

TASMANIA

CUSTODIAL INSPECTOR BILL 2016

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CUSTODIAL INSPECTOR BILL 2016

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.

SHANE DONNELLY, *Clerk of the House*
18 August 2016

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to provide for the appointment of a Custodial Inspector and for related purposes

Be it enacted by Her 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Custodial Inspector Act 2016*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Purpose of Act

The purpose of this Act is to provide independent, proactive, preventative and

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systemic oversight of custodial centres by the
Custodial Inspector.

4. Interpretation

In this Act, unless the contrary intention
appears –

correctional officer means a correctional
officer within the meaning of the
Corrections Act 1997;

custodial centre means –

- (a) a prison within the meaning of
the *Corrections Act 1997*; and
- (b) a detention centre –

but does not include any police station or
court cell complex;

detainee means a person, other than a
prisoner, who is lawfully held in a
custodial centre;

detention centre means a detention centre
within the meaning of the *Youth Justice
Act 1997*;

Inspector means the Custodial Inspector
appointed under section 5;

mandatory inspection means an inspection
carried out under section 12;

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occasional inspection and review means an inspection and review carried out under section 13;

officer of the Inspector means a person who is appointed or employed under section 10 and includes a person to whom a function or power is delegated in accordance with section 9(b);

prisoner means a person who is subject to an order of a court by which he or she is sentenced to a term of imprisonment and includes a person declared to be a dangerous criminal under section 19 of the *Sentencing Act 1997*;

public authority has the same meaning as in the *Ombudsman Act 1978*;

responsible Minister means –

- (a) the Minister responsible for the custodial centre; or
- (b) in the case of services provided in a custodial centre, or action taken by a public authority, the Minister to whom the Department responsible for the provision of those services is responsible, or having administration of that authority or the enactment under which the action was taken;

responsible Secretary means –

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- (a) the Secretary responsible for the custodial centre; or
- (b) in the case of services provided in a custodial centre, the Secretary of the Department responsible for the provision of those services;

Secretary means the Secretary of the Department;

State Service corrections employee means a person, other than a correctional officer, or probation officer, within the meaning of the *Corrections Act 1997*, who is appointed or employed pursuant to section 5(2) of that Act.

PART 2 – CUSTODIAL INSPECTOR

5. Custodial Inspector

- (1) The Governor may appoint a person as Custodial Inspector.
- (2) Schedule 1 has effect with respect to the Inspector and his or her appointment.

6. Functions

- (1) The Inspector has the following functions:
 - (a) to carry out a mandatory inspection of each custodial centre at least once every 3 years;
 - (b) to carry out an occasional inspection and review of any custodial centre at any time, of his or her own accord or as requested by the responsible Minister;
 - (c) to prepare and publish guidelines and standards in relation to the conduct of inspections;
 - (d) to report to the responsible Minister or Parliament on the various inspections carried out by the Inspector;
 - (e) to report to the responsible Minister or Parliament on any particular issue or general matter relating to the functions of the Inspector if, in his or her opinion, it is

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- in the interest of any person or in the public interest to do so;
- (f) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if requested to do so by either House of Parliament or a Joint Standing Committee of either House of Parliament;
 - (g) to provide an annual report to Parliament;
 - (h) to include in any report such advice or recommendations as the Inspector thinks appropriate including, but not limited to –
 - (i) advice or recommendations relating to the safety, custody, care, wellbeing and rehabilitation of prisoners and detainees; and
 - (ii) information relating to education and programs to assist in the rehabilitation of prisoners and detainees;
 - (i) such other functions as may be conferred or imposed on the Inspector under this or any other Act.
- (2) The Inspector may from time to time amend the guidelines and standards prepared and published under subsection (1).

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7. Independence of Inspector

In performing his or her functions, the Inspector must act independently, impartially and in the public interest.

8. Powers

The Inspector has the following powers:

- (a) to visit and examine any custodial centre, and any vehicle, equipment, container or other thing in a custodial centre, at any time the Inspector thinks fit;
- (b) to obtain full access to all documents, including health records, that –
 - (i) are in the possession of a Department, public authority or any other body or person prescribed by the regulations; and
 - (ii) relate to any custodial centre or persons in custody or detained, or residing, at a custodial centre –

and to make copies of, or take extracts from, those documents or records and to remove and retain those copies or extracts;

- (c) to obtain information from any persons in any manner the Inspector considers appropriate;

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- (d) to enter and examine any equipment or container outside a custodial centre which is used in connection with the custodial centre, and any vehicle used to transport prisoners or detainees, at any time the Inspector thinks fit;
- (e) to require any member of the staff of the custodial centre or other person who provides services to prisoners or detainees to –
 - (i) supply information or produce documents or other things relating to any matter, or class of matters, concerning the custodial centre's operations; and
 - (ii) attend before the Inspector to answer questions or produce documents or other things relating to a custodial centre's operations;
- (f) to refer matters relating to a custodial centre to an appropriate agency for consideration or action;
- (g) to obtain access to, and communicate with, persons in custody or detained or residing at a custodial centre;
- (h) to do all things necessary or convenient to be done in connection with the performance and exercise of his or her functions and powers under this Act.

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9. Delegation

The Inspector may delegate any of his or her functions or powers under this Act, other than this power of delegation, to –

- (a) any officer or employee made available to enable the Inspector to perform and exercise his or her functions and powers; and
- (b) a person, or class of persons, prescribed by the regulations for the purposes of this section.

10. Appointment of staff

- (1) Subject to and in accordance with the *State Service Act 2000*, a person may be appointed or employed for the purposes of enabling the Inspector to perform and exercise his or her functions and powers under this Act.
- (2) The Inspector may make arrangements with the Secretary for State Service officers and State Service employees employed in the Department to be made available to enable the Inspector to perform and exercise his or her functions and powers under this Act.
- (3) A State Service officer or State Service employee made available under subsection (2) may serve the Inspector in any capacity in conjunction with State Service employment.

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11. Notification of ceasing to be staff of Inspector &c.

If a person ceases to be a member of the staff of the Inspector, or ceases to be a person to whom a delegation is given under section 9, the Inspector is to notify the Secretary of that cessation within 30 days of it occurring.

PART 3 – INSPECTIONS

12. Mandatory inspections

At least once every 3 years the Inspector is to inspect each custodial centre.

13. Occasional inspections and reviews

In addition to any inspection carried out under section 12, the Inspector may, at any time and on any number of occasions, inspect and review any custodial centre or any aspect of a custodial centre.

14. Inspection report

- (1) The Inspector is to prepare an inspection report on his or her findings in relation to each mandatory inspection.
- (2) An inspection report may contain such advice or recommendations as the Inspector considers necessary or appropriate in relation to the findings.
- (3) As soon as is practicable after the completion of an inspection report, the Inspector is to deliver a copy of it to the responsible Minister, who is to table a copy of the report in each House of Parliament.
- (4) The responsible Minister may prepare a response to the inspection report and provide it to the Inspector.

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15. Inspector, &c., to provide identification

- (1) The Secretary is to issue to the Inspector an identity card.
- (2) The Inspector is to issue to each officer of the Inspector an identity card.
- (3) An identity card is to be in a form approved by the Secretary but it must contain at least the name and a recent photograph of the person to whom it is issued.
- (4) The Inspector, and an officer of the Inspector, when performing his or her functions under this Act, must allow a prisoner, detainee, correctional officer, State Service corrections employee or member of staff of a custodial centre to inspect his or her identity card.
- (5) When a person ceases for any reason to hold the office of Inspector or to be an officer of the Inspector, the Secretary is to take reasonable measures to retrieve the person's identity card or ensure that it has been properly disposed of.

16. Inspector's access to prisoners and detainees

- (1) The Inspector is entitled to access to a prisoner or detainee at all reasonable times.
- (2) The person in charge of a custodial centre, each member of the staff of the custodial centre and any person providing services in a custodial centre –

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- (a) must allow the Inspector to conduct an interview with a prisoner or detainee, out of the hearing of any other person; and
- (b) must not, without the approval of the prisoner or detainee, copy, remove or read any correspondence –
 - (i) from the prisoner or detainee to the Inspector; or
 - (ii) from the Inspector to the prisoner or detainee.

17. Inspector, &c., may use recording equipment

The Inspector and any officer of the Inspector may take such photographs, films or audio or visual recordings as he or she considers necessary.

18. Reporting on occasional inspections and reviews

- (1) The Inspector may, at any time, provide a report to the responsible Minister on any matter relating to an occasional inspection and review and give advice or make recommendations as the Inspector considers necessary or appropriate in relation to the matter.
- (2) If, at any time after providing a report under subsection (1), the Inspector considers it necessary or appropriate to do so, he or she may table the report in each House of Parliament.

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- (3) The responsible Minister may prepare a response to the report and provide it to the Inspector.

19. Opportunity to be heard

- (1) The Inspector is not to make a report on a mandatory inspection or an occasional inspection and review that contains adverse or derogatory comments in respect of a person unless the Inspector has given the person a reasonable opportunity –
- (a) to appear before him or her; or
 - (b) to make representations, either orally or in writing.
- (2) The Inspector is not to make a report on a mandatory inspection or an occasional inspection and review that contains adverse or derogatory comments in respect of the department responsible for the relevant custodial centre or the services provided in the custodial centre, unless –
- (a) the Inspector has given the responsible Secretary, and any relevant officer or employee of the responsible department, a reasonable opportunity –
 - (i) to appear before him or her; or
 - (ii) to make representations, either orally or in writing; and
 - (b) the Inspector has provided a draft of the report to the responsible Secretary.

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- (3) If, during or after a mandatory inspection or an occasional inspection and review, the Inspector is of the opinion that there is evidence of a breach of duty or misconduct on the part of the responsible Secretary or any officer or employee of a department, and that, in all the circumstances, the evidence is of sufficient force to justify his or her doing so, the Inspector is to bring the evidence –
- (a) in the case of the responsible Secretary, to the notice of the responsible Minister; and
 - (b) in any other case, to the notice of the responsible Secretary.

20. Recommendations with respect to report

- (1) The Inspector may make such recommendations with respect to a report on a mandatory inspection or an occasional inspection and review as he or she considers necessary or appropriate.
- (2) If the Inspector makes a recommendation to the responsible Secretary, he or she may request the responsible Secretary to notify him or her, within a specified time, of the steps that have been or are proposed to be taken to give effect to the recommendation, or, if no such steps have been or are proposed to be taken, the reasons why they have not been taken or, as the case may be, are not proposed to be taken.

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- (3) Where it appears to the Inspector that no appropriate steps have been taken within a reasonable time, he or she may, after considering any written comments made by or on behalf of the responsible Secretary to whom the recommendation was made, send to the Premier and the responsible Minister a copy of the recommendation together with a copy of any such comments.

21. Public interest considerations

- (1) The Inspector must not disclose information in a report to Parliament if, on balance, the public interest considerations against disclosure outweigh the public interest considerations in favour of disclosure.
- (2) There are public interest considerations against disclosure of information for the purposes of this Act if disclosure of the information could reasonably be expected to have one or more of the following effects:
- (a) prejudice the supervision of, or facilitate the escape of, any person in lawful custody or detention;
 - (b) prejudice the security, discipline or good order of any custodial centre;
 - (c) prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth);

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- (d) reveal or tend to reveal the identity of an informant or prejudice the future supply of information from an informant;
- (e) identify or allow the identification of a person who is or was detained at a custodial centre or his or her relative;
- (f) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any person who is in custody, or detained or residing at a custodial centre;
- (g) identify or allow the identification of a member of the staff of the custodial centre, the Department, a public authority or any other body or person prescribed by the regulations, or endanger, or prejudice any system or procedure for protecting, the life, health or safety of such a staff member or other person.

22. Schedule of inspections

The Inspector may publish a schedule of the dates at which he or she intends to carry out mandatory inspections or occasional inspections and reviews.

PART 4 – OFFENCES

23. Disclosure of information

- (1) A person who is or has been the Inspector or an officer of the Inspector must not, either directly or indirectly, make a record of, or disclose, any information that was –
- (a) acquired in his or her official capacity; and
 - (b) disclosed or obtained under this Act.

Penalty: Fine not exceeding 20 penalty units.

- (2) Except as provided in subsections (3) and (4), subsection (1) does not prevent the making of a record or the disclosure of information where the making of the record or the disclosure –
- (a) was reasonably required for the proper discharge of the functions of the Inspector; or
 - (b) was done with the approval –
 - (i) in the case of information given by an officer of a custodial centre or of a department which provides a service at a custodial centre – of the responsible Secretary or the responsible Minister; or
 - (ii) in the case of information given by a member of a public

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authority – of the governing body of the authority or the responsible Minister; or

(iii) in any other case – of the person by whom the information was given (but only if that person is entitled or authorised to give the information).

- (3) Subsection (1) does not prevent the Inspector from giving information relating to a matter arising wholly or partly under the law of another Commonwealth jurisdiction to a person performing in that jurisdiction functions similar to those performed by the Inspector under this Act.
- (4) Subsection (1) does not prevent the disclosure of information to the Integrity Commission, coroner or Auditor-General if the information is relevant to the performance or exercise by the Integrity Commission, coroner or Auditor-General, respectively, of its, his or her functions or powers.
- (5) A person who is or has been the Inspector or an officer of the Inspector must not, in proceedings before a court, or before a person authorised by law, or by consent of parties, to hear, receive, and examine evidence, be compelled to disclose information that was –
- (a) acquired in his or her official capacity; and
 - (b) disclosed or obtained under this Act.

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- (6) A person must not use any information disclosed or obtained under this Act for his or her benefit or the benefit of any other person.

Penalty: Fine not exceeding 50 penalty units.

- (7) In this section –

- (a) a reference to information includes a reference to the contents of a record; and
- (b) a reference to the disclosure of information includes a reference to the delivery or giving to a person of that record or a copy of it or of any part of it.

24. Offences against Inspector

A person must not –

- (a) without reasonable excuse, wilfully obstruct, hinder, resist or threaten the Inspector, or an officer of the Inspector, in the performance of functions under this Act; or
- (b) without reasonable excuse, refuse, or wilfully fail, to comply with any lawful requirement of the Inspector or an officer of the Inspector; or
- (c) wilfully make any false statement to mislead, or attempt to mislead, the Inspector or an officer of the Inspector.

Penalty: Fine not exceeding 50 penalty units.

PART 5 – MISCELLANEOUS

25. Annual report

- (1) The Inspector is required to table in each House of Parliament, within the period of 4 months after 30 June in each year, a report of the Inspector's operations during the year ended on that 30 June.
- (2) A report by the Inspector under this section must include the following:
 - (a) a description of the Inspector's activities during that year in relation to each of the Inspector's principal functions;
 - (b) an evaluation of the response of relevant authorities to the recommendations of the Inspector;
 - (c) any recommendations for changes in the laws of the State, or for administrative action, that the Inspector considers should be made as a result of the performance of the Inspector's functions.

26. Exemption from *Personal Information Protection Act 2004*

A person who is a personal information custodian, within the meaning of the *Personal Information Protection Act 2004*, is not taken to have contravened that Act by reason of collecting, using, disclosing or otherwise dealing with information for the purposes of this Act.

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27. Request by responsible Minister

- (1) The responsible Minister may bring a matter to the attention of the Inspector and request that the Inspector carry out an inspection of a custodial centre in respect of the matter.
- (2) A request under subsection (1) is to be in writing.

28. Referral to Ombudsman

- (1) If the Inspector considers that a matter raised by, or during the course of, a mandatory inspection or an occasional inspection and review should be investigated by the Ombudsman or another person or a body that has functions under any law of Tasmania, another State, a Territory or the Commonwealth, the Inspector may refer the matter to the Ombudsman, or other person or body (as the case requires) for investigation.
- (2) The Inspector's powers to inspect or review, or report on, a matter are not affected by the matter having been referred under subsection (1) for investigation.

29. Sharing information with Ombudsman

The Inspector may, at any time, furnish to the Ombudsman information obtained by the Inspector in performing functions under this or any other Act if the Inspector is of the opinion that the information relates to conduct that could

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be the subject of a complaint under the *Ombudsman Act 1978*.

30. Inspector may require documents &c.

The Inspector may, by notice served on a person, require that person to produce to the Inspector, or a person designated by the Inspector, any document or thing in that person's possession or control which the Inspector considers relevant to a mandatory inspection or an occasional inspection and review.

31. Evidence &c.

- (1) The Crown is not entitled to prevent or obstruct records from being produced, or evidence from being given, for the purpose of a mandatory inspection or an occasional inspection and review under this Act notwithstanding that it would be so entitled if the inspection or review were a legal proceeding held before a court.
- (2) A person is not excused from giving information, or producing a record or answering a question, when required to do so under this Act on the ground that to do so would disclose legal advice furnished to a government department or other authority to which this Act applies.

32. Protection from liability

- (1) Anything done or omitted to be done, in good faith, by the Inspector or an officer of the

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Inspector does not subject the Inspector or officer to any action, liability, claim or demand.

- (2) The Inspector, or an officer of the Inspector, does not incur any personal liability in respect of any act done or omitted to be done by the Inspector or officer in good faith in the performance or exercise, or purported performance or exercise, of any function or power under this Act.
- (3) A civil liability that would, but for this section, attach to the Inspector or an officer of the Inspector attaches to the Crown.

33. Protection for provision of information

A person who provides information under this Act does not by doing so –

- (a) commit an offence under a provision of any other Act that imposes a duty to maintain confidentiality with respect to a matter or any other restriction on the disclosure of information; or
- (b) breach an obligation by way of oath or rule of law or practice or under an agreement requiring him or her to maintain confidentiality or otherwise restricting the disclosure of information with respect to a matter.

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34. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may –
 - (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Inspector or any other person or body specified in the regulations.

35. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Corrections; and

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- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

36. Consequential Amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

SCHEDULE 1 – INSPECTOR

Section 5

1. Interpretation of Schedule

In this Schedule –

accumulation scheme means the Tasmanian Accumulation Scheme established under the *Public Sector Superannuation Reform Act 1999*;

complying superannuation scheme means a complying superannuation fund as provided by the law of the Commonwealth;

contributory scheme means the superannuation arrangements provided by Part 5 of the *Retirement Benefits Regulations 2005*;

Parliament includes the Parliament of the Commonwealth or of any State or Territory;

RSA means a Retirement Savings Account within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth.

2. Eligibility for appointment

- (1) A person must not be appointed as, or carry out the role of, Inspector if he or she –

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- (a) is, or becomes, a member of a House of Parliament; or
 - (b) is, or becomes, a candidate for election as a member of a House of Parliament; or
 - (c) has, within the previous 3 years, been a member of a House of Parliament.
- (2) A person may hold office as Inspector in conjunction with the office of Ombudsman under the *Ombudsman Act 1978*.

3. Acting Inspector

- (1) In this clause, the Inspector is absent if he or she –
- (a) is absent from duty; or
 - (b) is absent from Australia; or
 - (c) is suspended from the office of Inspector; or
 - (d) is otherwise unable to perform the functions of that office.
- (2) The Minister may appoint a person to act as Inspector during any or every period during which the Inspector is absent.
- (3) While a person appointed under subclause (2) is acting as Inspector –
- (a) that person is taken to be the Inspector; and

- (b) this Act and any other Act applies to that person as if he or she were the Inspector.

4. Term of office

The Inspector holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment and may be reappointed.

5. Conditions of appointment

- (1) The Inspector is entitled to be paid the remuneration and allowances determined by the Governor from time to time.
- (2) If a State Service officer or State Service employee is appointed as Inspector, that officer or employee is entitled to retain all his or her existing and accruing rights as if service as Inspector were a continuation of service as such an officer or employee.
- (3) Where a person ceases to be Inspector and becomes a State Service officer or State Service employee, service as Inspector is service in the State Service for the purposes of determining his or her rights as such an officer or employee.
- (4) The Inspector holds office on such conditions in relation to matters not provided for by this Act as are specified in the instrument of appointment.
- (5) Where a person is appointed as Inspector –

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- (a) he or she is not eligible to become a member of the contributory scheme; and
 - (b) the application of the *Public Sector Superannuation Reform Act 1999* extends to the Inspector as if he or she were an employee for the purposes of that Act; and
 - (c) subject to subclause (6), he or she is to be a member of the accumulation scheme.
- (6) The Inspector may elect by notice in writing given to the Secretary, either before or after commencing the duties of that office, to become a member of an RSA or a complying superannuation scheme other than the accumulation scheme.
- (7) If the Inspector has become a member of an RSA or a complying superannuation scheme that is not the accumulation scheme, he or she may elect at any time while holding office as the Inspector to become a member of the accumulation scheme.
- (8) The Inspector is entitled to employer superannuation contributions at the rate specified in the *Public Sector Superannuation Reform Act 1999*.
- (9) Subclauses (5), (6), (7) and (8) do not apply to a person who, immediately before his or her appointment as Inspector, was a contributor to the contributory scheme.

6. Resignation

The Inspector may resign by signed notice given to the Governor.

7. Suspension

- (1) The Governor may suspend the Inspector from office if the Governor is satisfied that the Inspector –
 - (a) is physically or mentally incapable of continuing as Inspector; or
 - (b) is unable to perform adequately or competently the functions of the office of Inspector; or
 - (c) has been convicted, in Tasmania or elsewhere, of an offence punishable by a term of imprisonment; or
 - (d) has become bankrupt, applied to take the benefit of the law for the relief of bankrupt or insolvent debtors, compounded with creditors or made an assignment of his or her remuneration or estate for their benefit; or
 - (e) has engaged in misconduct.
- (2) Where the Inspector has been suspended from office, the Inspector is restored to office if –
 - (a) a statement specifying the reasons for the suspension is not laid before each House of Parliament during the first 7 sitting-

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days of that House following the suspension; and

- (b) each House of Parliament does not pass an address praying for the removal of the Inspector from office during the session in which, and within 30 sitting-days after, such a statement is laid before it.

8. Removal from office

- (1) The Governor, on addresses from both Houses of Parliament, may remove the Inspector from office.
- (2) The Inspector may not be removed from office except as provided in subclause (1).

9. Filling a vacancy

- (1) The Inspector vacates office if he or she –
 - (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under clause 8.
- (2) The Governor may appoint a person to the vacant office of Inspector for the remainder of the Inspector's term of office.

10. Defect does not invalidate appointment

An appointment of a person as Inspector is not invalid merely because of a defect or irregularity in relation to the appointment.

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SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 36

Commissioner for Children and Young People Act 2016

1. Section 17(2) is amended by inserting “or the Custodial Inspector appointed under section 5 of the *Custodial Inspector Act 2016*” after “Ombudsman”.

Commissions of Inquiry Act 1995

1. Section 7A is amended by inserting “section 23(1) of the *Custodial Inspector Act 2016*,” after “*Personal Information Protection Act 2004*,”.

Corrections Act 1997

1. Section 3 is amended as follows:
 - (a) by inserting the following definition after the definition of *correctional officer*:

Custodial Inspector means the
Custodial Inspector appointed
under section 5 of the *Custodial
Inspector Act 2016*;

- (b) by inserting the following definition after the definition of *non-parole period*:

officer of the Inspector means a
person who is appointed or

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employed under section 10 of the
Custodial Inspector Act 2016;

2. Section 8(1) is amended by inserting after paragraph (c) in the definition of *confidential information* the following paragraph:

(ca) information given to the Custodial Inspector for the purposes of the *Custodial Inspector Act 2016*; or

3. Section 11(1) is amended by inserting after paragraph (c) the following paragraph:

(ca) the Custodial Inspector or an officer of the Inspector;

4. Section 29(1)(l) is amended by inserting “or the Custodial Inspector or an officer of the Inspector” after “of the Ombudsman”.

Ombudsman Act 1978

1. Section 3(1) is amended by inserting after the definition of *conciliator* the following definition:

Custodial Inspector means the Custodial Inspector appointed under section 5 of the *Custodial Inspector Act 2016*;

2. Section 5(7) is amended by inserting “, the *Custodial Inspector Act 2016*” after “this Act”.

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3. Section 26 is amended by inserting after subsection (3A) the following subsection:

(3B) Subsection (1) does not prevent the disclosure of information to the Custodial Inspector if the information is relevant to the performance or exercise by the Custodial Inspector of his or her functions or powers.

Public Interest Disclosures Regulations 2013

1. Regulation 10 is amended by inserting after paragraph (b) the following paragraph:

(ba) the office of Custodial Inspector referred to in section 5 of the *Custodial Inspector Act 2016*;

Right to Information Act 2009

1. Section 5(1) is amended by inserting after the definition of *council-owned company* the following definition:

Custodial Inspector means the Custodial Inspector appointed under section 5 of the *Custodial Inspector Act 2016*;

2. Section 6(1) is amended by inserting after paragraph (j) the following :

(ja) the Custodial Inspector;

Youth Justice Act 1997

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1. Section 3(1) is amended by inserting after the definition of *Court* the following definition:

Custodial Inspector means the Custodial Inspector appointed under section 5 of the *Custodial Inspector Act 2016*;

2. Section 167A(1) is amended by inserting “the Custodial Inspector or” after “information to”.