

## CLAUSE NOTES

### *Justice Miscellaneous (Independent Review Amendments) Bill 2022*

- Clause 1      **Part 1 - Preliminary**  
**Short title**  
Specifies the name of the proposed Act.
- Clause 2      **Commencement**  
Provides that the Act commences on Royal Assent.
- Clause 3      **Part 2 – Archives Act 1983 Amended**  
**Principal Act**  
Provides that in Part 2 the Principal Act that is being amended is the *Archives Act 1983*.
- Clause 4      **Section 16A inserted**  
New section 16A ‘Conditions relating to Independent Review records’ inserted into the Principal Act. This new section:
- Defines various terms used in the new section including “Independent Review” and “Independent Review record”.
  - Subsection (2) provides that the State Archivist is prohibited from making an Independent Review record, that has been deposited with the Archives office, available for inspection by members of the public for a period of 75 years after the record came into existence.  
  
For the purposes of new section 16A the 75 year prohibition on inspection period commences from the moment the record became an Independent Review record.
  - Subsection (3) specifies that the prohibition on inspection of Independent Review record in subsection (2) applies prior to the commencement of this new section, that is, applies from the commencement of the Independent Review on 27 July 2021. The prohibition only affects Independent Review records that are held by the State Archivist.
  - Subsection (4) inserts a penalty provision. It is an offence if an Independent Review record is disclosed or inspected prior to the expiry of the 75 year period prohibition imposed on the record(s). The maximum fine is 10 penalty units. Until the 30 June 2022, a penalty unit is set at \$173.
- Clause 5      **Section 18 amended (Access to State archives)**  
For consistency with other State archives that have conditions prohibiting inspection, reference to the new section 16A is included in this section to ensure that an Independent Review record is not made available for the public to access.

- Clause 6**            **Part 3 – Right to Information Act 2009 Amended**  
**Principal Act**  
Provides that in Part 3 the Principal Act that is being amended is the *Right to Information Act 2009*.
- Clause 7**            **Section 5 amended (Interpretation)**  
Amends section 5(1) by inserting a new definition of “Independent Review” into the Principal Act.
- Clause 8**            **Section 6 amended (Exclusions of certain persons or bodies)**  
Inserts new subsection (3) to provide that the Principal Act does not apply to information that:
- is in the possession of the Independent Review or a person performing functions in relation to the Independent Review; and
  - was provided to, received by, or created by Independent Review or a person performing functions for, or on behalf of, the Independent Review, in relation to the aims of Independent Review.
- Subsection (4) specifies that a right to information application under the Principal Act for Independent Review information is invalid if it was made in the period between the Review commencing (27 July 2021) and the point at which the proposed section 6(3) commences.
- Clause 9**            **Repeal of Act**  
This automatically repeals the amending legislation after the first anniversary of this Act commencing. The provisions that the amending legislation inserts into the Principal Acts still remain in force after the repeal of the Amending Act.