

TASMANIA

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**COMMISSIONS OF INQUIRY AMENDMENT BILL  
2013**

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# COMMISSIONS OF INQUIRY AMENDMENT BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
17 October 2013

*(Brought in by the Minister for Justice, the Honourable Brian  
Neal Wightman)*

## A BILL FOR

### **An Act to amend the *Commissions of Inquiry Act 1995***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Commissions of Inquiry Amendment Act 2013*.

#### **2. Commencement**

This Act is taken to have commenced on 4 March 2013.

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**3. Principal Act**

In this Act, the *Commissions of Inquiry Act 1995*\* is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *act*:

***authorised Commissioner hearing***  
means a hearing of a Commission  
that is held as referred to in  
section 5A(1);

- (b) by inserting the following definition after the definition of *Commissioner*:

***counsel*** means an Australian legal  
practitioner;

**5. Section 3A inserted**

After section 3 of the Principal Act, the following section is inserted in Part 1:

**3A. References to Commission**

A reference to the Commission includes the following persons sitting for the purposes of an inquiry under this Act:

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- (a) in relation to an authorised Commissioner hearing, the Commissioner or Commissioners holding the inquiry;
  - (b) in relation to a Commission that is constituted by two or more Commissioners (except if paragraph (a) applies), the Commissioners;
  - (c) in relation to a sole Commissioner, the Commissioner.

**6. Section 5A inserted**

After section 5 of the Principal Act, the following section is inserted in Part 2:

**5A. Authorised Commissioner hearings**

- (1) If a Commission is constituted by two or more Commissioners, a hearing of the Commission may be held by one or more of the Commissioners if each of the Commissioners holding the hearing is either –
  - (a) the President of the Commission;  
or
  - (b) authorised in writing by the President of the Commission to hold authorised Commissioner

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hearings in relation to the  
Commission.

(2) The following person presides at an  
authorised Commissioner hearing:

- (a) the President of the Commission;
- (b) if the President is not one of the  
Commissioners holding the  
authorised Commissioner  
hearing, the Commissioner who  
is authorised in writing by the  
President to preside at the  
hearing.

**7. Section 7A inserted**

After section 7 of the Principal Act, the  
following section is inserted in Part 2:

**7A. Provisions of other Acts that do not apply**

*The Personal Information Protection Act 2004, section 26(1) of the Ombudsman Act 1978 and section 37 of the Health Complaints Act 1995 do not apply in relation to any information collected for communication to or communicated to the Commission of Inquiry into Institutional Child Sexual Abuse established on 4 March 2013.*

**8. Section 34A inserted**

After section 34 of the Principal Act, the following section is inserted in Part 4:

**34A. Commission may communicate information**

- (1) If, in the course of inquiring into a matter, a Commission obtains information that relates, or that may relate, to a contravention of a law, or to evidence of a contravention of a law, of the State, the Commonwealth, another State or a Territory, the Commission may, if in the opinion of the Commission it is appropriate to do so, communicate the information or furnish the evidence, as the case may be, to –
  - (a) the Attorney-General of the State, the Commonwealth, another State, the Australian Capital Territory or the Northern Territory; or
  - (b) the Director of Public Prosecutions; or
  - (c) the authority or person responsible for the administration or enforcement of that law.
- (2) A reference in subsection (1) to a contravention of a law is a reference to a contravention for which a person may be liable to –

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- (a) a criminal penalty; or
  - (b) a civil or administrative penalty.
- (3) If, in the course of inquiring into a matter, a Commission –
  - (a) obtains information; or
  - (b) takes evidence; or
  - (c) receives a document or thing –

that, in the opinion of the Commission, relates or may relate to a matter into which another Commission is required or authorised to inquire, the first-mentioned Commission may, if in its opinion it is appropriate to do so, communicate the information or furnish the evidence, document or thing, as the case may be, to that other Commission.
- (4) For the purposes of subsection (3) –
  - another Commission*** includes a Royal Commission, or a Commission of Inquiry, established in another Australian jurisdiction.
- (5) If, in the course of inquiry into a matter, a Commission –
  - (a) obtains information; or
  - (b) takes evidence; or
  - (c) receives a document or thing –



that, in the opinion of the Commission, relates or may relate to the performance of the functions of the Integrity Commission (established under the *Integrity Commission Act 2009*), the Commission may, if in its opinion it is appropriate to do so, communicate the information or furnish the evidence, document or thing, as the case may be, to the Integrity Commission.

- (6) A person who obtains information, evidence, a document or thing in accordance with this section may make a record of, use or disclose the information, evidence, document or thing for the purposes of performing his or her functions or exercising his or her powers.
- (7) A reference in subsection (3) or (5) to the furnishing of a document or thing includes a reference to the furnishing of the contents of the document or a description of the thing.

## **9. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it receives the Royal Assent.