation by an agent other than a legal practitioner if the ICAC considers it appropriate to do so.

45 Interpreters

(1) If necessary to make the proceeding intelligible to a witness at a public inquiry, the witness must be assisted by an interpreter or other person, unless the ICAC believes on reasonable grounds that the presence of the interpreter or other person would:

(a) be likely to prejudice the conduct of the investigation; or

(b) be contrary to the public interest.

(2) The ICAC must:

(a) make reasonable efforts to obtain the services of the interpreter or other person; and

(b) meet the costs of the interpreter or other person.

46 Directions for private hearing and non-publication

(1) For a public inquiry, the ICAC may give any of the following directions:

(a) a direction that the inquiry, or part of it, be held in private;

(b) a direction prohibiting or restricting the publication of information that would enable a witness or person or body appearing to be identified or contacted;

(c) a direction prohibiting or restricting the publication of evidence given at the inquiry;

(d) a direction excluding a person from the inquiry or part of it.

Note for subsection (1)

Section 150 creates an offence for contravening a direction under this section.

(2) If the ICAC receives a request for a direction mentioned in subsection (1)(a), the ICAC must, in private, hear arguments about and determine the request, unless the ICAC has reason to believe the request is vexatious or without merit.

47 Requirement to inform witness of certain matters

Before a witness is questioned at a public inquiry, the ICAC must inform the witness of the following:

(a) that a public inquiry, or part of it, may be held in private;

(b) that the witness may request a direction mentioned in section 46(1)(a) if the witness is being asked to give an answer or any other evidence:

(i) that the witness is not legally required to give; or

(ii) about a personal or sensitive matter; or

(iii) about an offence that the witness may have committed that is not directly related to the subject matter of the inquiry; or

(iv) that concerns the witness for any other reason;

(c) that the ICAC will hear and determine the request in private, unless the ICAC has reason to believe the request is vexatious or without merit.

Example for paragraph (b)(ii)

The witness is being asked to give an answer or any other evidence about a personal health matter.

Division 7 Reports, public statements and recommendations

48 General report

(1) The ICAC may, at any time, make a report (a ***general report***) in relation to any of the following:

(a) an evaluation or review carried out under section 23;

(b) systemic issues the ICAC has identified in one or more public bodies in relation to improper conduct;

(c) matters the ICAC believes may be affecting the incidence of improper conduct in one or more public bodies;

(d) the reporting of improper conduct by public bodies and public officers, including the following:

(i) the adequacy of reporting and of mechanisms to enable or encourage reporting;

(ii) the extent to which reporting is encouraged and supported;

(iii) the impact on persons who report or assist in dealing with improper conduct;

(e) matters that the ICAC considers have seriously affected, or may seriously affect, the ICAC's ability to perform the ICAC's functions, including the following:

(i) intentional or unintentional obstruction of the ICAC;

(ii) unexpected events;

(iii) current or proposed laws of the Territory;

(iv) adequacy of resources available to the ICAC;

(f) a general update on the ICAC's activities;

(g) the identification of integrity risks;

(h) relevant matters that have arisen in another Territory, a State or the Commonwealth.

Note for subsection (1)(a)

Any general report is in addition to the mandatory report mentioned in section 23(4).

Note for subsection (1)

A general report may contain recommendations – see section 56.

(2) A general report must contain information as to the factual basis on which the ICAC expresses any opinions in the report, but the ICAC is not required to include details about specific investigations, unless the ICAC considers it in the public interest to do so.

(2A) If, in accordance with subsection (2), the ICAC includes any details about a specific investigation in a general report, the report must not:

(a) include an opinion as to whether a person has committed, is committing or is about to commit, an offence or a breach of discipline; or

(b) include a comment as to the prospects of success of any current or future prosecution or disciplinary action; or

(c) name or identify any person in relation to a matter that amounts to no more than misconduct or unsatisfactory conduct, unless, in the opinion of the ICAC:

(i) the alleged misconduct or unsatisfactory conduct gives rise to a suspicion of systemic misconduct or unsatisfactory conduct; or

(ii) other exceptional circumstances exist that make it appropriate to name or otherwise identify the person.

(2B) For subsection (2A)(a), an opinion that a person has engaged, is engaging or is about to engage in improper conduct is not an opinion that the person is guilty of or has committed, is committing or is about to commit an offence or a breach of discipline.

(2C) Subsection (2B) does not authorise the naming or identification of a person contrary to subsection (2A)(c).

(3) The ICAC must not:

(a) make a general report about the processes or procedures by which judicial decisions are made; or

(b) in a general report take issue with the merits of a judicial decision.

(4) A general report may be made to:

(a) a public body or public officer that the ICAC considers would be assisted by the report; or

(b) the Speaker.

49 Publication of general report made to Speaker

(1) This section applies in relation to a general report made to the Speaker.

(2) The Speaker must table a copy of the report in the Legislative Assembly within 6 sitting days after the Speaker receives the report.

(3) The ICAC may include in the report a recommendation that the report be made public immediately.

(4) If the report contains a recommendation mentioned in subsection (3), the Speaker may make the report public whether or not the Legislative Assembly is in session and whether or not the report has been tabled.

(5) If the report is made public under subsection (4) before it is tabled, the report attracts the same privileges and immunities as it would if it had been tabled.

50 Investigation report

(1) The ICAC may make a report (an ***investigation report***) on an investigation to a responsible authority for a public body or public officer whose conduct is the subject of the investigation.

Note for subsection (1)

An investigation report may contain recommendations – see section 56.

(1A) If an investigation involved the holding of a public inquiry, the ICAC must make an investigation report under subsection (1).

(2) If the ICAC proposes to make an adverse finding about a person or body in an investigation report, the ICAC must give the person or body a reasonable opportunity to respond to the adverse material and include a fair representation of the response in the report.

(3) An investigation report may:

(a) contain as much information as the ICAC considers appropriate in relation to the subject matter of the investigation to which the inquiry relates; and

(b) include a finding as to whether a person has engaged in, is engaging in or is about to engage in, improper conduct; and

(c) include information as to whether an allegation of improper conduct has been referred to, or in the ICAC's opinion warrants referral to, a referral entity.

Note for subsection (3)

An investigation report may contain recommendations – see section 56.

(4) However, an investigation report must not include a finding:

(a) as to whether a person has committed, is committing or is about to commit, an offence or a breach of discipline; or

(b) as to the prospects of success of any current or future prosecution or disciplinary action.

(5) For subsection (4), a finding that a person has engaged, is engaging or is about to engage in improper conduct is not a finding that the person is guilty of or has committed, is committing or is about to commit an offence or a breach of discipline.

(6) For an investigation report made to the Speaker or Deputy Speaker, the Speaker or Deputy Speaker must table a copy of the report in the Legislative Assembly on the next sitting day after the Speaker or Deputy Speaker receives the report.

(6A) An investigation report made to the Speaker or Deputy Speaker under subsection (6) must not name or identify any person other than an MLA in relation to a matter that amounts to no more than misconduct or unsatisfactory conduct, unless, in the opinion of the ICAC:

(a) the alleged misconduct or unsatisfactory conduct gives rise to a suspicion of systemic misconduct or unsatisfactory conduct; or

(b) other exceptional circumstances exist that make it appropriate to name or otherwise identify the person.

(6B) Nothing in this section requires more than one investigation report to be prepared if this section requires an investigation report to be made to more than one responsible authority.

(7) In this section:

responsible authority means:

(a) for a public body or public officer other than a minister or an MLA:

(i) an entity having authority to deal with one or more matters relating to improper conduct the subject of the investigation to which the report relates; or

(ii) an entity whose functions include making future decisions in the public interest that may be better informed by receipt of the investigation report; or

(b) for a minister or an MLA other than the Speaker – the Speaker; or

(c) for the Speaker – the Deputy Speaker.

50A Publication of investigation report

(1) The ICAC may publish an investigation report if the ICAC is of the opinion it is appropriate to do so.

(2) A report published under subsection (1) must not name or identify any person in relation to a matter that amounts to no more than misconduct or unsatisfactory conduct, unless, in the opinion of the ICAC:

(a) the alleged misconduct or unsatisfactory conduct gives rise to a suspicion of systemic misconduct or unsatisfactory conduct; or

(b) other exceptional circumstances exist that make it appropriate to name or otherwise identify the person.

(3) Subsection (1) does not apply to an investigation report made to the Speaker or Deputy Speaker under section 50(6).

51 Brief of evidence

(1) Following an investigation, the ICAC may provide a brief of evidence:

(a) to a law enforcement agency for the purpose of investigating, or prosecuting a person for, an offence; or

(b) to a public body or public officer for the purpose of investigating whether disciplinary action should be taken, or taking disciplinary action, against a public officer.

(2) Any material in a brief of evidence provided under subsection (1) that would not be admissible in a civil or criminal proceeding because of section 82 must be provided in a sealed form, separately to any other material in the brief of evidence, unless the inadmissible material is already in the public domain.

53 Report to Minister concerning referral

(1) If the ICAC has referred a matter to a referral entity, the ICAC may make a report at any time about the referral including, but not limited to, the following:

(a) the nature of the matter referred;

(b) any failure by the referral entity to follow a direction of the ICAC in relation to the referral;

(c) any other concerns of the ICAC about the referral entity's response to the referral.

Note for subsection (1)

A report may contain recommendations – see section 56.

(2) A report is to be made:

(a) for a referral entity that is a public body or public officer – to the responsible Minister for the public body or public officer; or

(b) otherwise – to the ICAC Minister.

54 Report to Assembly concerning referral

(1) This section applies if:

(a) the ICAC has made a report under section 53; and

(b) either:

(i) the minister to whom the report is made provides a written response to the ICAC; or

(ii) the minister to whom the report is made does not provide a written response within a reasonable time; and

(c) the ICAC is not satisfied with the minister's response (if any).

(2) The ICAC may make a report on the referral:

(a) to the Assembly Committee; or

(b) if there is no Assembly Committee – to the Speaker.

(3) The report:

(a) may contain as much information as the ICAC considers appropriate in relation to the referral; and

(b) must contain a fair representation of any response provided by the minister.

Note for subsection (3)

The report may contain recommendations – see section 56.

(4) The chairperson of the Assembly Committee or the Speaker must table a copy of the report in the Legislative Assembly within 6 sitting days after the chairperson or Speaker receives the report.

55 Public statements

(1) This section applies in relation to a particular matter that the ICAC is dealing with or has dealt with, including a matter the ICAC has referred to a referral entity.

(2) The ICAC may make a statement in relation to the matter for any of the following purposes:

(a) to provide information about action taken or that may be taken by the ICAC in relation to the matter;

(b) to indicate that it would be inappropriate for the ICAC to comment on the matter;

(c) to refuse to confirm or deny anything in relation to the matter;

(d) to seek evidence in relation to the matter in the course of preliminary inquiries into, or an investigation of, the matter;

(e) to provide information about a referral, including the outcome of the referral;

(f) to address public misconception about a person or issue of which the ICAC has particular knowledge;

(g) to request the Legislative Assembly to authorise the publication, or disclosure to the ICAC, of information or an item that is or may be the subject of parliamentary privilege.

(3) The ICAC may make a public statement, in a manner determined by the ICAC, to:

(a) the public at large; or

(b) a section of the public; or

(c) a particular person or body.

(4) Subsections (1) to (3) do not authorise any of the following public statements:

(a) an opinion as to whether a person has committed, is committing or is about to commit, an offence or a breach of discipline;

(b) a comment as to the prospects of success of any current or future prosecution or disciplinary action;

(c) the naming or identification of any person other than an MLA in relation to a matter that amounts to no more than misconduct or unsatisfactory conduct unless, in the opinion of the ICAC:

(i) the alleged misconduct or unsatisfactory conduct gives rise to a suspicion of systemic misconduct or unsatisfactory conduct; or

(ii) other exceptional circumstances exist that make it appropriate to name or otherwise identify the person.

(5) For subsection (4)(a), a public statement that a person has engaged, is engaging or is about to engage in improper conduct is not a public statement that the person is guilty of or has committed, is committing or is about to commit an offence or a breach of discipline.

(6) Subsection (5) does not authorise the naming or identification of a person contrary to subsection (4)(c).

56 Recommendations

(1) The ICAC may, at any time, make recommendations to a public body or public officer in relation to preventing, detecting, investigating, prosecuting or otherwise dealing with improper conduct, if the ICAC considers the recommendations are within the functions of the body or officer to implement or progress.

(2) Recommendations must be in writing and may be contained in a report under this Division.

(3) If recommendations are made in relation to an investigation, the ICAC must:

(a) identify in the recommendations the investigation to which they relate; and

(b) provide information to assist the public body or public officer to understand why the recommendations have been made and what they are intended to achieve.

57 Dealing with recommendations

(1) The ICAC may request a public body or public officer to whom recommendations have been made to give written notice to the ICAC, within a reasonable time specified in the notice, of:

(a) the steps taken or proposed to be taken to implement the recommendations; or

(b) if no steps, or only some steps, have been taken or are proposed to be taken, the reasons for not taking all the steps necessary to implement the recommendations.

(2) If the ICAC is not satisfied that adequate steps have been taken to implement the recommendations within a reasonable time as specified, the ICAC, after considering any comments made by the public body or public officer, may:

(a) if the public officer is a minister – make a report concerning recommendations under section 58; or

(b) otherwise:

(i) give a copy of the recommendations and a copy of the comments to the responsible Minister for the public body or public officer; and

(ii) invite the responsible Minister to provide a written response to the ICAC within a reasonable time specified in the invitation.

(3) This section does not apply to recommendations made in a general report mentioned in section 48(4)(b).

58 Report concerning recommendations

(1) This section applies if, under section 57(2)(b), the ICAC has given the responsible Minister for a public body or public officer a copy of recommendations and comments and:

(a) the responsible Minister provides a written response to the ICAC; or

(b) the responsible Minister does not provide a written response within the time specified under section 57(2)(b)(ii).

(2) This section also applies as mentioned in section 57(2)(a).

(3) The ICAC may make a report concerning the recommendations to the ICAC Minister.

(4) A report concerning recommendations:

(a) may contain as much information as the ICAC considers appropriate regarding the reasons for the recommendations and the context in which they were made; and

(b) must contain a fair representation of:

(i) any reasons provided by the public body or public officer for not taking all the steps necessary to implement the recommendations; and

(ii) any response provided by the responsible Minister for the public body or public officer.

(5) The ICAC Minister must table a copy of the report concerning recommendations in the Legislative Assembly within 6 sitting days after the ICAC Minister receives the report.

59 Certain reports and public statements not to contain inadmissible material

(1) This section applies to the following:

(a) a general report;

(b) an investigation report made to the Speaker or Deputy Speaker;

(c) an investigation report that is to be published under section 50A;

(d) a report under section 54;

(e) a report concerning recommendations;

(f) a public statement.

(2) The report or public statement must not contain any material that would not be admissible in civil or criminal proceedings because of section 82, unless the material is already in the public domain.

(3) Subsection (2) does not prevent the ICAC from commenting on, or drawing inferences from, the absence of any exculpatory evidence if the ICAC could otherwise do so but for subsection (2).

(4) Subsection (2) does not prevent the use of material that would not be admissible in civil or criminal proceedings because of section 82 and that does not identify any individual:

(a) for educational or training purposes; or

(b) to disclose systemic improper conduct.

Division 8 Miscellaneous matters

60 Evidence and procedure

(1) For an investigation, including an examination or a public inquiry, the ICAC is not bound by the rules of evidence.

(2) The ICAC must conduct an examination or a public inquiry with as little formality and technicality as is, in the opinion of the ICAC, appropriate in the circumstances.

(3) For subsection (2), the ICAC must, as far as the ICAC considers appropriate in the circumstances:

(a) accept written submissions; and

(b) conduct examinations and public inquiries in a non-adversarial manner.

61 Attendance of persons in custody

(1) If the ICAC requires the attendance at an examination or public inquiry of a person who is in custody, the ICAC may issue a written direction for the production of the person at the time and place specified in the direction.

(2) The direction is to be given:

(a) if the person is in the lawful custody of the Commissioner of Correctional Services – to the Commissioner of Correctional Services; or

(b) if the person is in the lawful custody of the Commissioner of Police – to the Commissioner of Police.

(3) The direction is sufficient authority for producing the person, who must be produced accordingly.

(4) In this section:

lawful custody:

(a) of the Commissioner of Correctional Services, see section 9(1) of the *Correctional Services Act 2014*; or

(b) of the Commissioner of Police, means under arrest or otherwise in the lawful custody of a police officer.

62 Order for surrender of passport

(1) The ICAC may apply to the Supreme Court if:

(a) a notice has been given to a person to attend an examination or public inquiry, whether or not the person has received the notice; and

(b) the ICAC believes on reasonable grounds that the person may be able to give evidence that may be relevant to the investigation to which the examination or public inquiry relates; and

(c) the ICAC suspects on reasonable grounds that the person intends to leave Australia and has possession or control of a passport, whether Australian or foreign, issued to the person.

(2) If satisfied by evidence on oath of the matters mentioned in subsection (1), the Supreme Court may order the person to surrender every passport, whether Australian or foreign, held by the person.

(3) If the Supreme Court makes an order under subsection (2):

(a) the passport or passports must be given to the ICAC; and

(b) the ICAC may retain the passport or passports for the period, not exceeding 1 month, specified in the order.

(4) The Supreme Court, on application by the ICAC, may extend for a further period or periods, not exceeding 1 month each, the period for which the ICAC may retain the passport or passports, but not so that the total period of retention exceeds 3 months.

(5) On application by the person, the Supreme Court may at any time revoke an order under subsection (2) and, if so, the ICAC must immediately return the passport or passports to the person.

(6) As soon as practicable after an order is made under subsection (2), extended under subsection (4) or revoked under subsection (5), the ICAC must give a copy of the order, extension or revocation to the Commonwealth Minister administering the *Australian Passports Act 2005* (Cth).

63 Injunction to refrain from conduct pending investigation

(1) On application by the ICAC, the Supreme Court may grant an injunction restraining a person from engaging in conduct that is the subject of, or affects the subject matter of, an investigation or proposed investigation by the ICAC.

(2) The Supreme Court may grant an injunction only if satisfied that:

(a) the conduct sought to be restrained is likely to impede the investigation or proposed investigation; or

(b) it is necessary in the public interest to do so.

64 Exclusion of certain injunctive remedies

An action does not lie against the ICAC:

(a) to restrain the ICAC from commencing, or continuing to conduct, or to compel the ICAC to commence, or continue to conduct, an investigation or public inquiry; or

(b) to restrain the ICAC from making, or to compel the ICAC to make, a referral; or

(c) to restrain the ICAC from doing anything under Division 7, or to compel the ICAC to do something under that Division.

65 Restriction on access to ICAC premises and protected ICAC information

(1) Despite any law of the Territory to the contrary, a public body or public officer may access ICAC premises or protected ICAC information only:

(a) with the ICAC's consent; or

(b) with a Supreme Court order made under this section.

(2) A public body or public officer wishing to access ICAC premises or protected ICAC information may apply to the Supreme Court for an order authorising the access.

(3) The public body or public officer must notify the ICAC of the application and the ICAC may appear and make submissions at the hearing of the application.

(4) The Supreme Court may make an order authorising the public body or public officer to access the premises or information, subject to any conditions the Court considers appropriate, if satisfied:

(a) accessing the premises or information is necessary for the public body or public officer to perform official functions; and

(b) the benefits of the access substantially outweigh the risk of:

(i) prejudice to the ICAC in performing the ICAC's functions; or

(ii) revealing the identity of a protected person.

(5) This section does not apply to access to ICAC premises or protected ICAC information by an authorised officer exercising a power under Part 4.

(6) In this section:

ICAC premises means premises occupied by the ICAC or a member of ICAC staff in connection with the performance of official functions.

protected ICAC information means information held by the ICAC or a member of ICAC staff in connection with, or as a result of any of the following:

(a) an evaluation or review;

(b) preliminary inquiries;

(c) an investigation;

(ca) a protected communication;

(d) a report, statement or recommendation under Division 7.

Part 4 General information-gathering powers of ICAC

66 Power to enter premises of public body or public officer

(1) Subject to subsection (2), an authorised officer may enter and remain on premises occupied or used by either of the following at any time for the purpose of performing functions under this Act:

(a) a public body;

(b) a public officer for official duties.

(2) Subsection (1) does not permit an authorised officer to enter or remain on:

(a) any part of a premises that is residential premises; or

(b) any premises or part of a premises:

(i) occupied or used by a public body of a kind mentioned in section 16(1)(l) or a member, officer or employee of such a body; and

(ii) not occupied or used by any other type of public body or public officer.

67 Power to enter other premises

(1) An authorised officer may enter and remain on premises other than those mentioned in section 66, if the officer believes on reasonable grounds that there is anything that may be evidence of improper conduct on the premises.

(2) The power may be exercised:

(a) with the consent of the owner or occupier; or

(b) with the authority of a search warrant.

(3) At the reasonable request of a person apparently in charge of the premises or any other person on the premises, the authorised officer must produce the officer's identity card for inspection.

68 Search warrants

(1) An authorised officer may apply to a judicial officer for a search warrant if the officer believes on reasonable grounds that entry to the premises is necessary for the purpose of an investigation.

(2) The application:

(a) must specify the investigation to which the warrant relates, including the kind of improper conduct being investigated; and

(b) may be made:

(i) in person; or

(ii) if that is not practical – by telephone, fax or other electronic method.

(3) The judicial officer may issue a search warrant to the authorised officer if satisfied by evidence on oath that there are reasonable grounds for the belief mentioned in subsection (1).

(4) A search warrant authorises an authorised officer to enter and remain on the premises specified in the warrant for the purpose of carrying out a search of the premises or persons on or about the premises.

(5) A search warrant may authorise the exercise of the powers conferred by the warrant:

(a) at any time; or

(b) subject to limitations as to hours of the day (or night), or other limits as to the time, when the powers may be exercised.

(6) A search warrant must specify the date on which it ceases to have effect, which must be not later than 30 days after the date on which it is issued.

(7) A search warrant may be executed by the authorised officer to whom it is issued or by another authorised officer.

(8) The authorised officer executing a search warrant must produce the warrant for inspection when asked by a person on the premises.

69 Obtaining warrant by telephone or other electronic method

(1) This section applies if a judicial officer issues a search warrant on an application under section 68(2)(b)(ii).

(2) The judicial officer must:

(a) complete and sign the warrant; and

(b) inform the authorised officer of its terms; and

(c) record on the warrant the reasons for issuing it.

(3) The authorised officer must:

(a) complete in duplicate a form of warrant in the terms given under subsection (2)(b); and

(b) write on both copies the name of the judicial officer and the date and time the warrant was issued; and

(c) send one of the copies to the judicial officer.

(4) On receiving the copy, the judicial officer must:

(a) compare it with the warrant the judicial officer signed; and

(b) if satisfied they are in substance identical, note this fact on the warrant and send the warrant and copy to the ICAC.

(5) If the form of the warrant prepared under subsection (3)(a) is in substance identical to the warrant signed by the judicial officer under subsection (2)(a), it has the same authority as a search warrant issued under section 68(3).

70 Entry on Aboriginal land

If it is necessary or convenient for an authorised officer to enter land to exercise a power under this Act, the officer may do so for that purpose despite:

(a) the land being Aboriginal land as defined in section 3 of the *Aboriginal Land Act 1978*; and

(b) the officer not holding a permit under that Act to enter or remain on the land.

71 Powers of authorised officers while on or about premises

(1) An authorised officer who enters premises under this Part may exercise one or more of the following powers:

(a) search the premises and examine anything on the premises (opening the thing by force if necessary);

(b) take photographs, or make films or audio, video or other recordings, of anything on the premises or found on a person searched under section 73;

(c) operate equipment or facilities on the premises;

(d) seize anything found on the premises, or on a person searched under section 73, that the authorised officer believes on reasonable grounds may be evidence of improper conduct and retain it for as long as may be necessary for one or more of the following purposes:

(i) to examine it to determine its evidentiary value;

(ii) to copy it;

(iii) if it is relevant to an investigation or possible future investigation – for the investigation;

(e) issue a notice (a ***retention notice***) requiring that a thing mentioned in paragraph (d) not be moved or interfered with without the approval of an authorised officer;

(f) if a thing mentioned in paragraph (d) cannot be conveniently moved – secure it against interference;

(g) require a person on or about the premises to do any of the following:

(i) state the person's full name, date of birth and how the person may be contacted;

(ii) produce evidence of the person's identity;

(iii) answer (orally or in writing) questions asked by the authorised officer;

(iv) produce a thing the authorised officer believes on reasonable grounds is connected with improper conduct;

(v) operate equipment or facilities on the premises;

(vi) give the authorised officer any translation, code, password or other information necessary to gain access to, or interpret and understand, anything located or obtained by the officer in the course of exercising the officer's functions under this Part;

(via) move to a specified place in the premises or keep a specified distance from a specified person or object;

(vii) give other assistance the authorised officer reasonably requires;

(h) give directions to a person in charge of a vehicle or vessel in relation to the stopping or movement of the vehicle or vessel.

(2) A person to whom a requirement is made under subsection (1)(g) or a direction is given under subsection (1)(h):

(a) must comply with the requirement or direction to the extent the person is able to do so; and

(b) if asked to answer a question – must do so to the best of the person's knowledge, information and belief.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) If an authorised officer seizes anything under this section, the officer must issue a receipt and:

(a) if the owner or occupier, or a person apparently responsible to the owner or occupier, is present – give the receipt to the owner, occupier or person; or

(b) otherwise:

(i) leave the receipt on the premises, or in another location agreed with the owner or occupier, in an envelope addressed to the owner or occupier; or

(ii) make alternative arrangements with the owner or occupier for delivery of the receipt.

(5) While anything seized under this section remains in the ICAC's possession, the ICAC must allow the owner or occupier reasonable access to it.

72 Procedure for retention notices

(1) A retention notice:

(a) must be given in writing to the owner, or person apparently in control, of the thing to which it relates; and

(b) must state that it is an offence to move or interfere with the thing without the approval of an authorised officer.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in the contravention of a retention notice and the person has knowledge of the result.

Maximum penalty: 100 penalty units.

(3) If the ICAC subsequently determines that a thing to which a retention notice relates should be seized, an authorised officer may:

(a) without warrant, enter and remain on the premises where the thing is reasonably suspected to be located, for the purpose of seizing the thing; and

(b) exercise any of the powers in section 71 for that purpose.

73 Search of persons

(1) This section applies only if premises are entered under a search warrant.

(2) An authorised officer may search a person on or about the premises whom the authorised officer suspects on reasonable grounds has on their person evidence of improper conduct.

(3) In searching a person under this section, the authorised officer:

(a) may run the officer's hands over the person's outer clothing; and

(b) may require the person to remove a coat, jacket, hat or shoes the person is wearing, and may run the officer's hands over the person's remaining outer clothing; and

(c) if the officer sees or detects anything the officer suspects on reasonable grounds is, or contains, evidence of improper conduct – may require the person to surrender the thing for inspection; and

(d) may use reasonable force to remove a thing from a person if the person does not comply with a requirement to remove or surrender the thing under paragraph (b) or (c); and

(e) may inspect a thing that a person has removed or surrendered, or that has been removed from a person; and

(f) must conduct the search in a manner that affords, to the extent that the circumstances of the search permit, reasonable privacy to the person being searched; and

(g) must conduct the search as quickly as is reasonably practicable in the circumstances.

(4) A search must be conducted by a person of the same sex as the person being searched unless it is not reasonable or practicable to do so in the circumstances of the search.

74 Power to require verification and further information from persons providing information to ICAC

(1) For the performance of the ICAC's functions under this Act, the ICAC may, at any time, do any of the following:

(a) require a person who has provided information to the ICAC to:

(i) verify the information by statutory declaration; or

(ii) answer questions, or provide further information, in relation to the information;

(b) require a person who has made a protected communication to produce items in the person's possession or control that are relevant to the protected communication.

(2) A requirement under subsection (1) may be made:

(a) if an oral response to a question is required – orally; or

(b) otherwise – by written notice.

(3) A written notice to provide further information or produce an item may require the person to verify the further information or item by statutory declaration.

(4) If an item is produced under this section:

(a) the ICAC may retain possession of the item for a reasonable period and may make copies of, or take extracts from, the item; and

(b) while the item remains in the ICAC's possession, the ICAC must allow the person reasonable access to the item.

75 Persons assisting authorised officers

(1) An authorised officer entering premises under this Part may be accompanied and assisted by another person.

(2) A person assisting the authorised officer may do anything required by the authorised officer that is within the scope of the authorised officer's powers.

(3) Anything done lawfully by a person assisting the authorised officer is taken for all purposes to be done by the authorised officer.

76 Arrangements for access to confidential information

(1) The ICAC may make arrangements with a public body or public officer:

(a) for access by the ICAC and other persons performing functions under this Act to confidential information and databases; and

(b) for appropriate protection of the confidentiality of information accessed.

(2) A public body or public officer may allow access to information and databases in accordance with an arrangement under subsection (1) despite any obligation of non-disclosure.

77 Power to direct public body or public officer to refrain from action

(1) The ICAC may, by written notice, require a public body or public officer to refrain from taking action specified in the notice if the ICAC believes on reasonable grounds that taking the action would, or would be likely to, obstruct the ICAC performing functions under this Act or prejudice a future investigation.

(2) A public body or public officer commits an offence if:

(a) the public body or public officer intentionally engages in conduct; and

(b) the conduct results in a contravention of a requirement in a notice given to the body or officer under subsection (1) and the public body or public officer has knowledge of the result.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

Part 5 Matters of confidentiality and privilege

Division 1 Application of confidentiality and privilege

78 Definitions

In this Division:

closed session means a part of a public inquiry not open to the public.

open session means a part of a public inquiry open to the public.

representation, see the Dictionary to the *Evidence (National Uniform Legislation) Act 2011*.

79 Confidential or privileged information

(1) Subject to this Act:

(a) no obligation of secrecy or confidentiality or other restriction on disclosing information (imposed by a law of the Territory or otherwise) applies to the giving of evidence; and

(b) no privilege exists to protect the refusal or failure to give evidence on grounds of public interest immunity; and

(c) no privilege exists in favour of the Territory or a public body (other than a body that is a public body only because of section 16(1)(l)) to protect the refusal or failure to give evidence on grounds of client legal privilege.

Note for subsection (1)(c)

Client legal privilege for individuals is dealt with in section 80.

(2) However, a person is not authorised or required by this Act:

(a) to disclose information contrary to section 38 of the *Northern Territory Aboriginal Sacred Sites Act 1989*; or

(b) to disclose confidential information about the decisions, proceedings or deliberations of:

(i) the Executive Council or a committee of the Executive Council; or

(ii) the Cabinet or a committee of the Cabinet; or

(c) to disclose confidential information about communications among members of the Executive Council or Cabinet or among Australian governments; or

(d) to produce a document or to disclose information about a document that is exempt under section 45(1)(a) of the *Information Act 2002*.

(3) If, but for subsection (1)(c), the Territory or a public body could claim privilege in relation to information, the ICAC must not make the information available to the public, in a report or otherwise, except to the extent the ICAC considers necessary to explain or support a finding of improper conduct the ICAC has made public.

80 Client legal privilege

A witness has a reasonable excuse for refusing or failing to give evidence if the evidence:

(a) relates to conduct of the witness or another individual; and

(b) is protected by client legal privilege.

81 Privilege against self-incrimination

(1) Except as provided by subsection (2) or (3), a witness is not entitled to refuse or fail to give evidence on the ground that the evidence might tend to incriminate the witness or make the witness liable to a penalty.

(2) If a witness is currently charged with an offence:

(a) the witness is entitled to refuse or fail to give evidence on the ground that the evidence might tend to incriminate the witness in relation to the offence; and

(b) the ICAC must inform the witness of that entitlement:

(i) before the witness is asked a question, or gives information or produces an item, at an examination or public inquiry; or

(ii) otherwise – before the witness is asked a question, or gives information or produces an item, that could reasonably be expected to elicit a representation that might tend to incriminate the witness in relation to the offence.

(3) A witness at an open session is also entitled to refuse or fail to give evidence on the ground that the evidence might tend to incriminate the witness in relation to an offence that, in the ICAC's opinion, is not materially relevant to the alleged improper conduct that is the subject of the public inquiry.

(4) For a public inquiry, the ICAC must hear submissions about the applicability of subsection (2) or (3) in a closed session if the witness requests.

82 Subsequent use of representations made by witness

(1) A representation made by a witness in evidence given to the ICAC or an authorised officer is not admissible in evidence against the witness in a civil or criminal proceeding except a proceeding for an offence against this Act.

(2) Subsection (1) does not apply to evidence given by a witness if, before the person gave the evidence, the ICAC or an authorised officer informed the person that the person was not obliged to give the evidence, but if the person did so, the evidence could be used against them in civil or criminal proceedings.

(3) Subsection (1) also does not apply to an item given in evidence to the ICAC or an authorised officer if the item did not come into existence as part of giving evidence to the ICAC or an authorised officer, as long as the item is not relied on to prove that a representation was made in evidence given to the ICAC or an authorised officer.

(4) Subsection (3) applies to a copy of an item as if it were the original item.

Example for subsection (4)

Copies of business records produced at an examination or public inquiry by a witness may be admissible in subsequent proceedings if they are led as evidence of the activities of the business rather than as evidence that they were produced by the witness in giving evidence to the ICAC.

(5) Subject to subsection (6), subsection (1) does not prevent the use of a representation made by a witness, or evidence given to the ICAC or an authorised officer by the witness, to locate or identify further evidence which may be used in civil or criminal proceedings.

(6) The ICAC must not disclose to a person or body (other than a member of ICAC staff), or seek to elicit or use during an open session, evidence given by the witness at an examination or closed session that tends to incriminate the witness only in relation to a summary offence.

(7) Subsection (6) does not apply to evidence in relation to:

(a) an offence that involves improper conduct; or

(b) an offence the ICAC believes on reasonable grounds raises concerns about a serious ongoing or future threat to a person's health or safety, to public health or to the environment.

83 Parliamentary privilege

(1) Parliamentary privilege is limited to the extent that it would otherwise prevent any of the following:

(a) a person alleging under this Act that an MLA has engaged or is engaging in improper conduct;

(b) the ICAC's investigation of an allegation mentioned in paragraph (a), whether or not the allegation is also the subject of a referral to the Speaker or Deputy Speaker;

(c) the ICAC making findings in relation to an allegation mentioned in paragraph (a).

(2) Subsection (1) does not limit parliamentary privilege in relation to evidence that might be relevant to allegations, investigations or findings mentioned in that subsection.

83A Journalist privilege

Despite section 127A of the *Evidence (National Uniform Legislation) Act 2011*:

(a) the ICAC is not entitled to determine a claim of privilege under that section despite the ICAC being prescribed as a judicial entity under that Act; and

(b) the Supreme Court is instead to determine a claim of privilege to which that section applies made against the ICAC, in accordance with that section and under Division 2.

Division 2 Dealing with privilege claims

84 Definitions

In this Division:

claimant means a person who is entitled to claim that an item is the subject of privilege or, in the case of parliamentary privilege, means the Legislative Assembly.

claimant's representative, for a claimant, means:

(a) a person nominated by the claimant; or

(b) in the case of the Legislative Assembly:

(i) a person nominated by the Legislative Assembly; or

(ii) in the absence of a nomination – the Clerk.

Clerk means Clerk of the Legislative Assembly.

proper officer, in relation to the performance of a function under this Division, means an officer of the Supreme Court appointed by a Supreme Court Judge for that purpose.

secured item means an item sealed in an envelope, or otherwise secured, under section 88(2)(b).

85 Meaning of *subject of privilege*

An item is the ***subject of privilege*** if it is, or contains information that is:

(a) information or a document mentioned in section 79(2); or

(b) the subject of client legal privilege, as provided for in section 80; or

(c) the subject of the privilege against self-incrimination, as provided for in section 81; or

(d) the subject of parliamentary privilege, as provided for in section 83; or

(e) the subject of privilege claimed under section 127A of the *Evidence (National Uniform Legislation) Act 2011*.

86 Notice of potentially privileged material

(1) An authorised officer who intends to inspect or view an item the officer considers likely to be the subject of privilege (other than parliamentary privilege) must give reasonable notice to the apparent claimant of the officer's intention.

(2) Subsection (1) does not prevent the authorised officer from:

(a) seizing or copying an item without viewing any part of it likely to be the subject of privilege; or

(b) inspecting or viewing an item using a method reasonably designed to avoid viewing any part of it likely to be the subject of privilege.

(3) An authorised officer who intends to inspect, copy or seize, or require a person searched to surrender, an item that the officer considers likely to be the subject of parliamentary privilege must give reasonable notice to the Clerk of the officer's intention.

87 Process for dealing with claim of parliamentary privilege

(1) If a memorandum is in effect, an authorised officer must act in accordance with it in relation to a claim that an item the officer wishes to inspect, copy or seize, or require a person searched to surrender, is the subject of parliamentary privilege.

(2) If the matter cannot be resolved in accordance with the memorandum, or if there is no memorandum in effect, the authorised officer must deal with the item in accordance with section 88.

(3) In this section:

memorandum means a memorandum of understanding between the Legislative Assembly and the ICAC in relation to parliamentary privilege.

88 Privilege claims generally

(1) This section applies:

(a) if, for privilege other than parliamentary privilege:

(i) an authorised officer wishes to inspect, copy or seize an item or require a person searched to surrender an item; and

(ii) a claimant or claimant's representative claims the item is the subject of privilege; or

(b) as mentioned in section 87(2).

(2) The authorised officer must consider the claim of privilege and either:

(a) cease exercising the power in relation to the item over which the claim of privilege is made; or

(b) if the authorised officer believes on reasonable grounds the item may not be the subject of privilege – require the claimant or claimant's representative to immediately seal the item in an envelope, or otherwise secure the item if it cannot be sealed in an envelope, and give the secured item to the officer.

(3) The authorised officer must not inspect the item in considering the claim of privilege but may copy the item if it is in electronic form as long as copying the item does not disclose any part of the item that may be privileged to the officer or another person not entitled to view that part of the item.

(4) If the authorised officer requires the claimant to give the secured item to the officer under subsection (2)(b), the officer must:

(a) notify the ICAC as soon as reasonably practicable; and

(b) as soon as reasonably practicable, give the secured item to the proper officer to be held in safe custody.

(5) Subject to section 90, a person must not open a sealed envelope, or otherwise interfere with a secured item, before delivery to the proper officer.

(6) Despite subsection (2)(b), the authorised officer must not require the claimant to give the secured item to the officer under that subsection unless the officer gives the claimant or claimant's representative a reasonable opportunity to accompany the officer in giving the item to the proper officer.

89 Application to Supreme Court to determine privilege

(1) Within 7 days after a secured item is given to the proper officer under section 88, an application to determine whether or not the item is the subject of privilege may be made to the Supreme Court:

(a) for privilege other than parliamentary privilege – by the claimant or claimant's representative; or

(b) for parliamentary privilege – by the ICAC.

(2) An application to the Supreme Court to determine whether evidence that the ICAC has, or seeks to obtain, in order to carry out the ICAC's functions is the subject of privilege may be made by the ICAC at any time.

(3) If an application is not made within 7 days, the proper officer must give the item:

(a) for privilege other than parliamentary privilege – to the ICAC; or

(b) for parliamentary privilege – to the Clerk.

(4) Within a reasonable time before the hearing of the application:

(a) for privilege other than parliamentary privilege – the claimant or claimant's representative must notify the ICAC of the application; or

(b) for parliamentary privilege – the ICAC must notify the Clerk of the application.

(5) The ICAC is entitled to appear and be heard on the hearing of an application.

(6) The Clerk is entitled to appear and be heard on the hearing of an application relating to parliamentary privilege.

(7) If the proper officer gives an item to the ICAC under subsection (3)(a):

(a) the claimant is taken to have authorised the ICAC to view the item; and

(b) the claimant is not to be taken to have waived privilege for any other purpose.

90 Determination of privilege claim

(1) On an application under section 89, the Supreme Court is to determine whether or not the item or other evidence is the subject of privilege in whole or part.

(2) For making a determination, the Judge constituting the Supreme Court and any other person authorised by the Court may:

(a) open the sealed envelope or otherwise access the item or other evidence; and

(b) inspect the item or other evidence.

(3) If the Supreme Court determines that the whole of the item or other evidence is the subject of privilege, the Court must order that the item or other evidence be returned to the claimant or claimant's representative.

(4) If the Supreme Court determines that the whole of the item or other evidence is not the subject of privilege the Court must order that the item or other evidence be given to the ICAC.

(5) If the Supreme Court determines that part of the item or other evidence is the subject of privilege (the ***privileged part***) and part is not (the ***non-privileged part***):

(a) if the item or other evidence is able to be divided into the privileged part and the non-privileged part – the Court must divide the item or other evidence and order that the privileged part be returned to the claimant or claimant's representative and the non-privileged part be given to the ICAC; or

(b) if paragraph (a) does not apply but the Court considers it possible to produce a copy of the item or other evidence from which the privileged part has been removed:

(i) the Court must make orders the Court considers appropriate for production of the copy; and

(ii) the Court must order that the copy be given to the ICAC and the item or other evidence be returned to the claimant or claimant's representative; or

(c) otherwise – the Court must order that the item or other evidence be returned to the claimant or claimant's representative.

(6) Except as provided in subsection (2), a person must not open a sealed envelope containing the item or other evidence, or otherwise have access to the item or other evidence, before:

(a) the Supreme Court determines the claim of privilege; or

(b) the item or other evidence is returned to the claimant.

(7) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in a contravention of subsection (6) and the person is reckless in relation to the result.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

Part 6 Whistleblower protection

Division 1 Important principles and concepts

91 Whistleblower protection principles

(1) It is intended that this Act be administered according to the following principles:

(a) public bodies have the primary responsibility for providing protected persons with protection and support;

(b) the ICAC's role is to provide guidance as to how public bodies can fulfil this responsibility and to take action if the ICAC considers a public body is not fulfilling its responsibility;

(c) wherever possible, the identity of a protected person should be kept confidential, as anonymity is the best protection of a person from retaliation;

(d) the principle that public bodies of the Territory are, and are to act as, model litigants in proceedings, including disciplinary proceedings.

(2) This section does not create any legal rights in any person or give rise to any civil cause of action.

92 Meaning of *protected action*

(1) A person takes ***protected action*** if:

(a) the person, being an individual, makes a protected communication; or

(b) the person (whether or not an individual) takes another action in the course of, or for the purpose of:

(i) complying with this Act; or

(ii) cooperating with a person or body performing functions under this Act.

(2) Despite subsection (1), an action is not protected action to the extent the action involves the provision or communication of information the person taking the action knows or believes is misleading information.

93 Meaning of *protected communication*

(1) A ***protected communication*** is:

(a) information in a report made by an individual to the ICAC in accordance with directions or guidelines under section 22; or

(b) information mentioned in subsection (2) that is provided by an individual to any of the following:

(i) the ICAC;

(ii) the Ombudsman;

(iii) the Auditor-General or the Auditor-General's Office;

(iv) the Health Complaints Commissioner or a staff member of the Commissioner;

(v) the Children's Commissioner;

(vi) the Environment Protection Authority;

(vii) if the information relates to a person or an entity referred to in section 37(1) or 45(1) of the IEC Act – the Inspector or a member of Inspector staff;

(viii) if the information relates to a police officer – the Commissioner of Police;

(ix) if the information relates to an MLA other than the Speaker, including a minister – the Speaker;

(x) if the information relates to the Speaker – the Deputy Speaker;

(xi) if the information relates to the Chief Justice – the next senior Supreme Court Judge;

(xii) if the information relates to a Supreme Court Judge, other than the Chief Justice, or to the Chief Judge – the Chief Justice;

(xiii) if the information relates to a Local Court Judge other than the Chief Judge – the Chief Judge;

(xiv) if the information relates to a contravention of the *Electoral Act 2004* – the Electoral Commissioner;

(xv) if the information relates to an employee or officer of a public body – the entity with responsibility for the management and control of the public body or a nominated recipient in their capacity as a nominated recipient for the public body;

(xvi) if the information relates to a contravention of the *Public Sector Employment and Management Act 1993* – the Commissioner as defined in section 3(1) of that Act; or

(c) an action declared under section 94 to be a protected communication.

(2) For subsection (1)(b), the information is information the individual believes on reasonable grounds:

(a) would tend to show that improper conduct has occurred, is occurring or is at risk of occurring; or

(b) would assist the ICAC to perform the ICAC's functions; or

(c) would otherwise assist in the administration, or achieving the objects, of this Act.

(3) It is irrespective:

(a) whether a protected communication is made orally or in writing; and

(b) whether or not a protected communication is made anonymously; and

(c) whether a protected communication is being investigated by the ICAC or is referred to another entity for investigation.

(4) For a protected communication mentioned in subsection (1)(a), subsection (3) is subject to any contrary provision in the directions or guidelines under section 22.

(4A) Despite anything to the contrary in this section, information is not a protected communication unless:

(a) the person providing the information indicates that:

(i) the information is being provided as a protected communication; or

(ii) in the case of a person mentioned in subsection (1)(b) – the information is being provided to the person in the person's capacity as a nominated recipient; or

(b) the recipient otherwise determines that the information is a protected communication.

(5) In this section:

staff member, in relation to the Health Complaints Commissioner, see section 4(1) of the *Health and Community Services Complaints Act 1998.*

94 Declaration of protected communication

(1) An individual may apply to the ICAC for a declaration that an action taken by the individual that involves an allegation of improper conduct is a protected communication.

(2) The ICAC may, by written notice to the applicant, declare the action to be a protected communication, whether or not the action would otherwise be a protected communication.

(3) In determining whether to declare an action to be a protected communication, the ICAC must take into account the following matters:

(a) the seriousness of the improper conduct alleged;

(b) whether the applicant believed, and had reasonable grounds for believing, the information alleged was reliable;

(c) whether the action was consistent with the processes and practices of a public body;

(d) whether the applicant believed, and had reasonable grounds for believing, the entity to which the allegation was made had statutory responsibility for dealing with improper conduct of the kind alleged;

(e) whether an alternative process for reporting improper conduct was available and the applicant ought reasonably have used that process instead of taking the action;

(f) whether the applicant believed, and had reasonable grounds for believing, the applicant was following any requirements for making a protected communication;

(g) the extent to which the applicant believed that taking the action would genuinely assist in preventing, reducing or dealing with improper conduct;

(h) whether taking the action was a reasonable preparatory step to, or reasonable part of, taking another action that is protected action;

(i) the actual and potential adverse impact on the public interest or the interests of any person caused by the action;

(j) whether taking the action was reasonable in all the circumstances.

(4) An applicant or the ICAC may give a copy of a notice under subsection (2) to any person or body.

(5) In addition, the ICAC may direct a public body to ensure that the content of a notice under subsection (2) is brought to the attention of:

(a) any persons specified by the ICAC; and

(b) any other person who may be in a position to engage in retaliation for the action to which the notice relates or to prevent or deal with retaliation.

(6) The rules of natural justice (including any duty of procedural fairness) do not apply to the ICAC in determining whether to declare an action to be a protected communication to the extent complying with those rules would be likely to:

(a) reveal the identity of a protected person or otherwise put a protected person at increased risk of retaliation; or

(b) involve a risk that the individual who took the action would suffer retaliation before the declaration is made.

(7) The ICAC may, by written notice to an individual, vary or revoke a notice under subsection (2) if, as a result of further information, the ICAC considers the action taken or part of the action taken ought not be a protected communication.

(8) Variation or revocation of the declaration does not affect the status of the protected communication if it would be a protected communication even if the declaration had not been made.

95 Meaning of *engage in retaliation*

(1) A person ***engages in retaliation*** against another person (the ***victim***) if the person causes, or threatens to cause, harm to the victim:

(a) with the intention of discouraging the victim or a third person from taking protected action; or

(b) with the intention of discouraging the victim or a third person from supporting a protected person; or

(c) because of protected action taken, or suspected by the person to have been taken, by the victim; or

(d) because of action taken, or suspected by the person to have been taken, by the victim to support a protected person.

(2) An intention or reason mentioned in subsection (1)(a) to (d) is a ***prohibited reason***.

(3) It is irrelevant whether or not the victim is a protected person.

(4) In this section:

support includes assist and encourage.

Division 2 Responsibilities relating to protected communications

96 ICAC to issue directions and guidelines for dealing with voluntary protected communications

(1) The ICAC must issue directions and guidelines governing how a recipient of a voluntary protected communication is to deal with the communication.

(2) The directions and guidelines may:

(a) require the recipient to report the communication to the ICAC to the extent it involves suspected improper conduct involving corrupt conduct, anti-democratic conduct or retaliation; and

(b) encourage the recipient to report the communication to the ICAC to the extent it involves other suspected improper conduct; and

(c) require the recipient to take action to minimise the risk of retaliation in relation to the communication.

(3) The directions and guidelines may be included as part of directions and guidelines issued under section 22 or issued separately.

(4) In this section:

voluntary protected communication means a protected communication made otherwise than in compliance with a direction under section 22 to report suspected improper conduct.

97 Nominated recipient

(1) The person responsible for the management or control of a public body may nominate an eligible person to be the ***nominated recipient*** for the public body for this Part.

(2) A person is eligible for nomination if:

(a) the person is a public officer; and

(b) the person responsible for the management or control of a public body is satisfied the person has suitable skills and training to be the nominated recipient.

(3) A nomination:

(a) must be in writing; and

(b) must specify the period for which the nomination has effect.

(4) The same person may be appointed as the nominated recipient for more than one public body.

(5) The person responsible for the management or control of a public body must notify the ICAC of a nomination, the expiry of a nomination or the revocation of a nomination as soon as practicable after the nomination is made, expires or is revoked.

(6) Notice of a nomination must include the name and contact details of the nominated recipient and the period of the nomination.

98 Information to be given to purported protected person

(1) As soon as practicable after receiving a purported protected communication, the recipient must give the person who made the communication a written notice setting out:

(a) a statement that the communication has been received; and

(b) the date of receipt; and

(c) an indication of the content of the communication; and

(d) a statement that the communication is or may be a protected communication; and

(e) information about the ICAC's role and contact details for the ICAC.

(2) Subsection (1) does not apply if, despite making efforts that are reasonable in the circumstances, the recipient is unable to contact the person who made a protected communication.

Example for subsection (2)

It may not be possible to contact a person who made a protected communication anonymously.

(3) In addition to the notice required by subsection (1), the recipient must make reasonable efforts to inform the person who made a protected communication of the matters specified in Schedule 2.

(4) For a protected communication made to the person responsible for the management or control of a public body, the person's obligations under this section may be fulfilled by the nominated recipient for the public body.

(5) This section does not apply in relation to a communication that is a protected communication only because it is the subject of a declaration under section 94(2).

Division 3 Protection from liability

99 Protection from liability – taking protected action

(1) A protected person:

(a) incurs no civil or criminal liability by taking protected action; and

(b) does not become liable to disciplinary action, or other adverse administrative action, for taking protected action.

(2) In an action for defamation, protected action is absolutely privileged.

(3) Subsections (1) and (2) apply even if the protected action is taken in breach of an obligation of confidentiality.

(4) Despite anything to the contrary in this Part, when a person takes protected action, the person's liability for the person's own conduct (other than conduct consisting of taking the protected action) is not affected.

Division 4 Protection from retaliation

100 Offence to engage in retaliation

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is retaliation and the person is reckless in relation to that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) For subsection (1), if the retaliation consists of a threat to cause harm:

(a) the prosecution must prove that the person:

(i) intended the victim to fear the threat would be carried out; or

(ii) was reckless as to the victim fearing the threat would be carried out; but

(b) it is not necessary to prove that the victim actually feared the threat would be carried out.

(3) In a prosecution for an offence against subsection (1) consisting of conduct mentioned in section 95(1)(a) or (b), it is not necessary to prove that the victim or third person was actually discouraged from taking protected action or providing support.

(4) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the defendant's conduct was otherwise legal and was taken substantially for a reason other than a prohibited reason; or

(b) the defendant believed on reasonable grounds the information provided by the protected person that led to the defendant's conduct was false or misleading.

(5) A prosecution for an offence against subsection (1) must be started within 2 years after the offence is alleged to have been committed.

101 Offence to engage in retaliation in course of management

(1) A person (***person A***) commits an offence if:

(a) person A is a public officer; and

(b) person A intentionally engages in conduct; and

(c) the conduct is retaliation against another person (***person B***) and person A is reckless in relation to that circumstance; and

(d) person B is a person under the management, supervision or control of person A in person A's capacity as a public officer; and

(e) the retaliation is engaged in in circumstances connected to person A's management, supervision or control of person B; and

(f) person A has knowledge of the circumstances mentioned in paragraphs (d) and (e).

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) For subsection (1), if the retaliation consists of a threat to cause harm:

(a) the prosecution must prove that person A:

(i) intended person B to fear the threat would be carried out; or

(ii) was reckless as to person B fearing the threat would be carried out; but

(b) it is not necessary to prove that person B actually feared the threat would be carried out.

(4) In a prosecution for an offence against subsection (1) consisting of conduct mentioned in section 95(1)(a) or (b), it is not necessary to prove that person B or a third person was actually discouraged from taking protected action or providing support.

(5) It is a defence to a prosecution for an offence against subsection (1) if:

(a) person A's conduct was otherwise legal and was taken substantially for a reason other than a prohibited reason; or

(b) person A believed that the conduct was a reasonable way of carrying out person A's role and responsibilities as a public officer; or

(c) person A believed on reasonable grounds the information provided by the protected person that led to the conduct was false or misleading.

(6) Person A has a legal burden of proof in relation to the matters mentioned in subsection (5).

102 Compensation for retaliation

(1) A person who engages in retaliation is liable to pay an amount to the victim as compensation for the retaliation.

(2) Compensation may be recovered:

(a) as for damages for a tort in a court of competent jurisdiction; or

(b) if within the small claims jurisdiction of the Tribunal – as a small claim in the Tribunal.

(3) A court or the Tribunal may award an amount in the nature of exemplary damages in proceedings under this section.

(4) In determining proceedings for compensation for retaliation, the court or Tribunal must take into account:

(a) the reasonableness of the conduct of each party in the circumstances leading to the retaliation and the circumstances of the retaliation; and

(b) any conduct of a party that contributed to, or mitigated, the harm caused by the retaliation.

(5) Proceedings for compensation for retaliation does not preclude other forms of relief.

(6) A victim may bring proceedings under this section even if the defendant has not been, or cannot be, prosecuted for an offence against section 100 in relation to the retaliation.

(7) In this section:

small claims jurisdiction, see section 3 of the *Small Claims Act 2016*.

Tribunal means the Civil and Administrative Tribunal.

103 Injunctive remedies for retaliation

(1) The Supreme Court may grant injunctive remedies for retaliation as follows:

(a) the Court may grant a mandatory injunction requiring a person who has engaged in retaliation to take specified action to remedy any harm suffered by the victim;

(b) the Court may grant an injunction to prevent a person engaging in retaliation.

(2) An application may be made for an injunctive remedy under this section by:

(a) the ICAC; or

(b) the victim or prospective victim of the retaliation or apprehended retaliation.

(3) In an appropriate case, the Supreme Court may make an order in the nature of an interim injunction under this section.

104 Facilitating access to justice for victims of retaliation

(1) This section applies to:

(a) proceedings for compensation under section 102; or

(b) proceedings for an injunctive remedy under section 103.

(2) The court or Tribunal hearing the proceedings must consider, taking into account the matters mentioned in subsection (3), whether to exercise a power of the court or Tribunal:

(a) to hold the proceedings in private; and

(b) to prohibit the publication of evidence or information that may identify the victim or prospective victim.

(3) The matters the court or Tribunal must take into account are:

(a) the extent to which the identity of the victim or prospective victim is known; and

(b) the increased risk of harm to the victim or prospective victim if their identity were more widely known as a result of the proceedings.

(4) In addition to any other order the court or Tribunal may make, it may order that an apology be made, publicly or in private, to the victim or prospective victim, if the court or Tribunal considers an apology may assist to mitigate harm or prevent future harm to the victim or prospective victim.

(5) For proceedings in a court, the court may award costs against the victim or prospective victim only if satisfied:

(a) the victim or prospective victim issued the proceedings vexatiously or without reasonable cause; or

(b) unreasonable conduct by the victim or prospective victim caused another party to incur the costs.

Note for subsection (5)

For costs in proceedings in the Civil and Administrative Tribunal, see Part 4, Division 6 of the Northern Territory Civil and Administrative Tribunal Act 2014.

(6) In this section:

Tribunal means the Civil and Administrative Tribunal.

105 Vicarious liability for retaliation

(1) If an employee of a public body engages in retaliation in the course of employment, both the employee and the public body are jointly and severally liable for the retaliation and proceedings may be taken under section 102 against either or both.

(2) Subsection (1) does not apply if the public body proves that it took all reasonable steps to prevent the employee from doing the act referred to in that subsection.

(3) For the purposes of subsection (2) and without limiting the matters that may be taken into account in determining whether the public body has taken all reasonable steps, the following matters are to be considered:

(a) the provision by the public body of training aimed at preventing or decreasing retaliation;

(b) the development and implementation by the public body of policies aimed at preventing or decreasing retaliation;

(c) the financial circumstances of the public body;

(d) the number of employees of the public body.

(4) If a court or the Tribunal finds that a public body is liable under subsection (1) for retaliation, the court or Tribunal must, before making an order for compensation:

(a) consider the extent of steps taken by the public body to prevent the retaliation; and

(b) take those steps into account in determining the proportion of the amount to be paid as compensation by the public body.

(5) In this section:

Tribunal means the Civil and Administrative Tribunal.

106 Guidelines to minimise retaliation

(1) The ICAC must issue, and keep under review, guidelines for public bodies and public officers concerning frameworks and practices for minimising risks of retaliation.

(2) Without limiting subsection (1), the guidelines may include measures for:

(a) education and training; and

(b) policies and processes; and

(c) allocating responsibility and resources; and

(d) creating a suitable organisational culture; and

(e) managing situations in which persons are, or are likely to be, at risk of retaliation.

(3) The guidelines must include a requirement for a public body or public officer who receives a protected communication to keep the person who made the communication reasonably informed:

(a) in relation to steps taken to deal with the protected communication; and

(b) as to whether the matter has been reported to the ICAC.

(4) The ICAC must issue the guidelines within 12 months after the commencement of this section.

107 Direction regarding action to protect persons from retaliation

(1) Subject to subsection (2), the ICAC may give a written direction to a public body or public officer to do any of the following:

(a) arrange for a public officer to be offered an opportunity to relocate to a suitable role in a different work unit or location;

(b) manage any risks that a particular person, or persons of a particular group, will be the subject of retaliation;

(c) take any other action or refrain from taking any action.

Note for subsection (1)

Section 151 creates an offence for contravening a direction under this section.

(2) The ICAC may give a direction under this section only if satisfied that:

(a) the direction would:

(i) assist in reducing the risk of retaliation; or

(ii) assist in mitigating harm suffered as a result of retaliation or preventing harm as a result of possible future retaliation; and

(b) it is reasonable in all the circumstances to give the direction, taking into account the nature and resources of the public body or public officer.

(3) Subject to subsection (4), before giving a direction under this section to a public body or public officer, the ICAC:

(a) must consult:

(i) for a public body – the person responsible for the management or control of a public body; or

(ii) for a public officer – the public officer; and

(b) may consult the Commissioner for Public Employment.

(4) Subsection (3) does not apply to the extent that complying with that subsection would be likely to:

(a) reveal the identity of a protected person or otherwise put a protected person at increased risk of retaliation; or

(b) involve a risk that a person would suffer retaliation before the direction is given.

(5) The ICAC may give a direction under this section to an independent public body or public officer only if the ICAC believes on reasonable grounds the direction will have no more than a minimal negative impact on the body or officer taking into account their nature and resources.

(6) The ICAC may, in writing, vary or revoke a direction under this section if, as a result of further information, the ICAC considers the direction is no longer appropriate.

(7) In this section:

independent public body or public officer means:

(a) a public body that does not represent the Territory or is not otherwise controlled by the Territory or by another public body that represents the Territory; or

(b) a public officer:

(i) who does not represent the Territory; or

(ii) who is a member, officer or employee of a public body mentioned in paragraph (a).

108 Supreme Court may vary or revoke direction

(1) A public body or public officer may, at any time, apply to the Supreme Court to vary or revoke a direction given to the body or officer under section 107.

(2) On an application, the Supreme Court may, by order, do any of the following if satisfied as mentioned in subsection (3):

(a) vary the direction;

(b) revoke the direction;

(c) revoke the direction and substitute a direction the ICAC could have given under section 107.

(3) The Supreme Court must be satisfied that:

(a) non-compliance with the direction is urgently required to take action to prevent substantial harm to a person or to essential public interests; or

(b) both of the following apply:

(i) non-compliance with the direction is reasonable to perform the essential functions of the public body or public officer;

(ii) the public body or public officer has taken reasonable steps to minimise the risk of retaliation to a person or to protect a person who may be at risk of retaliation.

(4) If the Supreme Court substitutes a direction under subsection (2)(c), the new direction is taken to be a direction by the ICAC under section 107.

109 Parties and procedure

(1) This section applies for proceedings for an order under section 108.

(2) The parties to the proceedings are:

(a) the applicant; and

(b) a protected person, or other person who may be at risk of retaliation, who may be affected by the variation or revocation of the direction to which the proceedings relate; and

(c) the ICAC; and

(d) if the Commissioner for Public Employment applies to be joined – the Commissioner for Public Employment.

(3) The Supreme Court must consider, taking into account the matters mentioned in subsection (4), whether to exercise a power:

(a) to hold the proceedings in private; and

(b) to prohibiting the publication of evidence or information that may identify a protected person or other person who may be at risk of retaliation.

(4) The matters the Supreme Court must take into account are:

(a) the extent to which the identity of a protected person, or other person who may be at risk of retaliation, is known; and

(b) the increased risk of harm to a protected person, or other person who may be at risk of retaliation, if their identity were more widely known as a result of the proceedings.

(5) In addition to subsection (3), the Supreme Court may hear evidence from a party in private, and without disclosing the evidence to another party, if the Court is satisfied that this is necessary:

(a) to keep the identity of a protected person, or other person who may be at risk of retaliation, confidential; or

(b) to protect the confidentiality of a current or possible future investigation by the ICAC.

(6) If the Supreme Court is considering hearing evidence from a party in private without disclosing it to another party, the Court may:

(a) notify the Inspector; and

(b) require any material relevant to the proceedings to be made available to the Inspector; and

(c) permit the Inspector to appear in the proceedings and, for the purpose of testing the appropriateness or validity of the direction the subject of the proceedings:

(i) ask a witness questions; and

(ii) make submissions.

(7) The Supreme Court may permit the Inspector to ask questions or make submissions under subsection (6)(c) in the absence of a party or a party's legal representative even if the party's interests may be affected by the subject matter of the questions or submissions.

(8) The Supreme Court may award costs against a party who is a protected person, or other person who may be at risk of retaliation, only if satisfied:

(a) the party issued the proceedings vexatiously or without reasonable cause; or

(b) the party's unreasonable conduct caused another party to incur the costs.

Division 5 ICAC oversight and further protection

110 Evaluations and reviews

(1) The ICAC may, at any time, evaluate or review a public body to determine:

(a) whether the public body is complying, or has complied, with directions and is adhering, or has adhered, to guidelines under this Part; or

(b) whether a particular person, or persons in a particular group, are at risk of retaliation.

(2) Despite subsection (1), the ICAC cannot evaluate or review a court or judicial officer in relation to the performance of judicial functions.

(3) For an evaluation or review, the ICAC may exercise the powers set out in Part 4.

(4) The ICAC must provide a report in relation to the results of the evaluation or review to a person with responsibility for the public body the subject of the evaluation or review.

(5) The ICAC is not required to include in a report mentioned in subsection (4) any information that may prejudice a current or future investigation, prosecution or disciplinary action.

111 Recommendations

(1) The ICAC may, at any time, make recommendations to a public body for:

(a) the improved compliance with directions, or improved adherence to guidelines, under this Part; or

(b) the improved management of risks of retaliation.

(2) Sections 57 and 58 apply to recommendations made under this section as if they were recommendations made under section 56.

112 ICAC may arrange protection and require police assistance

(1) This section applies if the ICAC considers that a person is at risk of intimidation, harassment or harm because the person:

(a) is a protected person; or

(b) is suspected of being a protected person; or

(c) is connected with a person who is a protected person or suspected of being a protected person.

(2) The ICAC may take any action the ICAC considers necessary or desirable for the protection of the person, including:

(a) directing the Commissioner of Police to:

(i) provide protection to the person; or

(ii) assist the ICAC to provide protection to the person; or

(iii) provide personnel or facilities to the ICAC for the provision of protection to the person; or

(b) making arrangements with another person or body to provide protection to the person.

(3) Despite subsection (2)(a), the ICAC cannot direct the Commissioner of Police to provide protection by including a person in the TWPP.

Note for subsection (3)

Under section 8(1) of the Witness Protection (Northern Territory) Act 2002 the Commissioner of Police has the sole responsibility of deciding whether to include a person in the TWPP.

(4) The ICAC must keep any direction issued under subsection (2)(a) under reasonable review.

(5) The Commissioner of Police, at any time, may apply to the ICAC to review a direction given under subsection (2)(a).

(6) If the Commissioner of Police applies to the ICAC under subsection (5), the ICAC must review the direction and decide whether to confirm, vary or revoke the direction.

(7) In this section:

harm, see section 1A of the Criminal Code.

TWPP, see section 3(1) of the *Witness Protection (Northern Territory) Act 2002.*

Part 7 Administration and enforcement

Division 1AA Preliminary matters

112A Interpretation

(1) In this Part:

non-NT political party means an organisation (whether incorporated or unincorporated), an object or activity of which is the promotion of the election to the Parliament of another Territory, a State or the Commonwealth of a candidate or candidates endorsed by it.

recent political affiliation, see subsection (2).

reportable donation means a gift or loan that is required to be disclosed or reported under Part 10 of the *Electoral Act 2004* or under a similar law in force in the Commonwealth or in a State or another Territory.

(2) For this Part, a person has a ***recent political affiliation*** if, at any time during the previous 10 years, the person:

(a) was a member of the Legislative Assembly or a local government council; or

(b) was an office holder or elected representative of a political party or a non-NT political party; or

(c) was a member of staff of a minister or of the Leader of the Opposition; or

(d) was a member of electorate office staff for an MLA; or

(e) was a member of a political party or a non-NT political party; or

(f) made a reportable donation to any of the following:

(i) a political party;

(ii) a non-NT political party;

(iii) an associated entity of a political party;

(iv) an entity that is equivalent to an associated entity in relation to a non-NT political party.

(3) For subsection (2)(f), a person made a reportable donation if it was made by the person or by a body corporate of which the person was an office holder or majority shareholder at the time the donation was made.

Division 2 Staffing and administration

123 ICAC staff

(1) The ICAC's staff consists of:

(a) public sector employees employed for the ICAC; and

(b) persons employed in an Agency made available by the Chief Executive Officer of the Agency under an arrangement with the ICAC; and

(c) police officers made available by the Commissioner of Police under an arrangement with the ICAC; and

(d) persons engaged by the ICAC as consultants; and

(e) authorised officers appointed under section 131 who are not persons mentioned in paragraphs (a) to (d).

(2) Unless otherwise agreed in writing between the ICAC and the Commissioner of Police, a police officer made available to the ICAC continues to have the duties, obligations, powers and privileges conferred or imposed on the police officer as a police officer.

(3) However, subsection (2) is subject to section 124.

124 Staff not subject to external direction

(1) In performing functions under this Act, a member of ICAC staff is subject only to the direction of the ICAC or another member of ICAC staff.

(2) Subsection (1) has effect despite anything to the contrary in the *Public Sector Employment and Management Act 1993*.

125 Delegation

(1) Subject to subsection (2), the ICAC may delegate any of the ICAC's functions under this Act to a member of ICAC staff who in the opinion of the ICAC is a suitable person to perform the function delegated.

(2) The ICAC cannot delegate:

(a) a function under Part 3, Division 6 or 7; or

(b) a function under section 157(2).

126 Suitability checks

(1) This section applies for the ICAC determining whether a person is a suitable person:

(a) to be or remain as a member of ICAC staff; or

(b) to be appointed or remain as an authorised officer; or

(c) to be delegated functions under section 125; or

(d) to perform functions under this Act in relation to a matter being dealt with by the ICAC.

(2) The ICAC may request the person to do any of the following:

(a) provide or consent to a criminal history check and, if necessary, provide biometric data for that purpose;

(b) undergo a police intelligence or integrity check;

(c) declare personal interests the ICAC considers relevant;

(d) undergo a medical or psychological assessment;

(e) make a statutory declaration in relation to matters determined by the ICAC to be relevant to the person's suitability.

(3) The ICAC may take into account the person's irrelevant criminal record, if:

(a) it appears relevant to the person's ability to be involved in a particular matter in a way that will be and appear to be impartial; or

(b) it may generally bring the ICAC's reputation for impartiality and integrity into disrepute; or

(c) it may affect the person's ability to carry out substantial parts of the person's role.

(3A) A person who has a recent political affiliation is not suitable to be a member of ICAC staff unless the person:

(a) in the case of a person referred to in section 123(1)(a), (b), (c) or (e) – satisfies both the ICAC and the Inspector that the person's past and present political opinion, affiliation or activity is sufficiently minor or remote so as not to affect the person's suitability to be a member of ICAC staff; or

(b) in the case of a person referred to in section 123(1)(d) – satisfies the ICAC that the person's past and present political opinion, affiliation or activity is sufficiently minor or remote so as not to affect the person's suitability to be a member of ICAC staff.

(4) The acts mentioned in subsections (2), (3) and (3A) are specifically authorised for section 53 of the *Anti-Discrimination Act 1992*.

127 Handling information regarding suitability

(1) Subject to subsection (2), the ICAC must not disclose any information about a person obtained as a result of action taken under section 126(2) to any person other than:

(a) the person; or

(b) the Inspector.

(2) The ICAC may disclose information mentioned in subsection (1) to the extent necessary for any proceeding relating to action taken in relation to the person to which the information is relevant.

(3) The ICAC must arrange for the secure storage of information mentioned in subsection (1) and for its destruction when it is no longer required.

128 Annual report

(1) The ICAC must give the ICAC Minister a report on the performance of the ICAC's functions during a financial year within 3 months after the end of the financial year.

(2) The report must include the following in relation to the financial year:

(a) the number and general nature of allegations of improper conduct made to the ICAC;

(ab) the number of concluded investigations by the ICAC of misconduct and unsatisfactory conduct, including the number of concluded investigations under each of the following:

(i) section 18A(1)(a);

(ii) section 18A(1)(b);

(b) the number and general nature of reports mentioned in section 22(5);

(ba) the number of times the ICAC gave a person a written notice under section 34(2) to attend the ICAC for examination but did not comprehensively state the nature of the matters about which the person was to be questioned because of the operation of section 34(2)(b)(i) or (ii);

(c) the number and general nature of referrals;

(d) the number of search warrants issued to authorised officers;

(e) the number and general nature of any other warrants issued to authorised officers under a law of the Territory;

(f) the number and general nature of non-disclosure directions given;

(g) an indication of the kinds of activities conducted by the ICAC to prevent, detect and respond to improper conduct and the results of those activities;

(h) an indication of the kinds of activities conducted by the ICAC to prevent and respond to retaliation and the results of those activities;

(i) in respect of each person who commenced being a member of ICAC staff during the financial year, whether an appropriate suitability check was carried out in accordance with section 126 before that person commenced being a member of ICAC staff;

(j) in respect of any member of ICAC staff to whom paragraph (i) does not apply, an outline of the governance arrangements the ICAC has in place to ensure:

(i) continued compliance with section 126; and

(ii) each member of ICAC staff remains suitable to be a member of ICAC staff.

(3) The ICAC Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the ICAC Minister receives the report.

129 Guidelines and practice directions for ICAC staff

(1) The ICAC must issue, and keep under review, guidelines for, or practice directions to, members of ICAC staff as to the manner in which functions under this Act are to be performed.

(2) The ICAC must issue the guidelines or practice directions within 2 months after the commencement of this section.

130 Website

(1) The ICAC must establish and maintain an appropriate website which includes the following information:

(a) an explanation of the ICAC's functions;

(b) contact details for the ICAC;

(c) an explanation of how to make an allegation of improper conduct to the ICAC;

(d) an explanation of how to make a complaint about the ICAC to the Inspector under the IEC Act;

(e) directions and guidelines issued under section 22;

(f) guidelines issued under section 106;

(g) guidelines and practice directions issued under section 129;

(h) annual reports of the ICAC;

(i) reports and public statements under Part 3, Division 7 that have been tabled in the Legislative Assembly or otherwise made available to the public.

(2) The ICAC is not required to publish on the website any information, if the ICAC considers the publication:

(a) may compromise an investigation or the safety or wellbeing of a person; or

(b) may prejudice the ICAC's ability to carry out the ICAC's functions by disclosing a methodology.

Division 3 Authorised officers

131 Appointment of authorised officers

(1) The ICAC may appoint, in writing, a person to be an authorised officer.

(2) The ICAC must not appoint a person to be an authorised officer unless satisfied that the person has the skills, qualifications, training and experience to properly perform the functions of an authorised officer.

(3) Without limiting subsection (2), the ICAC may require that a person successfully complete a course of training specified by the ICAC before the person may be appointed as an authorised officer.

(4) An appointment under this section may be for a specified period and may be subject to conditions or limitations specified in the notice of appointment.

132 Identity card

(1) The ICAC must give an authorised officer appointed under section 131 an identity card stating the person's name and that the person is an authorised officer.

(2) The identity card must:

(a) show a recent photograph of the authorised officer; and

(b) show the card's date of issue and expiry; and

(c) be signed by the officer.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

133 Return of identity card

(1) A person who ceases to be an authorised officer appointed under section 131 must return the person's identity card to the ICAC within 21 days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

Division 5 Offences

145 Offence to disclose certain information – official functions under this Act

(1) A person commits an offence if:

(a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and

(b) the person intentionally engages in conduct; and

(c) the conduct results in the disclosure of the information and the disclosure is not:

(i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act or a referral; or

(ii) to a person who is otherwise entitled to the information; and

(d) the person is reckless in relation to the result and circumstance referred to in paragraph (c).

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the person discloses the information for obtaining professional legal advice from a legal practitioner; or

(b) the person has knowledge of the information independently from obtaining it in the course of performing functions connected with the administration of this Act; or

(c) the person is an independent entity, or an officer or employee of an independent entity, and:

(i) the information is not identifying information; or

(ii) the information is identifying information but the person has given consideration to the principles mentioned in section 91 and disclosure is reasonably necessary to perform the functions of the independent entity; or

(d) the disclosure is authorised in writing by the ICAC or the Inspector; or

(e) the information is otherwise available to the public; or

(f) the person discloses the information believing on reasonable grounds that:

(i) circumstances of sudden or extraordinary emergency exist; and

(ii) disclosing the information is the only reasonable way to deal with the emergency; and

(iii) the disclosure is made in response to the risk and that risk significantly outweighs any risk to a protected person in disclosing the information; or

(g) the disclosure is reasonably required to protect a protected person.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

146 Unauthorised disclosure of information other than in performing official functions in administering this Act

(1) A person commits an offence if:

(a) the person obtains information from the ICAC, other than in the course of performing functions connected with the administration of this Act; and

(b) the information is confidential information and the person has knowledge of that circumstance; and

(c) the person intentionally engages in conduct; and

(d) the conduct results in the disclosure of the information and the person is reckless in relation to the result.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the person discloses the information:

(i) for the administration of this Act, including to a person specified in section 93(1)(b) for their administration of Part 6; or

(ii) for a legal proceeding if, after considering section 156, the court considers the disclosure is in the interests of justice; or

(iii) for obtaining professional legal advice from a legal practitioner; or

(iv) for obtaining professional assistance from a health practitioner or an accredited counsellor; or

(v) for obtaining spiritual assistance from a religious or spiritual advisor who is subject to ethical confidentiality obligations; or

(b) the person has knowledge of the information independently from obtaining it in the course of performing functions connected with the administration of this Act; or

(c) the information is information relating to the person and the person discloses it to a close family member; or

(d) the person is an independent entity, or an officer or employee of an independent entity, and:

(i) the information is not identifying information; or

(ii) the information is identifying information but the person has given consideration to the principles mentioned in section 91 and disclosure is reasonably necessary to perform the functions of the independent entity; or

(e) the disclosure is authorised in writing by the ICAC or the Inspector; or

(f) the person discloses the information believing on reasonable grounds that:

(i) circumstances of sudden or extraordinary emergency exist; and

(ii) disclosing the information is the only reasonable way to deal with the emergency; or

(g) the disclosure is reasonably required to protect a protected person.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

(4) In this section:

close family member of a person means any of the following:

(a) a spouse or de facto partner of the person;

(b) a parent or grandparent (by blood or marriage) of the person;

(c) a brother or sister (by blood or marriage) of the person;

(d) a guardian for, or carer of, the person.

confidential information means information about improper conduct or an allegation of improper conduct, other than information that is otherwise available to the public.

146A Identity of protected person to be kept confidential

(1) A person commits an offence if:

(a) the person obtains information about the identity of a protected person; and

(b) the person intentionally engages in conduct; and

(c) the conduct results in the disclosure of the information and the person is reckless in relation to that result.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the person discloses the information:

(i) for the administration of this Act; or

(ii) for a legal proceeding; or

(iii) for obtaining professional legal advice from a legal practitioner; or

(iv) for obtaining professional assistance from a health practitioner or an accredited counsellor; or

(v) for obtaining spiritual assistance from a religious or spiritual advisor who is subject to ethical confidentiality obligations; or

(b) the person is an independent entity, or an officer or employee of an independent entity, and the information is identifying information but:

(i) the person has given consideration to the principles mentioned in section 91; and

(ii) disclosure is reasonably necessary to perform the functions of the independent entity; or

(c) the disclosure is authorised in writing by the ICAC or the Inspector; or

(d) the person discloses the information believing on reasonable grounds that:

(i) circumstances of sudden or extraordinary emergency exist; and

(ii) disclosing the information is the only reasonable way to deal with the emergency; and

(iii) the disclosure is made in response to the risk and that risk significantly outweighs any risk to a protected person in disclosing the information; or

(e) the disclosure is only to the extent necessary to ensure the matters to which the information relates are properly investigated; or

(f) the disclosure is in accordance with any applicable guidelines issued under section 96.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

(4) The obligation to maintain confidentiality imposed by this section applies despite anything in this Act or any other law of the Territory to the contrary.

147 Direction not to disclose certain information

(1) The ICAC may, in writing, direct a person not to disclose information if the ICAC believes on reasonable grounds the information would:

(a) put a person at personal risk; or

(b) prejudice an investigation or activities related to an investigation.

(1A) A direction under subsection (1) may direct a person not to disclose to particular persons or classes of person or, subject to this section, to all persons, as specified in the direction.

(2) A direction under subsection (1) must include the following:

(a) if the regulations require the direction to be recorded in a register – the means of locating the direction in the register;

(b) the date the direction expires, which must be a date within 12 months after the date the direction is given, unless the direction is given to protect an individual's safety or wellbeing or to prevent disclosure of identifying information;

(c) a statement as to whether the direction is the first direction, or a subsequent direction, given to the same person in relation to the same information;

(d) a statement that the direction ceases to have effect if the information to which it relates becomes public knowledge.

(3) Failure to comply with subsection (2) does not invalidate the direction, but if no date is specified as mentioned in subsection (2)(b), the direction expires 6 months after the date it is given.

(4) A person given a direction under subsection (1) commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in a contravention of the direction and the person is reckless in relation to the result.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(5) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the disclosure is made:

(i) to a legal practitioner for obtaining professional legal advice; or

(ii) to a health practitioner or an accredited counsellor for obtaining professional assistance; or

(iii) to a religious or spiritual advisor who is subject to ethical confidentiality obligations, for obtaining spiritual assistance; or

(b) the person discloses the information believing on reasonable grounds that:

(i) circumstances of sudden or extraordinary emergency exist; and

(ii) disclosing the information is the only reasonable way to deal with the emergency; and

(iii) the risk that the disclosure is made in response to significantly outweighs any risk to a protected person in disclosing the information.

(6) A direction may be given to a person more than once under this section in relation to the same information.

147A Failing to comply with requirement for preliminary information or items from public bodies and public officers

A person commits an offence if:

(a) a requirement under section 24A is given to the person; and

(b) the person intentionally fails to comply with the requirement:

(i) if an oral response to a question is required – immediately; or

(ii) otherwise – within a reasonable time stated in the notice given under section 24A(3)(b).

Maximum penalty: 100 penalty units or imprisonment for 12 months or both.

148 Failing to comply with requirement for information or items during investigation

A person commits an offence if:

(a) a requirement under section 32 is given to the person; and

(b) the person intentionally fails to comply with the requirement:

(i) if an oral response to a question is required – immediately; or

(ii) otherwise – within a reasonable time stated in the notice given under section 32(3)(b).

Maximum penalty: 100 penalty units or imprisonment for 12 months or both.

149 Contravening notice to attend, or give evidence at, examination or public inquiry

A person commits an offence if the person intentionally fails to comply with a requirement applicable to the person under section 34.

Maximum penalty: 100 penalty units or imprisonment for 12 months or both.

150 Contravening direction of ICAC at public inquiry

A person commits an offence if the person intentionally contravenes a direction of the ICAC under section 46.

Maximum penalty: 100 penalty units or imprisonment for 12 months or both.

151 Contravening direction regarding whistleblowers

(1) A person must not contravene a direction of the ICAC under section 107.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

152 Falsely representing to be authorised officer

A person commits an offence if the person:

(a) intentionally represents, by words or conduct, that the person or another person is an authorised officer; and

(b) knows the representation is false.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

153 Obstruction of authorised officer

(1) A person commits an offence if:

(a) the person intentionally obstructs another person; and

(b) the other person is an authorised officer; and

(c) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

(3) In this section:

obstruct includes hinder and resist.

154 Misleading information

(1) A person commits an offence if:

(a) the person intentionally gives information to another person; and

(b) the information is misleading and the person has knowledge of that circumstance; and

(c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person intentionally gives a document to another person; and

(b) the document contains misleading information and the person has knowledge of that circumstance; and

(c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(3) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the other person's attention; and

(b) to the extent to which the person can reasonably do so – gives the other person the information necessary to remedy the misleading aspect of the document.

Part 8 Miscellaneous matters

155 Protection from liability – acting in official capacity

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith when acting, or purportedly acting, in an official capacity.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) This section does not derogate from Part VIIA of the *Police Administration Act 1978*.

(4) If a person is alleged to have acted in bad faith when acting, or purportedly acting, in an official capacity, a civil or criminal proceeding for the act may only be brought by leave of the Supreme Court.

(5) The Supreme Court is not to grant leave unless satisfied there are substantial reasons for believing the person acted in bad faith.

155A Time for commencing prosecutions

A prosecution for an offence against this Act (other than an offence against section 100(1)) must be commenced within 12 months after the date on which the offence is alleged to have been committed.

155B Powers of police officers

(1) An authorised officer may request a police officer to assist in the exercise of a power under this Act.

(2) The powers conferred by this Act on a police officer are in addition to, and do not limit, any other power the police officer may have under another law of the Territory.

156 Evidence in criminal proceedings

(1) The section applies if:

(a) a person is prosecuted for an offence; and

(b) the court before which the person is prosecuted considers it desirable that particular evidence given to the ICAC that a person is otherwise prohibited by this Act from disclosing be made available to:

(i) the defendant; or

(ii) a legal practitioner representing the defendant; or

(iii) the prosecutor.

(2) After giving the ICAC a reasonable opportunity to appear and make representations concerning the matter, the court may order that the ICAC make the evidence available to the court.

(3) The court may then make the evidence available to the defendant, the defendant's legal practitioner or the prosecutor, if the court has examined the evidence and is satisfied that the interests of justice so require.

157 Service

(1) A notice, direction or request under this Act may be given:

(a) by serving it on the recipient as authorised by section 25 of the *Interpretation Act 1978*; or

(b) by sending it to the recipient's email address as an attachment to an email.

(2) If it is impracticable to give a notice, direction or request as mentioned in subsection (1), or the ICAC becomes aware that a notice, direction or request so given has not come to the attention of the recipient, the ICAC may authorise it to be given in another manner.

Example for subsection (2)

The ICAC could authorise a notice, direction or request to be given to a recipient via a social media account operated by the recipient.

(3) Subject to evidence to the contrary, a notice, direction or request sent as mentioned in subsection (1)(b) is taken to be given to the recipient when it is sent to the recipient's email address.

Note for section 157

See section 25(2) to (4) of the Interpretation Act 1978 for when notices, directions or requests served as mentioned in subsection (1)(a) are taken to be served.

158 Dealing with unclaimed property

(1) This section applies to property that:

(a) is lawfully in the possession of the ICAC under this Act; and

(b) is not required for the performance of the ICAC's functions under this Act or proceedings arising out of the performance of those functions.

(2) The ICAC may apply to a court of competent jurisdiction for an order in relation to the property if it appears to the ICAC that no person is lawfully entitled to the property.

(3) The court may order that the property be dealt with as the court considers appropriate.

(4) Without limiting subsection (3), the court may:

(a) order that the property be forfeited to the Territory; and

(b) make any necessary incidental or ancillary orders.

(5) A person who is lawfully entitled to property that has been dealt with under this section may recover from the Territory, in a court of competent jurisdiction, the property or the value of the property, as a debt due to the person.

(6) In this section:

proceedings means any of the following:

(a) an investigation by a law enforcement agency or an Agency;

(b) a prosecution or a court proceeding;

(c) a hearing of the Assembly Committee.

159 Regulations

(1) The Administrator may make regulations under this Act.

(2) A regulation may provide for the following:

(a) registers to be kept by the ICAC;

(b) allowances to be paid to witnesses.

Note for section 159

See also Part VII, Division 2 of the Interpretation Act 1978.

Part 9 Repeal and transitional matters for Independent Commissioner Against Corruption Act 2017

Division 1 Repeal

160 Act repealed

The *Public Interest Disclosure Act 2008* (Act No. 38 of 2008) is repealed.

Division 2 Transitional matters

161 Definitions

In this Division:

commencement means the commencement of section 160.

discloser, see section 4 of the repealed Act.

PID Commissioner means the Commissioner for Public Interest Disclosures under the repealed Act.

public interest disclosure, see section 4 of the repealed Act.

repealed Act means the *Public Interest Disclosure Act 2008* as in force immediately before the commencement.

responsible authority, see section 8 of the repealed Act.

162 Protection continues for previous disclosures

Part 6 of this Act applies in relation to a public interest disclosure made under the repealed Act as if the disclosure were a protected communication.

163 Current investigations

(1) This section applies if an investigation of a public interest disclosure was started, but not completed, before the commencement.

(2) All information in the possession or control of the PID Commissioner immediately before the commencement in relation to the investigation is to be transferred to the ICAC.

(3) The ICAC is to deal with the matter as if the public interest disclosure were a protected communication made to the ICAC.

(4) Within a reasonable time after the commencement, the ICAC must give written notice to the discloser of the following:

(a) that the ICAC has inherited the matter;

(b) the action the ICAC has taken, or proposes to take, in relation to the matter.

164 Information and records to be transferred

(1) All information and records in the possession or control of the PID Commissioner immediately before the commencement, other than information covered by section 163, are to be transferred to the ICAC.

(2) Without limiting subsection (1), information and records which must be transferred include the following:

(a) any information relating to a disclosure or purported disclosure under section 10 of the repealed Act that does not relate to a current investigation, including information related to preliminary inquiries, informal referrals, formal referrals, past investigations and reports;

(b) any information that may disclose the identity of a discloser or purported disclosure, or that in any way relates to dealing with a discloser or purported discloser;

(c) any legal advice or information that relates to actual or potential legal proceedings;

(d) any confidential information obtained from a law enforcement agency.

165 Relocation of public officers

(1) Section 18 of the repealed Act continues to apply on and after the commencement in relation to a request made under that section before the commencement that had not been decided before the commencement.

(2) Section 19 of the repealed Act continues to apply on and after the commencement, as if a reference in that section to the PID Commissioner were a reference to the ICAC, in relation to:

(a) a decision made under section 18 of the repealed Act before the commencement, if the public officer had not applied for a review under section 19 of the repealed Act before the commencement; or

(b) an application for review under section 19 of the repealed Act made, but not decided, before the commencement; or

(c) a recommendation made, but not responded to, under section 19(5) of the repealed Act before the commencement.

166 Non-disclosure directions

(1) A direction in force under section 53B of the repealed Act immediately before the commencement remains in force after the commencement for a period of 6 months, unless revoked earlier, as if it were a direction given by the ICAC under section 147.

(2) A further direction may be given under section 147 in relation to the information to which a direction mentioned in subsection (1) relates as if section 147(1) included the matters mentioned in section 53B(1) of the repealed Act.

167 Protection from liability – acting in official capacity

A person who, before the commencement, was protected under section 56 of the repealed Act continues to be protected for an act done or omitted to be done before the repealed Act was repealed as if section 155 applied to the act or omission.

168 Report about implementing recommendations

(1) This section applies if, before the commencement, the PID Commissioner made a requirement under section 32(1) of the repealed Act but the responsible authority had not complied with the requirement before the commencement.

(2) Sections 32 and 33 of the repealed Act continue to apply on and after the commencement in relation to the requirement and, for that purpose:

(a) a reference in those sections to the PID Commissioner is a reference to the ICAC; and

(b) a reference in those sections to the Minister is a reference to the ICAC Minister.

169 Provisions if Act does not commence at start of financial year

(1) This section applies if the commencement is on a day other than 1 July.

(2) The first annual report of the ICAC under section 128, and the first evaluation of the ICAC under section 136, is to cover the period from the commencement to the end of the first full financial year after the commencement.

Part 10 Transitional matters

Division 1 Transitional matters for Judicial and Other Officers' Entitlements Legislation Amendment Act 2023

170 Application of long service leave provisions

(1) The following apply only to an ICAC who is appointed after the commencement of section 43 of the amending Act:

(a) section 116, as amended by the amending Act;

(b) Part 7, Division 1A.

(2) In this section:

amending Act means the *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*.

Division 2 Transitional matters for Independent Commissioner Against Corruption Amendment Act 2023

171 Definition

In this Part:

amending Act means the *Independent Commissioner Against Corruption Amendment Act 2023*.

172 Application of section 18A

Section 18A does not apply to any investigation that began before the commencement of that section.

173 Application of amendments to section 82

Section 82, as in force immediately before the commencement of section 26 of the amending Act, continues to apply for the purposes of a disciplinary proceeding that occurs after the commencement in relation to a representation made by a witness in evidence given to the ICAC or an authorised officer before the commencement.

174 Application of amendments to section 126

The amendments to section 126 by the amending Act do not apply to a person who was a member of ICAC staff immediately before the commencement of section 33 of the amending Act for as long as the person remains continuously employed or engaged as a member of ICAC staff after that commencement.

175 Application of amendments to section 143

The amendments to section 143 by the amending Act do not apply to a person who was a member of Inspector staff immediately before the commencement of section 42 of the amending Act for as long as the person remains continuously employed or engaged as a member of Inspector staff after that commencement.

176 Application of new defences included in sections 146 and 147

(1) The defences in section 146(3)(a)(v) and (f) also apply to an offence against section 146(1) committed before the commencement of section 44(2) of the amending Act.

(2) The defence in section 147(5)(a)(iii) also applies to an offence against section 147(4) committed before the commencement of section 46(2) of the amending Act.

177 Application of offences against sections 148 to 150

(1) Sections 148, 149 and 150, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.

(2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

(3) In this section:

commencement means the commencement of section 47 of the amending Act.

Note for section 177

See section 121(1) of the Sentencing Act 1995.

178 Application of section 155A

Section 155A also applies to an offence committed before the commencement of section 49 of the amending Act.

Division 3 Transitional matters for Integrity and Ethics Commissioner Act 2025

179 Application of amendment to section 121

The amendment to this Act by section 82 of the *Integrity and Ethics Commissioner Act 2025* applies to an acting ICAC in office on the commencement of that section.

180 Completion of annual or other evaluation

(1) Despite the repeal of Part 7, Division 4 by section 121 of the *Integrity and Ethics Commissioner Act 2025*, that Division, as in force before its repeal:

(a) continues to apply in relation to the evaluation under section 136 as in force before its repeal, until the report on the evaluation is tabled under section 137(4) as in force before its repeal; and

(b) continues to apply in relation to any other evaluation that was commenced under section 135(1)(ba), before its repeal, until:

(i) the Inspector takes action in relation to the evaluation under section 140 as in force before its repeal; or

(ii) the Inspector decides to take no action.

(2) For subsection (1)(a), the evaluation in relation to the financial year commencing 1 July 2025 is to be truncated to cover the period ending immediately before the repeal of Part 7, Division 4.

(3) The appointment power under section 134, as in force before its repeal, must continue to be exercised by the Administrator if:

(a) the office of Inspector becomes vacant; and

(b) an evaluation that was commenced before its repeal has not been tabled.

Schedule 1 Matters ICAC to take into account in performing functions

section 20

1 The object of this Act.

2 The public interest in the following:

(a) acting and being seen to act fairly and impartially;

(b) not interfering with an individual's rights, privileges or privacy, beyond what is reasonably necessary to carry out ICAC's functions effectively;

(c) upholding the rule of law;

(d) the separation of powers, including the independence of the judiciary and the Legislative Assembly's right to control its own affairs;

(e) cultural sensitivity and the reasonable accommodation of persons with special needs;

(f) persons in positions of seniority or power in the public sector exhibiting appropriate behaviour commensurate with those positions;

(g) public officers and public bodies taking responsibility for ensuring improper conduct is detected and dealt with appropriately;

(h) ensuring offences involving improper conduct are investigated and prosecuted;

(i) the general deterrence of improper conduct;

(j) the ICAC obtaining, and continuing to be able to obtain, information about improper conduct;

(k) minimising the risk of retaliation;

(l) the proper functioning of democratic processes;

(m) avoiding prejudice to current and possible future prosecutions.

3 The impact of the ICAC's activities on the following:

(a) the ability and capacity of public officers and public bodies to perform their functions, especially if those functions involve critical or front-line services;

(b) investigations by law enforcement agencies;

(c) current and possible future legal proceedings.

4 The need for the ICAC to target public resources most effectively, including by the following:

(a) considering alternatives to carrying out an investigation in order to prevent or minimise improper conduct;

(b) prioritising the most serious, systemic and sensitive matters;

(c) prioritising matters with present relevance;

(d) considering relevant statutory timeframes for related prosecution or disciplinary action;

(e) considering the extent to which a matter has already been investigated;

(f) considering the extent to which relevant and reliable evidence of improper conduct is available;

(g) referring matters to a referral entity;

(h) giving directions and guidance to a referral entity;

(i) taking back a matter from a referral entity;

(j) declining to investigate matters as appropriate;

(k) generally altering a course of action according to information received in order to meet changing circumstances.

5 Matters should be dealt with by the ICAC in private, unless it is in the public interest to do otherwise, taking into account the following:

(a) the desirability of the public sector being open and accountable to the public;

(b) the benefit of exposing improper conduct to public scrutiny;

(c) the extent to which allegations of improper conduct are already in the public domain;

(d) the extent to which allegations of improper conduct raise issues of continuing public interest;

(e) the risk that a person may suffer undue hardship, including undue prejudice to the person's reputation;

(f) the needs of persons who have assisted in identifying or investigating improper conduct and particularly the need to protect information that may identify those persons;

(g) any views expressed by persons who would be affected by a decision whether to handle a matter in private or public;

(h) the educational value and benefit to research and policy development of sharing details of matters about which the ICAC has particular knowledge.

6 Any other circumstances the ICAC considers relevant.

Schedule 2 Information for persons making protected communications

section 98

1 A statement that:

(a) reporting improper conduct so that it can be dealt with is encouraged by the ICAC; and

(b) the person is not entitled to know the full details of subsequent investigations or disciplinary action that may result from the information, but the person may contact the ICAC's Office for a general outline of action taken on the basis of the information; and

(c) keeping the person's identity confidential reduces the risk of retaliation; and

(d) the person is responsible for seeking assistance at an early opportunity if they experience or fear retaliation; and

(e) the person consider accessing support services at an early opportunity to assist them to consider and manage the impacts of making the protected communication.

2 An indication of who is likely to be given access to the information in the communication and what is likely to be done with the information.

3 Advice to the person:

(a) to take care in communicating the information to other persons in ways that are not protected communications; and

(b) of the ability of the person to apply for a declaration that an action taken by the person in relation to the information is a protected communication.

4 Information about what constitutes retaliation and what the person can do if they experience or fear retaliation.

5 A statement of the importance of not providing false or misleading information, the penalties for providing that information and the opportunity to retract or clarify that information.

6 Information about support services mentioned in item 1(e).

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Independent Commissioner Against Corruption Act 2017* (Act No. 23, 2017)**

Assent date	8 December 2017
Commenced	30 November 2018 (*Gaz* S94, 30 November 2018)

***Independent Commissioner Against Corruption (Consequential and Related Amendments) Act 2018* (Act No. 3, 2018)**

Assent date	21 February 2018
Commenced	30 November 2018 (s 2, s 2 *Independent Commissioner Against Corruption Act 2017* (Act No. 23, 2017) and *Gaz* S94, 30 November 2018)

***Statute Law Revision Act 2018* (Act No. 10, 2018)**

Assent date	23 May 2018
Commenced	20 June 2018 (*Gaz* S41, 20 June 2018)

***Integrity and Accountability Legislation Amendment Act 2019* (Act No. 23, 2019)**

Assent date	9 August 2019
Commenced	10 August 2019 (s 2)

***Judicial Commission Act 2020* (Act No. 17, 2020)**

Assent date	1 July 2020
Commenced	10 November 2021 (*Gaz* G45, 10 November 2021, p 1)

***Judicial and Other Officers' Entitlements Legislation Amendment Act 2023* (Act No. 14, 2023)**

Assent date	31 May 2023
Commenced	1 June 2023 (s 2)

***Independent Commissioner Against Corruption Amendment Act 2023* (Act No. 29, 2023)**

Assent date	13 November 2023
Commenced	s 45: 2 January 2024 (s 2(2)); rem: 14 November 2023 (s 2(1))

***Justice and Other Legislation Further Amendment Act 2024* (Act No. 9, 2024)**

Assent date	24 May 2024
Commenced	pt 4: 1 July 2024 (s 2(2)), s 2 *Health Care Decision Making Act 2023* (Act No. 19, 2023) and *Gaz* G13, 20 June 2024, p 2); pts 9 and 10: 1 July 2024 (s 2(3)); pt 8: 19 March 2026 (s 2(5)); rem: 25 May 2024 (s 2(1))

***Integrity and Ethics Commissioner Act 2025* (Act No. 32, 2025)**

Assent date	27 November 2025
Commenced	ss 3 to 7 and pts 2 to 6 and 8: 1 June 2026 (s 2(2) and *Gaz* S39, 29 May 2026); rem: 28 November 2025 (s 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 15, 16, 25, 61, 70, 78, 79, 93, 102, 104, 112, 125, 126, 155, 157, 159 and 161 and lt.

4 LIST OF AMENDMENTS

s 3	sub No. 29, 2023, s 4
s 4	amd No. 17, 2020, s 80; No. 29, 2023, s 5; No. 32, 2025, s 108
s 10	amd No. 29, 2023, s 6
s 11	amd No. 10, 2018, s 6
s 15	amd No. 29, 2023, s 52
s 16	amd No. 32, 2025, s 109
s 17	amd No. 32, 2025, s 110
s 18	amd No. 29, 2023, s 7
s 18A	ins No. 29, 2023, s 8
s 21	amd No. 32, 2025, s 111
s 22	amd No. 32, 2025, s 112
pt 3	
div 2 hdg	amd No. 29, 2023, s 52
s 23	amd No. 29, 2023, s 9
s 24A	ins No. 29, 2023, s 10
s 25	amd No. 17, 2020, s 81
s 25A	ins No. 17, 2020, s 82
s 27	amd No. 29, 2023, s 11
s 28	amd No. 17, 2020, s 83
s 30A	ins No. 29, 2023, s 12
s 34	amd No. 29, 2023, s 13
s 37	amd No. 29, 2023, s 52
s 38A	ins No. 29, 2023, s 14
s 45	amd No. 29, 2023, s 52
s 48	amd No. 29, 2023, s 15
s 50	amd No. 29, 2023, s 16
s 50A	ins No. 29, 2023, s 17
s 51	amd No. 29, 2023, s 18
s 52	rep No. 29, 2023, s 19
s 55	amd No. 29, 2023, s 20
s 59	amd No. 29, 2023, s 21
s 60	sub No. 29, 2023, s 22
s 65	amd No. 29, 2023, s 23; No. 32, 2025, s 113
s 71	amd No. 29, 2023, s 24

s 75	sub No. 29, 2023, s 25
s 82	amd No. 29, 2023, s 26
s 83A	ins No. 29, 2023, s 27
s 85	amd No. 29, 2023, s 28
s 93	amd No. 29, 2023, s 29; No. 32, 2025, s 114
s 98	amd No. 29, 2023, s 30; No. 32, 2025, s 115
s 101	amd No. 29, 2023, s 52
s 110	amd No. 29, 2023, s 31
s 112	amd No. 29, 2023, s 52
pt 7	
div 1AA hdg	ins No. 29, 2023, s 32
s 112A	ins No. 29, 2023, s 32
pt 7	
div 1 hdg	rep No. 32, 2025, s 116
s 113	rep No. 32, 2025, s 116
s 114	amd No. 29, 2023, s 52
	rep No. 32, 2025, s 116
s 115	rep No. 32, 2025, s 116
s 116	amd No. 14, 2023, s 42
	rep No. 32, 2025, s 116
ss 117 – 120	rep No. 32, 2025, s 116
s 121	amd No. 32, 2025, s 82
	rep No. 32, 2025, s 116
s 122	rep No. 32, 2025, s 116
pt 7	
div 1A hdg	ins No. 14, 2023, s 43
	rep No. 32, 2025, s 116
ss 122A – 122D	ins No. 14, 2023, s 43
	rep No. 32, 2025, s 116
s 124	amd No. 32, 2025, s 117
s 125	amd No. 32, 2025, s 118
s 126	amd No. 29, 2023, s 33; No. 32, 2025, s 119
s 128	amd No. 29, 2023, s 34
s 130	amd No. 32, 2025, s 120
pt 7	
div 4 hdg	rep No. 32, 2025, s 121
s 134	amd No. 23, 2019, s 18; No. 29, 2023, s 35
	rep No. 32, 2025, s 121
s 134A	ins No. 29, 2023, s 36
	rep No. 32, 2025, s 121
s 135	amd No. 29, 2023, s 37
	rep No. 32, 2025, s 121
s 135A	ins No. 29, 2023, s 38
	rep No. 32, 2025, s 121
ss 136 – 138	rep No. 32, 2025, s 121
s 139	amd No. 29, 2023, s 39
	rep No. 32, 2025, s 121
ss 139A – 139C	ins No. 29, 2023, s 40
	rep No. 32, 2025, s 121
s 140	rep No. 32, 2025, s 121
s 140A	ins No. 29, 2023, s 41
	rep No. 32, 2025, s 121
s 141	rep No. 32, 2025, s 121
s 142	amd No. 29, 2023, s 52; No. 9, 2024, s 42
	rep No. 32, 2025, s 121

s 143	amd No. 29, 2023, s 42
	rep No. 32, 2025, s 121
s 144	rep No. 32, 2025, s 121
s 144A	ins No. 29, 2023, s 43
	rep No. 32, 2025, s 122
s 145	sub No. 29, 2023, s 43
s 146	amd No. 29, 2023, s 44
s 146A	ins No. 29, 2023, s 45
s 147	amd No. 29, 2023, s 46; No. 32, 2025, s 123
s 147A	ins No. 29, 2023, s 47
ss 148 – 150	sub No. 29, 2023, s 47
s 151A	ins No. 29, 2023, s 48
	amd No. 32, 2025, s 124
ss 155A – 155B	ins No. 29, 2023, s 49
s 158	amd No. 29, 2023, s 50
s 164 hdg	amd No. 3, 2018, s 20
pt 10 hdg	exp No. 23, 2017, s 178
	ins No. 14, 2023, s 44
pt 10 div 1 hdg	exp No. 23, 2017, s 178
	ins No. 14, 2023, s 44
s 170	exp No. 23, 2017, s 178
	ins No. 14, 2023, s 44
pt 10 div 2 hdg	exp No. 23, 2017, s 178
	ins No. 29, 2023, s 49
ss 171 – 178	exp No. 23, 2017, s 178
	ins No. 29, 2023, s 49
pt 10 div 3 hdg	exp No. 23, 2017, s 178
	ins No. 32, 2025, s 83
s 179	ins No. 32, 2025, s 83
s 180	ins No. 32, 2025, s 125
pt 10 div 4 hdg	exp No. 23, 2017, s 178