

CLAUSE NOTES

Integrity Commission Amendment Bill 2026

Clause 1 **Short title**

This clause provides that the short title of the Act will be the *Integrity Commission Amendment Act 2026*

Clause 2 **Commencement**

This clause provides that the provisions of the Act (the *Integrity Commission Amendment Act 2026*) will commence on proclamation.

Clause 3 **Principal Act**

This clause specifies that the Act being amended is the *Integrity Commission Act 2009* (the Act).

Clause 4 **Section 3 amended (Object and objectives)**

This clause amends section 3(2)(c) to omit 'preventative' and substitute 'misconduct prevention' as an objective of the Integrity Commission, to strengthen and clarify its focus on misconduct prevention.

Clause 5 **Section 4 amended (Interpretation)**

This clause makes amendments to section 4(1) to amend existing definitions and insert new terms:

- the definition of '*integrity entity*' is amended to include a Tasmanian national preventive mechanism
- the definition of '*local authority*' is amended to include an audit panel established under the *Local Government Act 1993*
- the definition of '*public officer*' is amended to clarify that volunteers who, subject to the direction or control of a public authority, perform or exercise statutory functions or powers, come within the definition of 'public officer' for the purposes of the Act.
- a new definition of '*premises*' is inserted. Under this new definition, the term 'premises' includes land, buildings, aircrafts, vehicles and vessels.

Clause 6 **Section 9 amended (Principles of operation of Integrity Commission)**

This clause amends section 9 to clarify that, in performing its functions and exercising its powers, the Integrity Commission is to deal primarily with matters of serious misconduct by public officers and misconduct by designated public officers.

Clause 7 Section 11 amended (Annual and other reports)

This clause amends section 11 to make it clear the Integrity Commission can make a report to Parliament, at any time, relating to the performance of its functions or exercise of its powers under the Integrity Commission Act.

This report may include such information as the Integrity Commission considers necessary.

Clause 8 Section 16 amended (Delegation)

This clause amends section 16 by omitting subsection (3). Subsection (3) is unnecessary as section 23AA of the *Acts Interpretation Act 1931* already applies to the Act.

Clause 9 Section 21 amended (Authorised persons)

This clause makes various technical amendments to section 21 to clarify that persons undertaking any work for the Integrity Commission can be authorised. This is intended to bring administrative work such as the transcription of recordings or proceedings or the maintenance of the computer network within the scope of section 21.

This clause also makes amendments to clarify that arrangements with either the Commissioner of Police or a law enforcement agency extend to own motion investigations.

Clause 10 Section 26 amended (Report to Parliament)

This clause amends section 26 to change the time at which the Joint Standing Committee on Integrity (JSC) must provide its annual report to Parliament from November to March. The purpose of this change is to allow the JSC to have sufficient time to consider the Integrity Commission's annual report before providing its own annual report.

Clause 11 Section 28 amended (Function of Parliamentary Standards Commissioner)

This clause amends section 28 to allow the Parliamentary Standards Commissioner to provide a report to Parliament on the performance of their functions under the Act.

Clause 12 Section 30 amended

This clause amends section 30 to allow the chief executive officer to review entries in the Parliamentary disclosure of interests register and, following that review, to make recommendations or provide advice to Members of Parliament, the Clerk of the Houser of Assembly or the Clerk of the Legislative Council.

Clause 13 Part 4: Heading amended

This clause amends the heading of Part 4 to read 'Misconduct Prevention'.

Clause 14 Section 31 amended (Educative, misconduct prevention and advisory functions)

This clause makes technical changes to section 31 to clarify that the Integrity Commission's preventative functions relate to misconduct prevention.

Clause 15 Section 35 amended (Assessment of complaint)

This clause makes various amendments to section 35 in relation to the actions that can be taken on receipt of a complaint, including:

- to require the chief executive officer of the Integrity Commission to immediately refer a complaint or part of a complaint against a public officer to the police if the chief executive officer suspects on reasonable grounds a criminal offence has been committed
- to allow the chief executive officer to follow up on what has happened in relation to a complaint referred to the police by requiring a report on the action that the police intend to take, or to monitor or audit any action taken
- to make it clear that the referral of a complaint (or part of a complaint) does not prevent the Integrity Commission from dealing with the complaint or any part of the complaint, for example, if a complaint concerning criminal conduct also concerns potential systemic misconduct issues
- to clarify that in referring a complaint, the chief executive officer is also to provide the necessary documents or information to allow the complaint to be actioned. The chief executive officer may remove or redact private or confidential information from the documents or information.

This clause also makes an amendment to clarify that an assessor may exercise specified powers of an investigator (to

require (by written notice) a person to produce any record, information, material or thing that the person has in their custody or control) to the extent that it is reasonably necessary in the circumstances.

Clause 16 Section 36 amended (Dismissal of complaint)

This clause makes a technical amendment to section 36 to remove any ambiguity and make it clear that the chief executive officer can dismiss a complaint prior to an assessment or investigation.

Clause 17 Section 37 amended (Report of assessor)

This clause amends section 37 to specify a timeframe for when the assessor's report must be submitted to the chief executive officer. The assessment report is to be submitted within 40 days after the appointment of the assessor to assess the complaint. This period can be extended by the chief executive officer.

This clause also makes an amendment to the recommendations that an assessor can make. Under this amendment, an assessor's report can include a recommendation that the Board of the Integrity Commission recommend the establishment of a Commission of Inquiry.

Clause 18 Section 38 amended (Actions of chief executive officer on receipt of assessment)

This clause amends section 38 to clarify that in referring a complaint the chief executive officer is also to provide the necessary documents or information to allow the complaint to be actioned. The chief executive officer may remove or redact private or confidential information from the documents or information.

Section 38 is also amended to make it clear that the referral of a complaint (or part of a complaint) does not prevent the Integrity Commission from dealing with the complaint or any part of the complaint.

This clause also makes an amendment to the determinations that the chief executive officer can make on receiving a report from an assessor. Under this amendment, the chief executive officer can make a determination to recommend to the Board of the Integrity Commission that the Board recommend the establishment of a Commission of Inquiry.

Clause 19 Section 39 amended (Referral of complaint to relevant public authority)

This clause makes technical amendments to section 39(2) to make it clear that the chief executive officer may undertake any

or all of the following actions in referring a complaint to a public authority for investigation:

- require the public authority to provide progress reports on the investigation
- monitor the investigation
- audit the investigation.

Clause 20 Section 42 amended (Referral of complaint to Commissioner of Police)

This clause makes technical amendments to section 40(2) to make it clear that the chief executive officer may undertake any or all of the following actions in referring a complaint to the Commissioner of Police for investigation:

- require the Commissioner of Police to provide progress reports on the investigation
- monitor the investigation
- audit the investigation.

Clause 21 Section 43 amended (Referral of complaint to other person)

This clause makes technical amendments to section 43(2) to make it clear that the chief executive officer may undertake any or all of the following actions in referring a complaint to a person for investigation:

- require the person to provide progress reports on the investigation
- monitor the investigation
- audit the investigation.

Clause 22 Section 44 amended (Appointment of investigator)

This clause makes a minor technical amendment to section 44 to clarify that more than one investigator can be appointed for an investigation.

Clause 23 Section 45 amended (Own-motion investigation)

This clause amends section 45:

- to clarify that more than one investigator may be appointed to conduct an own-motion investigation
- to clarify that in addition to the matters specified in section 45(2)(a) – (d), the Board can require an investigation into any matters it considers relevant
- To allow the Board to discontinue an own-motion investigation.

Clause 24 Section 46 amended (Procedure on investigation)

This clause amends section 46 to clarify that any person authorised by the chief executive officer to assist an investigator may exercise the powers of an investigator as specified in the authorisation.

This clause also makes an amendment to section 46 to remove the requirement for procedural fairness as this requirement has been moved to the proposed new section 56 (refer to clause note for clause 32).

Clause 25 Section 47 amended (Conduct of investigation)

This clause makes two amendments to section 47.

Section 47 sets out the powers an investigator can exercise in conducting an investigation. Under section 47(1), an investigator may, by written notice, require or direct a person to do various things including providing information, attending to give evidence and producing any record, information or thing.

This clause inserts a new provision into section 47 (section 47(2A)) to provide for oversight by the chief executive officer of the exercise of the powers under section 47(1) given their coercive nature, i.e., there are penalties under section 54 for non-compliance with a section 47(1) notice. Under the new section 47(2A), an investigator may only give a section 47(1) notice with the approval of the chief executive officer.

The second amendment to section 47 inserts a new provision – section 47(3A) - to clarify that if a person gives evidence via telephone, video or other means of communication, the investigator may administer the oath or affirmation by the same means.

Clause 26 Section 49 (Representation) substituted

This clause repeals section 49 and substitutes a new section.

The new section 49 provides an entitlement to representation by a legal practitioner or agent for a person who is required or directed to give evidence or answer questions during an investigation.

However, this is subject to the qualifications that:

- representation may be refused if the legal practitioner or agent is already involved in an investigation or inquiry under the Act or is suspected to be involved in a matter being investigated under this Act (this does not include representing another party in connection with an investigation, inquiry or matter under the Act)

- a person is not entitled to unreasonably postpone giving evidence or answering questions solely because their preferred legal practitioner or agent is unavailable.

Clause 27 Section 51 amended (Search warrants)

This clause amends section 51 to address some internal inconsistencies.

An amendment is made to section 51(3) to clarify that a search warrant authorises an investigator and any person assisting an investigator, to exercise the powers that are specified in the warrant.

This clause also amends section 51(4)(a) to introduce a reasonableness test in relation to the level of force that may be used to enter premises and exercise powers. Under the existing provisions, an investigator may use 'any necessary force'. The amended provision instead provides that the investigator may use such force as is reasonably necessary. This is consistent with the use of force under section 52(4) of the Act.

Clause 28 Section 52 amended (Powers of investigator while on premise)

This clause makes technical amendments to section 52 to clarify its operation and resolve inconsistencies with other provisions.

Section 52(2) provides that any record, information, material or thing obtained by an investigator may be used for the purposes of the investigation or inquiry. This clause clarifies that the application of section 52(2) extends to records, information, materials or things obtained by a person assisting an investigator.

Section 52(3) requires an investigator to issue a receipt if they take anything away from the premises searched. The receipt is to be in a form approved by the Board. This is at odds with other processes in Part 6 (investigations) which require the approval of the chief executive officer – not the Board. This clause makes an amendment to section 52(3) to ensure consistency with other provisions by providing that the receipt is to be in a form approved by the chief executive officer (instead of the Board).

Clause 29 Section 53 amended (Application for use of surveillance device)

This clause amends section 53(1) to clarify that it applies to investigations rather than complaints.

As currently drafted, section 53(1) provides that in the case of a complaint of serious misconduct, an investigator may apply for a

warrant under Part 2 of the *Police Powers (Surveillance Devices) Act 2006*.

This clause amends section 53(1) by replacing the words ‘a complaint of’ with ‘an investigation into’ to make it clear that a warrant can be obtained in relation to an own-motion investigation as well as for investigations relating to a complaint.

Clause 30 Section 54 amended (Offences relating to investigations)

This clause makes amendments to section 54.

As currently drafted, section 54(1) provides an offence for failure to comply with a requirement or direction under a section 47 notice within 14 days of receiving it.

This clause amends the section 54(1) timeframe from 14 days to the time specified in the notice. This is to allow flexibility around the timeframe as in some cases, immediate action may be required in response to a notice and in other cases, a longer period may be necessary.

In addition, this clause removes section 54(2) as this provision has been subsumed into the new section 95A (refer to the clause note for clause 46).

Clause 31 Section 55 amended (Investigator’s report)

This clause makes technical amendments to section 55 to clarify the process once an investigator has completed an investigation. Under the amended provision the investigator is to prepare a report of the investigation and submit it to the chief executive officer. The requirement for the chief executive officer to submit a report of the investigation to the Board has been removed from this provision given that other processes are required before the matter progresses to the Board.

Clause 32 Section 56 substituted

56. Opportunity to provide comments on investigation

This clause repeals section 56 and substitutes a new provision.

The new section 56 provides more detail around procedural fairness processes. It provides that before finalising a report for submission to the Board, the chief executive officer:

- may provide information in relation to the investigation to the principal officer of the relevant public authority or any other person who, in the chief executive officer’s opinion, has a special interest in the investigation
- must provide information in relation to the investigation to the public officer who is the subject of the investigation.

The new section 56 entitles a person provided with the information indicated above to make written submissions or comments on the investigation within the specified time. These submissions or comments (or a fair summary) must be included in the chief executive officer's report to the Board.

Clause 33 Section 57 amended (Report by chief executive officer)

This clause makes amendments to clarify the operation of section 57.

Section 57(1) is amended to require the chief executive officer to give the Board a report on the outcome of an investigation (this includes an own-motion investigation), along with a recommendation or recommendations.

A new section 57(2A) is inserted to provide that if the chief executive officer recommends that the report and other information obtained in the conduct of an investigation be referred to a person, for example, the principal officer of the relevant public authority or the Commissioner of Police, the chief executive officer can also recommend the redaction or removal of specified private or confidential information relating to a person (for example – the name of the person who made a complaint).

Clause 34 Section 58 amended (Determination of Board)

This clause makes amendments to clarify the operation of section 58.

Under the amendments, section 58(3) is replaced with a new provision specifying the actions the Board may take if it decides to refer a report or matter to a person such as (for example) the principal officer of the relevant public authority or the Commissioner of Police. The new section 58(3) provides that the Board may include any additional information it considers relevant, make any recommendations as to the action that should be taken in relation to the matter, and redact or remove private or confidential information relating to a person (for example – the name of the person who made the complaint).

Clause 35 Section 66 amended (Right of representation)

This clause amends section 66 to clarify the entitlement to representation by a legal practitioner or agent for a person who is appearing before an Integrity Tribunal.

The entitlement to representation is subject to the qualifications that:

- representation may be refused if the legal practitioner or agent is already involved in an investigation or inquiry under the Act or is suspected to be involved in a matter being investigated under this Act (this does not include representing another party in connection with an investigation, inquiry or matter under the Act)
- for the avoidance of doubt, provides that a person is not entitled to unreasonably postpone giving evidence or answering questions solely because their preferred legal practitioner or agent is unavailable. If that were the case, the person can engage a legal practitioner or agent who is available to support them in a reasonable time.

Clause 36 Section 71 amended (Conduct of inquiry)

This clause amends section 71 to clarify the administration of the oath or affirmation where a person is giving evidence at a hearing remotely by telephone, video conference or other means of communication.

Clause 37 Section 73 amended (Search warrants)

This clause amends section 73 to clarify its operation and address inconsistencies with other provisions.

Section 73(3) is amended to clarify that the powers specified in a search warrant extend to a person assisting an inquiry officer. This ensures consistency with other provisions (including section 73(4)) which explicitly state that they apply to an inquiry officer and any person assisting an inquiry officer.

This clause also makes an amendment to section 73(4)(a) to introduce a reasonableness test in relation to the level of force that can be used to enter premises and exercise powers. Under the existing provisions, an inquiry officer (and any person assisting the inquiry officer) may use 'any necessary force'. The amended provision instead provides that the investigator may use such force as is reasonably necessary. This is consistent with the use of force under section 74(4) of the Act.

Clause 38 Section 74 amended (Powers of inquiry officer while on premises)

This clause amends section 74 to clarify its operation and address inconsistencies with other provisions.

Section 74 provides for the powers of an inquiry officer (assisting with the conduct of an inquiry by the Integrity Tribunal) when on premises. Similar powers are provided to investigators under section 52.

While section 52 extends the powers of an investigator to any person assisting an investigator, the powers in section 74 are limited to an inquiry officer. This is also inconsistent with section 73(4)(a) which provides for a search warrant to authorise entry to premises by an inquiry officer and any person assisting an inquiry officer.

This clause amends sections 74(1) and (2) to extend the relevant powers to a person assisting an inquiry officer.

In addition, this clause makes an amendment to section 74(3). Section 74(3) requires an inquiry officer to issue a receipt if they take anything away from the premises searched. The receipt is to be in a form approved by the Integrity Commission. This is at odds with other provisions and processes in the Act which require the approval of the chief executive officer – not the Integrity Commission. This clause makes an amendment to section 74(3) to ensure consistency with other provisions by providing that the receipt is to be in a form approved by the chief executive officer (instead of the Integrity Commission).

Clause 39 Section 83 amended (Legal costs of witnesses)

This clause amends section 83 in relation to the legal costs of witnesses. As currently drafted, section 83 allows a witness to apply to the chief executive officer for financial assistance in relation to the witness's legal costs. If payment is approved, then under subsection 83(3), the costs are to be taxed by a taxing officer of the Supreme Court.

Under this clause, section 83(3) is omitted and substituted with two new provisions.

The new section 83(3) permits the chief executive officer to agree the quantum of costs. If agreement cannot be reached, the amount of costs is to be taxed by a taxing officer.

The new section 83(3A) provides that if the taxing officer assesses the costs at less than the highest amount offered by the chief executive officer, the chief executive officer may pay the lower amount, and the witness is to bear the costs of the taxation.

Clause 40 Section 87 amended (Investigation or dealing with misconduct by designated public officers)

This clause makes amendments to section 87 to clarify its operation.

The amendments clarify that the assessment process under Part 5 of the Act applies to complaints made in relation to designated public officers.

In addition, the amendments make it clear that the Integrity Commission is to investigate complaints relating to misconduct by designated public officers. It can only refer a complaint to a relevant public authority for investigation in limited circumstances. To be able to make such a referral, the chief executive officer is to be satisfied that it is appropriate to do so having regard to:

- the nature and seriousness of the allegation of misconduct
- the public interest
- appropriate use of resources and
- other prescribed matters.

Clause 41 Section 88 amended (Integrity Commission's role in relation to police misconduct)

This clause makes amendments to section 88 (police misconduct) to clarify its operation.

The amendments clarify that the Integrity Commission is to refer a complaint about police misconduct to the Commissioner of Police unless the chief executive is satisfied that it is not appropriate to do so having regard to the public interest and any matters that could adversely impact on the investigation being completed by the police. In addition, the Integrity Commission cannot refer a complaint relating to police misconduct by a commissioned police officer.

Clause 42 Section 89 amended (Own-motion investigations)

This clause amends section 89 to allow the Board to discontinue an own-motion investigation relating to police misconduct.

Clause 43 Section 91A inserted
91A. Return of complaint to Integrity Commission

This clause inserts a new provision (section 91A) allowing a complaint that has been referred to a person, public authority or integrity entity to be returned to or taken back by the Integrity Commission in certain circumstances.

Under the new section 91A, a person, public authority or integrity entity can refer a complaint back to the Integrity Commission (with the Integrity Commission's agreement) if there has been a material change to the factual or evidentiary circumstances, or it is not within the capacity of the person, authority or entity to complete the investigation.

The new section 91A also allows the Integrity Commission to take over the investigation of a referred complaint if the Integrity Commission is of the opinion that:

- it is in the public interest to do so: or
- the person, authority or entity that the complaint was referred to has failed to take appropriate action.

If the Integrity Commission assumes responsibility for the investigation, the person, authority or entity that the complaint was referred to, must stop their investigation or any other action if directed to by the Integrity Commission.

Clause 44 Section 94 amended (Information confidential)

This clause makes amendments to clarify the application of the non-disclosure obligations under section 94.

Section 94 prohibits an information holder from disclosing any document or information obtained in accordance with the Act except in specified circumstances. An information holder is a person who is or has been:

- a member of the Board
- the Parliamentary Standards Commissioner
- an officer or employee of the Integrity Commission
- an assessor or investigator
- a person authorised or appointed to undertake work on behalf of the Integrity Commission
- a member of the Joint Committee
- a member of an Integrity Tribunal
- an inquiry officer or person appointed to assist an Integrity Tribunal.

The amendments make it clear this prohibition also applies to any other person who has access to documents or information in the course of their employment, engagement, functions or duties with the information holder.

Clause 45 Section 95 amended (Protection from personal liability)

This clause amends section 95 to extend the protections from personal liability to a person acting under direction of the persons already protected by section 95. For example, under the current

section 95, members of the Board are protected from personal liability for actions or omissions made in good faith in the exercise of any powers or functions under the Act. Under this amendment, a person who is acting under the direction of a Board member will also be protected from personal liability.

Clause 46**Section 95A inserted****95A. Prohibition on victimisation**

This clause creates inserts a new provision (section 95A) to prohibit a person from threatening, suggesting, using, causing, inflicting or instigating any violence, punishment, damage, loss or disadvantage against another person because that person provided any information, record, material or other thing relating to a complaint or investigation under the Act.

A breach of this provision carries a penalty of a fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding 12 months.

Clause 47**Section 96 amended (False or misleading statements)**

This clause amends section 96 to clarify that it is an offence when giving information under the Act to knowingly make a false or misleading statement or to omit any matter from a statement knowing that without that matter the statement will be false or misleading.

Clause 48**Sections 97 and 98 substituted****97. Destruction or alteration of records or things****98. Certain notices to be confidential documents**

This clause repeals sections 97 and 98 and substitutes new provisions.

New section 97:

The new section 97 clarifies that a person must not knowingly destroy, dispose or alter a record for the purposes of misleading:

- a person performing a function or power under the Act, or
- an integrity entity, Parliamentary integrity entity or other person to whom a complaint has been referred.

A breach of this provision carries a penalty of a fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding 12 months.

New section 98:

The new section 98 clarifies obligations relating to confidentiality.

The new provision establishes the following offences:

- section 98(4) prohibits a person who is given or served with a confidential notice from disclosing any information in relation to the notice unless they have a reasonable excuse
- section 98(5) prohibits a person who has been given any information about a confidential notice from disclosing the existence of that information unless they have a reasonable excuse,
- section 98(6) requires a person disclosing information about a confidential notice to tell the person to whom they are disclosing that it is an offence to disclose the information to another person unless they have a reasonable excuse.

Information in relation to a confidential notice includes the existence and contents of the notice, and any matter relating to or arising from the notice.

The new section 98(2) specifies a non-exhaustive list of matters relating to or arising from a confidentiality notice including:

- obligations or duties imposed on any person by the notice
- any evidence or information produced or provided to the Integrity Commission or an Integrity Tribunal
- the contents of any document seized under the Act
- any information that might enable a person who is the subject of an assessment, investigation or inquiry to be identified or located
- the fact that any person has been required or directed by an assessor, an investigator, an inquiry officer or an Integrity Tribunal to provide information, attend an inquiry, give evidence or produce anything.

In addition, the Integrity Commission may declare any matter in a confidentiality notice to be confidential information if its disclosure would be likely to prejudice an assessment, investigation or inquiry under the Act, the safety, reputation or fair trial of a person, or the interests of justice.

Section 98(7) includes examples of what may constitute a reasonable excuse for disclosure, including:

- that the person was not informed, and could not reasonably have been expected to know, that the information related to a confidential notice
- that the disclosure was made for the purpose of obtaining legal advice in relation to the notice or an offence under section 98

- that the disclosure was made to obtain information or assistance to comply with the notice or
- that the disclosure was made for the purpose of the administration of the Act.

The Integrity Commission or an Integrity Tribunal may, on its own initiative or on application, advise that a notice is no longer a confidential notice for the purposes of the Act in which case it is no longer prohibited to disclose any information in relation to the notice.

Clause 49 Section 99 amended (Injunctions)

This clause amends section 99 to make it clear that the Supreme Court may grant an injunction in relation to conduct that is the subject of, or that affects the subject of, an assessment or proposed assessment.

Clause 50 Schedule 5 amended (Meetings of Joint Standing Committee on Integrity)

This clause repeals clause 3(2) of Schedule 5 of the Act to ensure that the Joint Standing Committee on Integrity operates as other committees of Parliament operate, with witnesses afforded the same rights and privileges as witnesses before other committees.

Clause 51 Schedule 6 amended (Provisions in Respect of Hearings of Integrity Tribunal)

This clause makes a minor amendment Schedule 6 of the Act to replace the reference to 'place, building, vehicle or vessel' with 'premises'. This reflects amendments to section 4 of the Act under which a new definition of 'premises' has been inserted and includes land, buildings, aircrafts, vehicles and vessels (refer to the clause note for clause 5).

Clause 52 Repeal of Act

This clause is a standard provision that automatically repeals the amending legislation on the first anniversary after the provisions of the Act commence.