

CLAUSE NOTES

Integrity Commission Amendment (Mandatory Notifications) Bill 2025

Clause 1 Short title

This clause provides that the short title of the Act will be the Integrity Commission Amendment (Mandatory Notifications) Act 2025.

Clause 2 Commencement

This clause provides that the Act will commence on proclamation.

Clause 3 Principal Act

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

Clause 4 Section 4 amended (Interpretation)

This clause amends section 4 of the Integrity Commission Act to insert a new definition of 'offence of a serious nature'.

This new definition relates to the definition of 'serious misconduct'. The term 'serious misconduct' is defined as 'misconduct by any public officer that could, if proved, be –

- (a) a crime or an offence of a serious nature; or
- (b) misconduct providing reasonable grounds for terminating the public officer's appointment

The proposed amendment is intended to clarify the first limb of this definition. Under this definition, 'offence of a serious nature' means an offence punishable by imprisonment for a term of 12 months or longer.

Clause 5 Part 4A inserted

PART 4A – MANDATORY NOTIFICATION OF SUSPECTED MISCONDUCT OR SUSPECTED SERIOUS MISCONDUCT

Section 32A Interpretation of Part

This provision provides definitions of a number of terms used in the new Part 4A.

- *commencement day* – the day on which the new Part 4A commences
- *guidelines* – guidelines issued by the Integrity Commission under the new section 32F
- *mandatory notification* – a notification made in accordance with the new section 32C

- *mandatory notifier* – a public authority’s principal officer or a person or holder of a position in a public authority who is nominated (under the new section 32B) to be a mandatory notifier.

Section 32B Nomination and approval of mandatory notifiers

This provision requires a public authority to nominate a mandatory notifier in certain circumstances:

- Where there is no principal officer specified in relation to the public authority in Schedule 1 of the Integrity Commission Act
- Where the office of a principal officer becomes vacant

This is intended to be a catch all type provision to cover any omissions or uncertainty where there is no principal officer specified in relation to a public authority.

This provision also allows a public authority to revoke a nomination and make a new one if it considers it necessary and appropriate to do so, for example, if a nominated mandatory notifier leaves their position with the public authority.

The Integrity Commission is to be informed of a nomination or revocation of a nomination as soon as practicable.

Section 32C Mandatory notifications

The new section 32C is the key provision of Part 4A setting out the requirements and elements of the mandatory notification framework.

Subsection (1):

Establishes the obligation on mandatory notifiers to make mandatory notifications. A mandatory notifier is required to notify the Integrity Commission of any matter or information that they suspect on reasonable grounds involves or may involve misconduct or serious misconduct by a designated public officer or serious misconduct by a public officer.

The obligation only requires a mandatory notifier of a public authority to notify in relation to a public officer or designated public officer of that particular public authority.

A mandatory notification must be made as soon as practicable after the mandatory notifier forms the suspicion.

Subsection (2):

Provides exceptions to the obligation to make a mandatory notification.

Under this subsection, a mandatory notifier is not required to make a mandatory notification if they know that another person has notified the Integrity Commission of the misconduct or serious misconduct. For example, a voluntary notification may have been made to the Integrity Commission prior to the commencement of these amendments.

The second exception is where the mandatory notifier knows that there have been legal, disciplinary, administrative or investigatory proceedings or actions in relation to the misconduct or serious misconduct and those proceedings or actions were concluded prior to the commencement of these amendments. This is intended to make it clear that a mandatory notifier does not have to notify of matters which were finalised prior to the commencement of the amendments.

Subsection (3):

Clarifies that the requirement to make a mandatory notification applies in relation to misconduct or serious misconduct that occurred at the time a person was a public officer or designated public officer of a public authority, whether or not they are still a public officer or designated public officer of that public authority at the time of the mandatory notification. In broad terms, this makes it clear that the mandatory notification obligation applies to suspicions in relation to historical matters. It should be noted that a mandatory notifier is not required to make a mandatory notification where legal, disciplinary, administrative or investigatory proceedings or actions have been concluded prior to the commencement of these amendments (refer to the clause note in relation to subsection (2) above).

Subsection (4):

Clarifies that the mandatory notification obligation applies even if the misconduct or serious misconduct has been referred to another public officer, principal officer or public authority, for example, to the police or to the Independent Regulator under the *Child and Youth Safe Organisations Act 2023*.

Subsection (5):

Requires a public authority to notify the Integrity Commission of the outcome of any investigation or action it takes in relation to a matter or information which is the subject of a mandatory notification.

Subsection (6):

Requires a mandatory notifier to have regard to any guidelines issued by the Integrity Commission when they are making a mandatory notification.

Subsection (7):

Provides that the obligation to make a mandatory notification is paramount. It applies regardless of obligations under other Acts, for example, privacy obligations or obligations to report to other bodies or persons. It also applies regardless of any obligations on the mandatory notifier to maintain confidentiality about the misconduct or serious misconduct. This is intended to ensure that the Integrity Commission has general oversight and awareness of serious misconduct in the public sector (and misconduct in relation to designated public officers).

Section 32D Integrity Commission's role in relation to mandatory notifications

This provision specifies how the Integrity Commission may deal with mandatory notifications.

Under this provision, the Integrity Commission may exercise any of its functions and powers relating to misconduct set out in section 8 of the Integrity Commission Act. This includes initiating an investigation into any matter related to misconduct, taking any action it considers appropriate in response to a report of misconduct from a public authority, and assuming responsibility for and completing any investigation into misconduct commenced by a public authority.

Where the Integrity Commission assumes responsibility for an investigation commenced by a public authority, the public authority must stop its own investigations or related actions that may impede the Integrity Commission's investigations if directed to do so by the Integrity Commission.

Section 32D also allows the Integrity Commission to require a public authority to provide a report on the actions it intends to take, and to provide advice to a public authority on the conduct of an investigation.

Section 32E Failure of mandatory notifiers to make mandatory notifications

This provision allows the Integrity Commission to follow up on non-compliance with the mandatory notification requirements by inquiring into the non-compliance with the mandatory notifier and/or reporting the non-compliance to a person or body who can inquire into the non-compliance.

Section 32F Guidelines for mandatory notifications

This provision allows the Integrity Commission to issue guidelines in relation to mandatory notifications including:

- (a) the form, content and method of making a mandatory notification
- (b) information and guidance on the types of matters and information that require mandatory notification
- (c) information and guidance on the obligations of mandatory notifiers.

The Integrity Commission can also amend and revoke guidelines issued under this provision.

Any guidelines issued by the Integrity Commission are to be published on its website.

Clause 6**Section 104 amended (Amendment of Schedule 1)**

This clause amends section 104 of the Integrity Commission Act.

Section 104 allows Schedule 1 of the Act to be amended by an order of the Governor.

This clause clarifies that an amendment to Schedule 1 made by an Act does not prevent a subsequent amendment to the Schedule being made by an order.

Clause 7 Schedule 1 amended (Principal Officers)

This clause amends Schedule 1 of the Integrity Commission Act to specify the Vice Chancellor as the Principal Officer for the University of Tasmania.

Clause 8 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.