

**Authorised Version No. 091**

**Ombudsman Act 1973**

**No. 8414 of 1973**

Authorised Version incorporating amendments as at  
17 April 2013

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**Authorised Version No. 091**

**Ombudsman Act 1973**

**No. 8414 of 1973**

Authorised Version incorporating amendments as at  
17 April 2013

An Act to provide for the Appointment in Victoria of an  
Ombudsman with Power to investigate Administrative Actions  
taken by or on behalf of Government Departments and other  
Authorities, and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council  
and the Legislative Assembly of Victoria in this present  
Parliament assembled and by the authority of the same as  
follows (that is to say):**

**1 Short title and commencement**

- (1) This Act may be cited as the **Ombudsman Act 1973**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

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**S. 1(3)  
repealed by  
No. 15/1989  
s. 28(1).**

## PART I—INTERPRETATION

### 2 Definitions

S. 2  
amended by  
No. 82/2012  
s. 224(2) (ILA  
s. 39B(1)).

- (1) In this Act unless inconsistent with the context or subject-matter—

S. 2(1) def. of  
*Accountability and Oversight Committee*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Accountability and Oversight Committee* means the Accountability and Oversight Committee of Parliament, established by section 5(aa) of the **Parliamentary Committees Act 2003**;

S. 2(1) def. of  
*acting coroner*  
inserted by  
No. 82/2012  
s. 224(1)(a),  
amended by  
No. 5/2013  
s. 63(1).

*acting coroner* means—

- (a) a coroner appointed under the **Coroners Act 1985** (as in force before 1 November 2009) who is not a judge of the County Court, a magistrate or a reserve magistrate; or
- (b) a person appointed under section 94 of the **Coroners Act 2008**;

S. 2(1) def. of  
*Acting Ombudsman*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Acting Ombudsman* means an Acting Ombudsman appointed under section 6;

*administrative action* means any action relating to a matter of administration, and includes—

- (a) a decision and an act;
- (b) the refusal or failure to take a decision or to perform an act;
- (c) the formulation of a proposal or intention; and
- (d) the making of a recommendation (including a recommendation made to a Minister);

***Administrative Office*** has the meaning given by section 4(1) of the **Public Administration Act 2004**;

S. 2(1) def. of *Administrative Office* inserted by No. 82/2012 s. 224(1)(a).

***aggrieved person*** has the meaning given in section 14(1)(a);

S. 2(1) def. of *aggrieved person* inserted by No. 82/2012 s. 224(1)(a).

***assessable disclosure*** has the meaning given in section 3 of the **Protected Disclosure Act 2012**;

S. 2(1) def. of *assessable disclosure* inserted by No. 85/2012 s. 144(1)(a).

***authority*** means—

- (a) a Department;
- (b) an Administrative Office;
- (c) a specified entity—

but does not include an exempt person or body or a Councillor of a Council;

S. 2(1) def. of *authority* amended by Nos 8884 s. 2(a), 12/1989 s. 4(1)(Sch. 2 item 86.1), substituted by No. 82/2012 s. 224(1)(b).

***Cabinet information*** means—

- (a) a document that is an exempt document under section 28 of the **Freedom of Information Act 1982**; or
- (b) information that if it were in the form of a document would be a document referred to in paragraph (a);

S. 2(1) def. of *Cabinet information* inserted by No. 85/2012 s. 144(1)(a).

***cancellation notice*** means a notice issued by the Ombudsman under section 26C(3), (4), (5) or (6) or section 26D(3) cancelling a confidentiality notice;

S. 2(1) def. of *cancellation notice* inserted by No. 82/2012 s. 224(1)(a).



S. 2(1) def. of  
*Chief Examiner*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***Chief Examiner*** means the Chief Examiner appointed under Part 3 of the **Major Crime (Investigative Powers) Act 2004**;

***complainant*** means a person who makes a complaint;

S. 2(1) def. of  
*complaint*  
substituted by  
No. 82/2012  
s. 224(1)(c).

***complaint*** means a complaint under section 14;

S. 2(1) def. of  
*compulsory appearance*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***compulsory appearance*** means—

- (a) the appearance of a person before the Ombudsman in accordance with a witness summons; or
- (b) the appearance of a person before an Ombudsman officer otherwise than in accordance with a witness summons, in which the person is examined under section 18 of the **Evidence (Miscellaneous Provisions) Act 1958**;

S. 2(1) def. of  
*confidentiality notice*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***confidentiality notice*** means a notice issued by the Ombudsman under section 26C(1);

S. 2(1) def. of  
*coroner*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***coroner*** has the meaning given in section 3(1) of the **Coroners Act 2008**;

S. 2(1) def. of  
*corrupt conduct*  
inserted by  
No. 82/2012  
s. 224(1)(a),  
amended by  
No. 82/2012  
s. 313(a).

***corrupt conduct*** has the meaning given in section 4 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

***Council*** has the meaning given in section 3(1) of the **Local Government Act 1989**;

S. 2(1) def. of *Council* inserted by No. 82/2012 s. 224(1)(a).

***Councillor*** has the meaning given in section 3(1) of the **Local Government Act 1989**;

S. 2(1) def. of *Councillor* inserted by No. 82/2012 s. 224(1)(a).

***Department*** has the meaning given by section 4(1) of the **Public Administration Act 2004**;

S. 2(1) def. of *Department* inserted by No. 82/2012 s. 224(1)(a).

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S. 2(1) def. of *Deputy Ombudsman* inserted by No. 14/1988 s. 4, repealed by No. 32/2004 s. 3(a).

***disciplinary process or action*** has the meaning given in section 3(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 2(1) def. of *disciplinary process or action* inserted by No. 82/2012 s. 224(1)(a).

***domestic partner*** of a person means—

S. 2(1) def. of *domestic partner* inserted by No. 82/2012 s. 224(1)(a).

- (a) a person who is in a registered relationship with the person; or

**Note**

A ***registered relationship*** is defined in subsection (2).

- (b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

S. 2(1) def. of  
*Examiner*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***Examiner*** means an Examiner appointed under  
Part 3 of the **Major Crime (Investigative  
Powers) Act 2004**;

S. 2(1) def. of  
*exempt  
person or  
body*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***exempt person or body*** means a person or body  
specified in Schedule 2;

S. 2(1) def. of  
*Freedom of  
Information  
Commissioner*  
inserted by  
No. 82/2012  
s. 224(1)(a).

***Freedom of Information Commissioner*** means  
the Freedom of Information Commissioner  
established under the **Freedom of  
Information Act 1982**;

S. 2(1) def. of  
*Government  
Department*  
amended by  
No. 9059  
s. 2(1)(Sch.  
items 28–30),  
substituted by  
Nos 62/1989  
s. 4(a),  
46/1998  
s. 7(Sch. 1),  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 144.1),  
repealed by  
No. 82/2012  
s. 224(1)(d).

\* \* \* \* \*

S. 2(1) def. of  
*IBAC*  
inserted by  
No. 82/2012  
s. 224(1)(a),  
amended by  
No. 82/2012  
s. 313(b).

***IBAC*** means the Independent Broad-based Anti-  
corruption Commission established under  
section 12 of the **Independent Broad-based  
Anti-corruption Commission Act 2011**;

***IBAC Officer*** has the meaning given in section 3(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 2(1) def. of *IBAC Officer* inserted by No. 82/2012 s. 224(1)(a).

***IBAC personnel*** has the meaning given in section 3(1) of the **Victorian Inspectorate Act 2011**;

S. 2(1) def. of *IBAC personnel* inserted by No. 82/2012 s. 224(1)(a).

***legal practitioner*** means an Australian legal practitioner within the meaning of the **Legal Profession Act 2004**;

S. 2(1) def. of *legal practitioner* inserted by No. 82/2012 s. 224(1)(a).

***Mayor*** means a person elected to be the Mayor of a Council in accordance with the **Local Government Act 1989**;

S. 2(1) def. of *Mayor* inserted by No. 8884 s. 2(b), repealed by No. 12/1989 s. 4(1)(Sch. 2 item 86.2), new def. of *Mayor* inserted by No. 82/2012 s. 224(1)(a).

***member of Ombudsman staff*** means any of the following—

S. 2(1) def. of *member of Ombudsman staff* inserted by No. 82/2012 s. 224(1)(a).

- (a) an employee referred to in section 7;
- (b) a person seconded to the office of the Ombudsman;
- (c) a person otherwise engaged to provide services to or assist the Ombudsman in the performance of the Ombudsman's functions;

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s. 2

S. 2(1) def. of  
*municipality*  
inserted by  
No. 8884  
s. 2(b),  
repealed by  
No. 12/1989  
s. 4(1)(Sch. 2  
item 86.3).

\* \* \* \*

S. 2(1) def. of  
*office of the  
Ombudsman*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*office of the Ombudsman* means the office in  
respect of which the Ombudsman has the  
functions of public service body Head under  
section 16 of the **Public Administration Act  
2004**;

S. 2(1) def. of  
*Ombudsman  
officer*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Ombudsman officer* means any of the  
following—

- (a) the Ombudsman;
- (b) the Acting Ombudsman;
- (c) a member of Ombudsman staff;

S. 2(1) def. of  
*Ombudsman  
premises*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Ombudsman premises* means any premises or  
part of premises occupied by the office of the  
Ombudsman or an Ombudsman officer,  
other than residential premises;

S. 2(1) def. of  
*own motion  
investigation*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*own motion investigation* means an investigation  
by the Ombudsman under section 16A;

S. 2(1) def. of  
*Police  
Ombudsman*  
inserted by  
No. 32/2004  
s. 3(b),  
repealed by  
No. 63/2004  
s. 7(a).

\* \* \* \*

*police personnel* has the meaning given in section 3(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 2(1) def. of *police personnel* inserted by No. 82/2012 s. 224(1)(a).

*police personnel conduct* has the meaning given in section 5 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 2(1) def. of *police personnel conduct* inserted by No. 82/2012 s. 224(1)(a), amended by No. 82/2012 s. 313(c).

*presiding officer* means the Ombudsman officer before whom a person is appearing at a compulsory appearance or voluntary appearance;

S. 2(1) def. of *presiding officer* inserted by No. 82/2012 s. 224(1)(a).

*principal officer* means—

- (a) in relation to a Department, the Department Head of the Department within the meaning of the **Public Administration Act 2004** or the person carrying out the duties of the Department Head;
- (b) in relation to an Administrative Office, the Administrative Office Head of the Administrative Office within the meaning of the **Public Administration Act 2004** or the person carrying out the duties of the Administrative Office Head;
- (c) in relation to a specified entity, the person (if any) specified in column 2 of Schedule 1 opposite the specified entity;

S. 2(1) def. of *principal officer* amended by Nos 8884 s. 2(c), 12/1989 s. 4(1)(Sch. 2 item 86.4), 62/1989 s. 4(b), 125/1993 s. 20(9), 46/1998 s. 7(Sch. 1), 102/1998 s. 34, 108/2004 s. 117(1) (Sch. 3 item 144.2), substituted by No. 82/2012 s. 224(1)(e), amended by No. 85/2012 s. 144(1)(b).

- (d) in relation to a member of the teaching service, the Secretary within the meaning of the **Education and Training Reform Act 2006**;
- (e) in relation to a State funded residential care service, the chief executive officer of the service;
- (f) in relation to a person or body prescribed by Rules of Parliament made under this Act as a protected disclosure entity, the person prescribed by the Rules as the principal officer for that person or body;

S. 2(1) def. of *protected disclosure complaint* inserted by No. 85/2012 s. 144(1)(a), amended by No. 82/2012 s. 313(d).

*protected disclosure complaint* means a disclosure determined to be a protected disclosure complaint under section 26 of the **Protected Disclosure Act 2012** that has been referred to the Ombudsman under section 73 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 2(1) def. of *protected disclosure entity* inserted by No. 85/2012 s. 144(1)(a).

*protected disclosure entity* means—

- (a) a member of Parliament;
- (b) a Councillor;
- (c) a member of the teaching service within the meaning of the **Education and Training Reform Act 2006**;
- (d) a State funded residential care service within the meaning of the **Health Services Act 1988**;
- (e) a person or body prescribed by Rules of Parliament made under this Act;

***Public Interest Monitor*** has the meaning given in section 4 of the **Public Interest Monitor Act 2011**;

S. 2(1) def. of *Public Interest Monitor* inserted by No. 82/2012 s. 224(1)(a).

***public statutory body*** means—

S. 2(1) def. of *Public Statutory Body* amended by No. 15/1998 s. 10(1)(a), substituted by No. 82/2012 s. 224(1)(f).

- (a) a body, whether corporate or unincorporated, that is established by or under an Act for a public purpose; or
- (b) a body whose members, or a majority of whose members, are appointed by the Governor in Council or a Minister; or
- (c) a company all the shares or a majority of the shares in which are held by the State or an authority;

***referred complaint*** has the meaning given in section 16B(1);

S. 2(1) def. of *referred complaint* inserted by No. 82/2012 s. 224(1)(a).

***referred matter*** has the meaning given in section 16B(2);

S. 2(1) def. of *referred matter* inserted by No. 82/2012 s. 224(1)(a).

***relevant protected disclosure complaint*** means a protected disclosure complaint that the Ombudsman is required to investigate under section 15C;

S. 2(1) def. of *relevant protected disclosure complaint* inserted by No. 85/2012 s. 144(1)(a).



S. 2(1) def. of  
*responsible  
Minister*  
inserted by  
No. 82/2012  
s. 224(1)(a),  
amended by  
No. 85/2012  
s. 144(1)(c).

*responsible Minister* means—

- (a) in relation to a Department, the Minister responsible for the Department;
- (b) in relation to an Administrative Office, the Minister responsible for the Administrative Office;
- (c) in relation to a specified entity, the Minister (if any) specified in column 3 of Schedule 1 opposite the specified entity;
- (d) in relation to a Councillor, the Minister administering Part 4 of the **Local Government Act 1989**;
- (e) in relation to a member of the teaching service, the Minister administering Part 2.4 of the **Education and Training Reform Act 2006**;
- (f) in relation to a State funded residential care service, the Minister administering section 6 of the **Health Services Act 1988**;
- (g) in relation to a person or body prescribed by Rules of Parliament made under this Act as a protected disclosure entity, the Minister prescribed by the Rules as the responsible Minister for that person or body;

S. 2(1) def. of  
*restricted  
matter*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*restricted matter* means—

- (a) any evidence given by a person at a compulsory appearance or a voluntary appearance;

- (b) the contents of any document, or a description of any thing, produced by a person at a compulsory appearance or a voluntary appearance;
- (c) the contents of any document, or a description of any thing, which has been inspected under section 21;
- (d) the existence of, or any information about, a confidentiality notice or a witness summons;
- (e) the subject matter of an investigation in relation to which—
  - (i) a witness summons has been issued; or
  - (ii) a person has appeared, or has been requested to appear, at a voluntary appearance;
- (f) any information that could enable a person who has given, or may give, evidence, or who has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance, to be identified or located;
- (g) the fact that a person has given, or may give, evidence, or has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance;

***specified entity*** means a person or body specified in column 1 of Schedule 1;

S. 2(1) def. of ***specified entity*** inserted by No. 82/2012 s. 224(1)(a).

S. 2(1) def. of  
*spouse*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*spouse* of a person means a person to whom the person is married;

S. 2(1) def. of  
*State Trustees*  
inserted by  
No. 15/1998  
s. 10(1)(b).

*State Trustees* means the company described as State Trustees in the **State Trustees (State Owned Company) Act 1994** while that company is a company a majority of shares in which is held by or on behalf of the State.

S. 2(1) def. of  
*VAGO officer*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*VAGO officer* has the meaning given in section 3(1) of the **Audit Act 1994**;

S. 2(1) def. of  
*Victorian Auditor-General's Office*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Victorian Auditor-General's Office* has the meaning given in section 3(1) of the **Audit Act 1994**;

S. 2(1) def. of  
*Victorian court*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Victorian court* means—

- (a) the Supreme Court;
- (b) the County Court;
- (c) the Magistrates' Court;
- (d) the Children's Court;
- (e) the Coroners Court;

S. 2(1) def. of  
*Victorian Inspectorate*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Victorian Inspectorate* means the Victorian Inspectorate established under the **Victorian Inspectorate Act 2011**;

S. 2(1) def. of  
*Victorian Inspectorate Officer*  
inserted by  
No. 82/2012  
s. 224(1)(a).

*Victorian Inspectorate Officer* has the meaning given in section 3(1) of the **Victorian Inspectorate Act 2011**;

*voluntary appearance* means the appearance of a person before an Ombudsman officer in the course of or in relation to the performance of the Ombudsman's functions under this Act or any other Act, other than a compulsory appearance;

S. 2(1) def. of *voluntary appearance* inserted by No. 82/2012 s. 224(1)(a).

*witness summons* means a summons issued by the Ombudsman under section 17 of the **Evidence (Miscellaneous Provisions) Act 1958**.

S. 2(1) def. of *witness summons* inserted by No. 82/2012 s. 224(1)(a).

**Note**

Section 18 applies section 17 of the **Evidence (Miscellaneous Provisions) Act 1958** to investigations under this Act.

(2) For the purposes of the definition of *domestic partner* in subsection (1)—

S. 2(2) inserted by No. 82/2012 s. 224(2).

(a) *registered relationship* has the same meaning as it has in the **Relationships Act 2008**; and

(b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all of the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

(3) In this Act, a reference to a person who made a protected disclosure complaint or to a person who made a relevant protected disclosure complaint is a reference to a person who made a disclosure that was determined to be a protected disclosure complaint under section 26 of the **Protected Disclosure Act 2012**.

S. 2(3) inserted by No. 85/2012 s. 144(2).

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**PART II—THE OMBUDSMAN**

**3 Appointment of Ombudsman**

- (1) There shall be appointed a Commissioner for Administrative Investigations, to be called the Ombudsman.
- (2) The Ombudsman shall be appointed by the Governor in Council and shall hold office in accordance with this Act.
- (3) The Ombudsman shall not be a Member of Parliament of Victoria or of the Commonwealth or any other State.
- (4) Subject to this Act, the Ombudsman holds office for a term of 10 years, and is not eligible to be re-appointed.
- (5) The Ombudsman shall cease to hold his office—
  - (a) if he resigns in writing under his hand and his resignation is accepted by the Governor in Council;
  - (b) if he is removed from office upon the presentation of an address of both Houses of Parliament praying for his removal from office;
  - (c) if he is suspended from office under section 4 and is not restored to office; or
  - (d) if he nominates for election for either House of Parliament of Victoria or of the Commonwealth or any other State.

S. 3(4)  
substituted by  
No. 62/1989  
s. 5.

#### **4 Suspension of Ombudsman**

- (1) The Governor in Council may at any time when Parliament is not in session suspend the Ombudsman from office on the ground of disability, bankruptcy, neglect of duty or misconduct or on any other ground which in the opinion of the Governor in Council makes him unfit to be the Ombudsman.
- (2) The Ombudsman so suspended shall be restored to office unless—
  - (a) a statement setting out the grounds of suspension is laid before each House of Parliament during the first seven sitting days of that House following the suspension; and
  - (b) each House of Parliament within 20 sitting days of the statement being so laid passes an address praying for his removal from office.

S. 4(1)  
amended by  
No. 62/1989  
s. 15(2).

#### **5 Salary, allowances and leave of absence**

- (1) The Ombudsman shall be paid—
  - (a) a salary at such rate as is fixed from time to time by the Governor in Council; and
  - (b) such travelling and other allowances as are fixed from time to time by the Governor in Council.
- (2) The rate of salary paid to the Ombudsman shall not be reduced during his term of office without his consent in writing.
- (3) The Ombudsman shall be entitled to such leave of absence as the Governor in Council from time to time determines.

- (4) The salary and allowances payable to the Ombudsman shall be paid out of the Consolidated Fund, which to the necessary extent is appropriated accordingly.

## 6 Acting Ombudsman

S. 6(1)  
amended by  
Nos 24/1996  
s. 30(1),  
82/2012  
s. 224(3).

- (1) The Governor in Council may appoint an Acting Commissioner of Administrative Investigations, to be called the Acting Ombudsman during the temporary absence or suspension of the Ombudsman or during any vacancy in the office of Ombudsman, and may at any time revoke such appointment.
- (2) The Acting Ombudsman shall, while so acting, have all the powers and may exercise any of the functions of the Ombudsman as if he were the Ombudsman.

S. 6A  
inserted by  
No. 14/1988  
s. 5,  
substituted by  
No. 32/2004  
s. 4,  
amended by  
No. 56/2004  
s. 76(1),  
repealed by  
No. 63/2004  
s. 7(b).

\* \* \* \*

S. 6B  
inserted by  
No. 14/1988  
s. 5,  
substituted by  
No. 32/2004  
s. 4,  
repealed by  
No. 63/2004  
s. 7(b).

\* \* \* \*

Ombudsman Act 1973  
No. 8414 of 1973  
Part II—The Ombudsman

s. 7

\* \* \* \* \*

S. 6C  
inserted by  
No. 14/1988  
s. 5,  
amended by  
No. 24/1996  
s. 30(2)(3),  
repealed by  
No. 32/2004  
s. 5(1)(a).

\* \* \* \* \*

S. 6D  
inserted by  
No. 14/1988  
s. 5,  
amended by  
No. 46/1998  
s. 7(Sch. 1),  
repealed by  
No. 32/2004  
s. 5(1)(a).

\* \* \* \* \*

S. 6E  
inserted by  
No. 14/1988  
s. 5,  
repealed by  
No. 32/2004  
s. 5(1)(a).

\* \* \* \* \*

S. 6F  
inserted by  
No. 24/1996  
s. 31,  
repealed by  
No. 32/2004  
s. 5(1)(a).

## 7 Staff

Any employees that are necessary to enable the functions of the Ombudsman to be properly carried out may be employed under the **Public Administration Act 2004**.

S. 7  
amended by  
No. 14/1988  
s. 6(1),  
substituted by  
Nos 62/1989  
s. 6, 46/1998  
s. 7(Sch. 1),  
amended by  
Nos 32/2004  
s. 5(1)(b),  
63/2004  
s. 7(c),  
108/2004  
s. 117(1)  
(Sch. 3  
item 144.3).



## 8 Application of Public Administration Act 2004

S. 8 (Heading)  
inserted by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 144.4)

S. 8(1)  
amended by  
Nos 9059  
s. 2(1)(Sch.  
item 31),  
14/1988 s. 7,  
62/1989  
s. 7(a)(b),  
46/1998  
s. 7(Sch. 1),  
substituted by  
No. 32/2004  
s. 5(2),  
amended by  
Nos 63/2004  
s. 7(d),  
108/2004  
s. 117(1)  
(Sch. 3  
item 144.5).

- (1) A person who is the Ombudsman or Acting Ombudsman is not, in respect of the office of Ombudsman or Acting Ombudsman, subject to the **Public Administration Act 2004**.

S. 8(2)  
amended by  
Nos 9059  
s. 2(1)(Sch.  
item 32),  
14/1988 s. 7,  
62/1989  
s. 7(a)(b),  
substituted by  
No. 46/1998  
s. 7(Sch. 1),  
amended by  
No. 32/2004  
s. 5(3)(a).

- (2) A person who is the Ombudsman or Acting Ombudsman and who, immediately before his or her appointment as such was an employee in the public service—

S. 8(2)(a)  
amended by  
No. 32/2004  
s. 5(3)(a).

- (a) is eligible to be employed in the public service at the termination of his or her office as the Ombudsman or Acting Ombudsman with a classification and emolument corresponding with or higher than that which he or she last held or received in the public service immediately before his or her appointment as the Ombudsman or Acting Ombudsman as if his or her service as the

Ombudsman or Acting Ombudsman had been service in the public service; and

- (b) for the purposes of long service leave, is to be taken to continue to be an employee in the public service while he or she was Ombudsman or Acting Ombudsman.

S. 8(2)(b)  
amended by  
No. 32/2004  
s. 5(3)(a).

## 9 Superannuation

- (1) A person who is the Ombudsman or Acting Ombudsman or an employee of the Ombudsman and who immediately before his or her appointment as such was an officer within the meaning of the **State Superannuation Act 1988** or of any corresponding previous enactment shall, subject to that Act, continue during his or her term of office as the Ombudsman or Acting Ombudsman or an employee of the Ombudsman to be an officer within the meaning of that Act.
- (2) A person who is the Ombudsman and who immediately before his appointment as the Ombudsman was not an employee in the public service may elect to be a contributor to a pension scheme determined by the Governor in Council after consideration of a report by the Secretary to the Department of Treasury and Finance.

S. 9(1)  
amended by  
Nos 14/1988  
s. 8, 50/1988  
s. 93(2)(Sch. 2  
Pt 2 item 42),  
46/1998  
s. 7(Sch. 1),  
32/2004  
s. 5(3)(b)(i)(ii).

S. 9(2)  
amended by  
Nos 62/1989  
s. 15(3),  
100/1995  
s. 32(Sch. 2  
item 4),  
46/1998  
s. 7(Sch. 1).

## 10 Oath or affirmation

- (1) Before the Ombudsman or Acting Ombudsman performs any of the duties of office of Ombudsman, he or she must take an oath or make an affirmation that he or she—
- (a) will faithfully and impartially perform the duties of office of Ombudsman; and

S. 10  
amended by  
Nos 14/1988  
s. 9, 15/1989  
s. 24,  
substituted by  
No. 32/2004  
s. 6.

S. 10(1)  
amended by  
No. 63/2004  
s. 7(e)(i).

S. 10(1)(a)  
amended by  
No. 63/2004  
s. 7(e)(ii).

S. 10(2)  
substituted by  
No. 82/2012  
s. 225(1).

- (b) will not divulge, except according to law,  
any information received in the performance  
of those duties.
- (2) Before a member of Ombudsman staff performs  
any duties as a member of Ombudsman staff, the  
member must take an oath or make an affirmation  
that he or she—
  - (a) will faithfully and impartially perform his or  
her duties as a member of Ombudsman staff;  
and
  - (b) will not divulge, except according to law,  
any information received in the performance  
of those duties.
- (3) The oath or affirmation is to be administered by—
  - (a) the Speaker of the Legislative Assembly, in  
the case of the Ombudsman or Acting  
Ombudsman;
  - (b) the Ombudsman or Acting Ombudsman, in  
the case of a member of Ombudsman staff.

S. 10(3)(b)  
amended by  
No. 82/2012  
s. 225(2).

## 11 Delegation

S. 11(1)  
amended by  
No. 80/2006  
s. 20.

- (1) The Ombudsman or the Acting Ombudsman may,  
by instrument in writing, delegate all or any of the  
powers or functions of the Ombudsman (except  
this power of delegation) under this or any other  
Act to any person, and may in like manner revoke  
or vary such delegation.
- (2) A person to whom any such powers or functions  
have been delegated may exercise or perform  
those powers and functions so long as they are not  
revoked.

- (3) The delegation of any powers or functions shall not affect the exercise of those powers or functions by the Ombudsman or, where applicable, by the Acting Ombudsman.

\* \* \* \* \*

S. 11(4)  
inserted by  
No. 14/1988  
s. 10,  
amended by  
No. 32/2004  
s. 7(1),  
repealed by  
No. 63/2004  
s. 7(f).

## 12 Restriction on other employment

- (1) The Ombudsman or Acting Ombudsman must not, without the consent of the Governor in Council, engage in any paid employment outside the duties of his or her office as Ombudsman or Acting Ombudsman.
- (2) An employee referred to in section 7 must not, without the consent of the Ombudsman, engage in any paid employment outside the duties of his or her employment in the office of the Ombudsman.

S. 12  
amended by  
Nos 32/2004  
s. 7(2),  
63/2004  
s. 7(g),  
34/2008  
s. 143(Sch. 2  
item 9),  
substituted by  
No. 82/2012  
s. 226.

## PART III—FUNCTIONS AND JURISDICTION OF THE OMBUDSMAN

### 13 Principal function of Ombudsman

S. 13  
amended by  
Nos 8651 s. 2,  
8884 s. 3, 9059  
s. 2(1)(Sch.  
item 33),  
14/1988 s. 11,  
12/1989  
s. 4(1)(Sch. 2  
items 86.5–  
86.7) (as  
amended by  
No. 13/1990  
s. 38(2)(l)),  
15/1989 s. 25,  
62/1989 s. 8,  
35/1996  
s. 453(Sch. 1  
item 62.1),  
93/1997 s. 26,  
15/1998  
s. 10(2),  
102/1998 s. 35,  
23/2002 s. 201,  
103/2003  
s. 30(1)(2),  
56/2004  
s. 76(2),  
79/2004  
s. 71(a),  
18/2005  
s. 18(Sch. 1  
item 73.1),  
43/2006  
s. 47(Sch.  
item 2),  
65/2007 s. 111,  
27/2009 s. 16,  
29/2011  
s. 3(Sch. 1  
item 64),  
66/2011 s. 42,  
70/2011 s. 46,  
72/2011 s. 52,  
6/2012 s. 43,  
43/2012  
s. 3(Sch.  
item 36),  
substituted by  
No. 82/2012  
s. 227.

- (1) The principal function of the Ombudsman is to enquire into or investigate any administrative action taken by or in an authority, other than administrative action—

- (a) that appears to involve corrupt conduct; or
- (b) that is taken under the **Freedom of Information Act 1982**.

#### Note

See section 13AA(1)(a) for the Ombudsman's function in relation to corrupt conduct.

- (2) The function of the Ombudsman under subsection (1) includes the power to enquire into or investigate whether any administrative action that he or she may enquire into or investigate under subsection (1) is incompatible with a human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.
- (3) The powers of the Ombudsman in relation to any administrative action taken by or in an authority may be exercised even if the action was taken on behalf of, or in the performance of any function conferred on, a person who or body which is not an authority, but nothing in this Act authorises the Ombudsman to question the merits of any decision made by that person or body.
- (4) If any administrative action is taken by a person who or by or in a body which is not an authority (other than an exempt person or body) under any powers or functions conferred on or instructions given by an authority, the administrative action is, for the purposes of this Act, taken to be the administrative action of the authority, and the

powers of the Ombudsman in respect of that action may be exercised accordingly.

**13AAA Function of Ombudsman to investigate protected disclosure complaints**

S. 13AAA  
inserted by  
No. 85/2012  
s. 145.

The Ombudsman has the function to investigate protected disclosure complaints about conduct by or in an authority or a protected disclosure entity.

**13AA Other functions of Ombudsman**

S. 13AA  
inserted by  
No. 82/2012  
s. 227.

(1) In addition to the principal function in section 13 and the function in section 13AAA, the Ombudsman has the following functions—

S. 13AA(1)  
amended by  
No. 85/2012  
s. 146.

- (a) to enquire into or investigate any administrative action taken by or in an authority that appears to involve corrupt conduct on a referral from the IBAC under Division 5 of Part 3 of the **Independent Broad-based Anti-corruption Commission Act 2011**;
- (b) to monitor compliance with Part 2A of the **Prevention of Cruelty to Animals Act 1986** by officers of the Royal Society for the Prevention of Cruelty to Animals who are approved as general inspectors under section 18(1)(b)(ii) of that Act;
- (c) to monitor compliance with the **Domestic Animals Act 1994** by persons appointed as authorised officers under section 71A(1) or 72A(1) of that Act;
- (d) any other functions conferred by or under this or any other Act.

S. 13AA(1)(a)  
amended by  
No. 82/2012  
s. 313(e).

**s. 13AB**

- (2) The function of the Ombudsman under subsection (1)(a) includes the power to enquire into or investigate whether any administrative action referred to in that subsection is incompatible with a human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.
- (3) For the avoidance of doubt, nothing in this Act authorises or requires the Ombudsman to enquire into or investigate anything done or omitted to be done by or in an exempt person or body.

S. 13AB  
inserted by  
No. 82/2012  
s. 227.

**13AB Ombudsman not to prejudice legal proceedings or investigations**

- (1) The Ombudsman must not perform his or her functions or duties or exercise his or her powers in a manner that would prejudice any—
  - (a) criminal proceedings or criminal investigations; or
  - (b) investigations by the IBAC or the Victorian Inspectorate.
- (2) For the purposes of ensuring compliance with subsection (1), the Ombudsman may consult any of the following—
  - (a) the Director of Public Prosecutions;
  - (b) the Chief Commissioner of Police;
  - (c) the IBAC;
  - (d) the Victorian Inspectorate.

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**PART IIIA—ENQUIRIES**

Pt 3A  
(Heading and  
ss 13A, 13B)  
inserted by  
No. 62/1989  
s. 9.

**13A Conducting of enquiries**

S. 13A  
inserted by  
No. 62/1989  
s. 9.

(1) The Ombudsman may conduct an enquiry for the purpose of determining whether—

(a) an investigation under this Act (other than an investigation on a protected disclosure complaint) should be conducted; or

S. 13A(1)(a)  
amended by  
No. 85/2012  
s. 147.

(b) the matter may be resolved informally.

(2) The Ombudsman may conduct an enquiry either on his or her own motion or as a consequence of a complaint under section 14, a referred complaint or a referred matter.

S. 13A(2)  
amended by  
No. 82/2012  
s. 228(a).

(3) The principal officer of an authority (if any) must assist the Ombudsman in the conduct of an enquiry.

S. 13A(3)  
amended by  
No. 82/2012  
s. 228(b).

**13B Communication of information to complainant**

S. 13B  
inserted by  
No. 62/1989  
s. 9.

Section 24 applies to—

(a) information obtained or received in the course or as a result of an enquiry under this Act; and

(b) the result of an enquiry under this Act and any recommendations made—

as if the enquiry were an investigation under this Act.

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## PART IV—INVESTIGATIONS

### Division 1—Complaints generally

Pt 4 Div. 1  
(Heading and  
ss 14–15C)  
amended by  
Nos 98/2000  
s. 79, 2/2001  
s. 113, 6/2012  
s. 44,  
substituted as  
Pt 4 Div. 1  
(Heading and  
ss 14–15B) by  
No. 82/2012  
s. 229.

S. 14  
substituted by  
No. 82/2012  
s. 229.

#### 14 Making a complaint

- (1) The following persons may make a complaint to the Ombudsman about an administrative action taken by or in an authority—
  - (a) a person or body of persons affected by the administrative action (an *aggrieved person*); or
  - (b) a member of Parliament acting on behalf of an aggrieved person; or
  - (c) if an aggrieved person has died, a person who the Ombudsman considers is suitable to represent the deceased person; or
  - (d) if the Ombudsman considers that an aggrieved person is unable to act for themselves, a person who the Ombudsman considers is suitable to represent the aggrieved person; or
  - (e) any other person if, having regard to all the circumstances, the Ombudsman considers it is appropriate to deal with the complaint.
- (2) A complaint must be made in writing except where the Ombudsman considers that the complainant—

- (a) is under 18 years of age; or
  - (b) does not have sufficient knowledge of the English language to make a complaint in writing; or
  - (c) has a mental or physical impairment that prevents the complainant from making a complaint in writing.
- (3) The Ombudsman may deal with a complaint even if, on the face of it, the complaint does not refer to an administrative action taken by or in an authority if the Ombudsman considers there is a likelihood that the cause for complaint arose from such an action.

**15 Ombudsman must refuse to deal with certain complaints**

S. 15  
substituted by  
No. 82/2012  
s. 229.

- (1) The Ombudsman must refuse to deal with a complaint that appears to involve corrupt conduct or police personnel conduct other than to notify the IBAC or the Victorian Inspectorate under Division 2C.
- (2) The Ombudsman must refuse to deal with a complaint about administrative action that is taken under the **Freedom of Information Act 1982** other than, if it could be made the subject of a complaint under Part VIA of that Act, to notify the Freedom of Information Commissioner under Division 2C.
- (3) The Ombudsman must refuse to deal with a complaint if dealing with it would be contrary to section 13AB.
- (4) The Ombudsman must refuse to deal with a complaint relating to terms and conditions of employment of persons who are or were employed by or in an authority unless the Ombudsman considers that the matter merits investigation in order to avoid injustice.

**s. 15A**

- (5) If the Ombudsman considers that a complainant has or had a right of appeal or referral to, or review by, a tribunal, the Ombudsman must refuse to deal with the complaint unless the Ombudsman considers that in the particular circumstances—
  - (a) it would not be reasonable to expect or have expected the complainant to exercise that right; or
  - (b) the matter merits investigation to avoid injustice.
- (6) If the Ombudsman considers that a complainant has or had a remedy by taking proceedings in a court, the Ombudsman must refuse to deal with the complaint unless the Ombudsman considers that in the particular circumstances—
  - (a) it would not be reasonable to expect or have expected the complainant to take those proceedings; or
  - (b) the matter merits investigation to avoid injustice.

**S. 15A**  
substituted by  
No. 82/2012  
s. 229.

**15A Ombudsman may refuse to deal with certain complaints**

- (1) The Ombudsman may refuse to deal with a complaint if the Ombudsman considers—
  - (a) the subject-matter of the complaint is trivial; or
  - (b) the complaint is frivolous or vexatious or is not made in good faith; or
  - (c) the complaint lacks substance or credibility; or
  - (d) the subject-matter of the complaint has already been investigated or otherwise dealt with by—

- (i) an integrity body within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (ii) any other person or body (whether or not still in existence) with the power to require the production of documents or the answering of questions.
- (2) The Ombudsman may refuse to deal with a complaint if the complainant—
- (a) made the complaint more than 12 months after becoming aware of the administrative action; and
  - (b) fails to give a satisfactory explanation for the delay in making the complaint.

**15B Investigation of complaints**

Subject to sections 15 and 15A, the Ombudsman may conduct an investigation under this Act on a complaint.

S. 15B  
substituted by  
No. 82/2012  
s. 229.

**Division 1A—Protected disclosure complaints**

Pt 4 Div. 1A  
(Heading and  
ss 15C–15F)  
inserted by  
No. 85/2012  
s. 148.

**15C Ombudsman must investigate protected disclosure complaints**

Subject to sections 15D and 15E, the Ombudsman must conduct an investigation under this Act on a protected disclosure complaint about conduct by or in an authority or a protected disclosure entity.

S. 15C  
inserted by  
No. 85/2012  
s. 148.

**15D Ombudsman must refuse to investigate certain protected disclosure complaints**

- (1) The Ombudsman must refuse to conduct an investigation on a protected disclosure complaint if conducting the investigation would be contrary to section 13AB.

S. 15D  
inserted by  
No. 85/2012  
s. 148.

s. 15E

- (2) The Ombudsman must refuse to conduct an investigation on a protected disclosure complaint about conduct by or in an authority or a protected disclosure entity unless the Ombudsman is reasonably satisfied that the protected disclosure complaint shows or tends to show that—
- (a) the authority or protected disclosure entity or a member, officer or employee of the authority or protected disclosure entity has engaged, is engaging or proposes to engage in improper conduct; or
  - (b) the authority or protected disclosure entity or a member, officer or employee of the authority or protected disclosure entity has taken, is taking or proposes to take detrimental action against a person in contravention of section 45 of the **Protected Disclosure Act 2012**.
- (3) In this section, *improper conduct* has the meaning given in section 4 of the **Protected Disclosure Act 2012**.

S. 15E  
inserted by  
No. 85/2012  
s. 148.

**15E Ombudsman may refuse to investigate certain protected disclosure complaints**

- (1) The Ombudsman may refuse to conduct an investigation on a protected disclosure complaint if the Ombudsman considers—
- (a) the subject-matter of the protected disclosure complaint is trivial; or
  - (b) the protected disclosure complaint is frivolous or vexatious; or
  - (c) the protected disclosure complaint lacks substance or credibility; or
  - (d) the subject-matter of the protected disclosure complaint has already been investigated or otherwise dealt with by—

- (i) an integrity body within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (ii) any other person or body (whether or not still in existence) with the power to require the production of documents or the answering of questions.
- (2) The Ombudsman may refuse to conduct an investigation on a protected disclosure complaint if the person who made the protected disclosure complaint—
  - (a) made the disclosure that was determined to be a protected disclosure complaint more than 12 months after becoming aware of the disclosed matter; and
  - (b) fails to give a satisfactory explanation for the delay in making the disclosure.

**15F Person who made protected disclosure complaint to be informed of refusal to investigate**

S. 15F  
inserted by  
No. 85/2012  
s. 148.

If the Ombudsman refuses to conduct an investigation on a protected disclosure complaint, the Ombudsman, within a reasonable time after receiving the protected disclosure complaint from the IBAC, must inform the person who made the protected disclosure complaint of—

- (a) the refusal to conduct the investigation; and
- (b) the reason for that refusal.

**Division 2—Parliamentary complaints**

**16 Investigations referred by Parliament**

- (1) At any time—
  - (a) the Legislative Council or a committee of the Legislative Council;

**s. 16A**

(b) the Legislative Assembly or a committee of the Legislative Assembly; or

(c) a joint committee of both Houses of Parliament—

may refer to the Ombudsman for investigation and report any matter, other than a matter concerning a judicial proceeding, which that House or committee considers should be investigated by him.

- (2) Where a matter is referred to him pursuant to subsection (1), the Ombudsman shall, notwithstanding anything to the contrary in this Act, forthwith investigate that matter and report thereon.

Note to  
s. 16(2)  
inserted by  
No. 82/2012  
s. 230(a).

**Note**

Section 25AB provides for the manner of reporting.

S. 16(3)  
repealed by  
No. 82/2012  
s. 230(b).

\* \* \* \* \*

Pt 4 Div. 2A  
(Heading and  
s. 16A)  
inserted by  
No. 82/2012  
s. 231.

**Division 2A—Own motion investigations**

S. 16A  
inserted by  
No. 82/2012  
s. 231.

**16A Ombudsman may conduct own motion investigation**

- (1) Subject to section 13AB and this section, the Ombudsman may conduct an investigation on his or her own motion into any administrative action taken by or in an authority.

- (2) The Ombudsman must not conduct an own motion investigation into any administrative action that appears to involve corrupt conduct.

**Note**

See also section 16D.

- (3) The Ombudsman must not conduct an own motion investigation into any administrative action that is taken under the **Freedom of Information Act 1982**.
- (4) The Ombudsman must not conduct an own motion investigation into a matter relating to terms and conditions of employment of persons who are or were employed by or in an authority unless the Ombudsman considers that the matter merits investigation in order to avoid injustice.
- (5) If the Ombudsman considers that a person aggrieved by any administrative action taken by or in an authority has or had a right of appeal or referral to, or review by, a tribunal, the Ombudsman must not conduct an own motion investigation into the matter unless the Ombudsman considers that in the particular circumstances—
- (a) it would not be reasonable to expect or have expected the person to exercise that right; or
  - (b) the matter merits investigation to avoid injustice.
- (6) If the Ombudsman considers that a person aggrieved by any administrative action taken by or in an authority has or had a remedy by taking proceedings in a court, the Ombudsman must not conduct an own motion investigation into the matter unless the Ombudsman considers that in the particular circumstances—



s. 16B

- (a) it would not be reasonable to expect or have expected the person to take those proceedings; or
- (b) the matter merits investigation to avoid injustice.

Pt 4 Div. 2B  
(Heading and  
ss 16B–16D)  
inserted by  
No. 82/2012  
s. 231.

**Division 2B—Referred complaints and matters**

S. 16B  
inserted by  
No. 82/2012  
s. 231.

**16B What are referred complaints and referred matters?**

- (1) For the purposes of this Act, a *referred complaint* is—

S. 16B(1)(a)  
amended by  
Nos 85/2012  
s. 149(a),  
82/2012  
s. 313(f).

- (a) a complaint within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011** (other than a protected disclosure complaint) referred to the Ombudsman by the IBAC under section 73 of that Act; or

S. 16B(1)(b)  
amended by  
No. 85/2012  
s. 149(b).

- (b) a complaint about any administrative action taken by or in an authority referred to the Ombudsman by another person or body (whether under an Act or otherwise); or

S. 16B(1)(c)  
inserted by  
No. 85/2012  
s. 149(c).

- (c) a protected disclosure complaint that the Ombudsman has refused to investigate under section 15D(2).

- (2) For the purposes of this Act, a *referred matter* is—

S. 16B(2)(a)  
amended by  
No. 82/2012  
s. 313(f).

- (a) a notification within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011** referred to the Ombudsman by the IBAC under section 73 of that Act; or

- (b) a matter referred, or information provided, to the Ombudsman (whether under an Act or otherwise) about any administrative action taken by or in an authority, but not including a matter referred to the Ombudsman under section 16.

**16C Dealing with referred complaints**

S. 16C  
inserted by  
No. 82/2012  
s. 231.

- (1) The Ombudsman may deal with a referred complaint if it could be made the subject of a complaint under section 14.
- (2) The referred complaint is to be dealt with as if it were a complaint under section 14.
- (3) Section 15(1) does not apply to a referred complaint that is a complaint within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011** referred to the Ombudsman by the IBAC under section 73 of that Act.

S. 16C(3)  
amended by  
No. 82/2012  
s. 313(f).

**16D Dealing with referred matters**

S. 16D  
inserted by  
No. 82/2012  
s. 231.

- (1) The Ombudsman may deal with a referred matter if the matter could be made the subject of an own motion investigation.

**Note**

Section 16A sets out the Ombudsman's power to conduct an own motion investigation.

- (2) The referred matter is to be dealt with as if it were an own motion investigation.
- (3) Section 16A(2) does not apply to a referred matter that is a notification within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011** referred to the Ombudsman by the IBAC under section 73 of that Act.

S. 16D(3)  
amended by  
No. 82/2012  
s. 313(f).

s. 16E

Pt 4 Div. 2C  
(Heading and  
ss 16E–16G)  
inserted by  
No. 82/2012  
s. 231.

**Division 2C—Mandatory notifications by the Ombudsman**

S. 16E  
inserted by  
No. 82/2012  
s. 231.

**16E Notification to IBAC**

- (1) The Ombudsman must notify the IBAC of the following—
  - (a) a complaint or referred matter that appears to involve corrupt conduct or police personnel conduct; or
  - (b) a matter that appears to involve corrupt conduct or police personnel conduct of which the Ombudsman becomes aware in the course of dealing with a complaint, conducting an own motion investigation or performing any other functions under this Act.
- (2) If the Ombudsman notifies the IBAC of a complaint under subsection (1), the Ombudsman must inform the complainant in writing.
- (3) This section does not apply to anything referred to the Ombudsman by the IBAC under section 73 of the **Independent Broad-based Anti-corruption Commission Act 2011**.
- (4) If the Ombudsman considers at any time that anything referred to the Ombudsman by the IBAC under section 73 of the **Independent Broad-based Anti-corruption Commission Act 2011** appears to involve conduct that is serious corrupt conduct, the Ombudsman must inform the IBAC.
- (5) This section does not apply to corrupt conduct of the IBAC or IBAC personnel.

S. 16E(3)  
amended by  
No. 82/2012  
s. 313(f).

S. 16E(4)  
amended by  
No. 82/2012  
s. 313(f).

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**16F Notification to Victorian Inspectorate**

S. 16F  
inserted by  
No. 82/2012  
s. 231.

- (1) The Ombudsman must notify the Victorian Inspectorate of any of the following—
  - (a) a complaint or referred matter that appears to involve conduct of the IBAC or IBAC personnel;
  - (b) a complaint or referred matter that appears to involve conduct (other than corrupt conduct) of an Ombudsman officer, a VAGO officer, the Chief Examiner or an Examiner.
- (2) The Ombudsman must notify the Victorian Inspectorate of any matter relating to conduct referred to in subsection (1)(a) or (b) of which the Ombudsman becomes aware in the course of dealing with a complaint, conducting an own motion investigation or an investigation on a relevant protected disclosure complaint or performing any other functions under this Act, if the Ombudsman considers that the matter is relevant to the performance of the functions of the Victorian Inspectorate.
- (3) If the Ombudsman notifies the Victorian Inspectorate of a complaint under this section, the Ombudsman must inform the complainant in writing.

S. 16F(2)  
amended by  
No. 85/2012  
s. 150.

**16G Notification to Freedom of Information Commissioner**

S. 16G  
inserted by  
No. 82/2012  
s. 231.

- (1) The Ombudsman must notify the Freedom of Information Commissioner of a complaint if the complaint could be made the subject of a complaint under Part VIA of the **Freedom of Information Act 1982**.
- (2) If the Ombudsman notifies the Freedom of Information Commissioner of a complaint under this section, the Ombudsman must inform the complainant in writing.

s. 16H

Pt 4 Div. 2D  
(Heading and  
ss 16H–16K)  
inserted by  
No. 82/2012  
s. 231.

## Division 2D—Referrals by the Ombudsman

S. 16H  
inserted by  
No. 82/2012  
s. 231.

### 16H Application of Division

This Division does not apply to—

- (a) a complaint that appears to involve corrupt conduct or police personnel conduct; or
- (b) a complaint that appears to involve conduct of—
  - (i) the IBAC or IBAC personnel; or
  - (ii) an Ombudsman officer; or
  - (iii) a VAGO officer; or
  - (iv) the Chief Examiner or an Examiner; or
- (c) a complaint about administrative action that is taken under the **Freedom of Information Act 1982**; or
- (d) a complaint that is a referred complaint within the meaning of section 16B(1)(c).

S. 16H(c)  
amended by  
No. 85/2012  
s. 151(a).

S. 16H(d)  
inserted by  
No. 85/2012  
s. 151(b).

S. 16I  
inserted by  
No. 82/2012  
s. 231.

### 16I Ombudsman may refer complaints

The Ombudsman may refer a complaint to a person or body specified in Schedule 3 if, at any time, the Ombudsman considers that—

- (a) the subject matter of the complaint is relevant to the performance of the duties and functions or the exercise of powers of the person or body; and
- (b) it would be more appropriate for the complaint to be dealt with by the person or body rather than by the Ombudsman.

#### **16J Notice of referral**

If the Ombudsman refers a complaint to a person or body under section 16I, the Ombudsman—

- (a) must inform the complainant in writing; and
- (b) may inform the following in writing—
  - (i) the principal officer (if any) of the authority to which the complaint relates; and
  - (ii) the responsible Minister for the authority to which the complaint relates; and
  - (iii) if the authority to which the complaint relates is a member of staff of a Council, the Mayor of the Council.

S. 16J  
inserted by  
No. 82/2012  
s. 231.

#### **16K Consultation prior to referral**

For the purposes of deciding whether to make a referral under this Division to a person or body, the Ombudsman may consult that person or body.

S. 16K  
inserted by  
No. 82/2012  
s. 231.

#### **Division 2E—Information sharing**

Pt 4 Div. 2E  
(Heading and  
s. 16L)  
inserted by  
No. 82/2012  
s. 231.

#### **16L Disclosure of information by the Ombudsman**

- (1) At any time, the Ombudsman may provide or disclose any information received or obtained in the course of the performance of duties and functions or the exercise of powers under this Act to a person or body specified in subsection (2) if the Ombudsman considers that—
  - (a) the information is relevant to the performance of the duties and functions or the exercise of the powers of the person or body; and

S. 16L  
inserted by  
No. 82/2012  
s. 231.

**s. 16L**

**S. 16L(1A)**  
**inserted by**  
**No. 85/2012**  
**s. 152.**

(b) it is appropriate for the information to be brought to the attention of the person or body, having regard to the nature of the information.

(1A) Despite subsection (1), the Ombudsman must not provide or disclose any information to a person or body if—

(a) the person or body, or an employee of the person or body, is the subject of an assessable disclosure; and

(b) the information—

(i) would be likely to lead to the identification of a person who made the assessable disclosure; and

(ii) is not information to which section 53(2)(a), (c) or (d) of the **Protected Disclosure Act 2012** applies.

(2) For the purposes of subsection (1), the following persons and bodies are specified—

(a) the IBAC;

(b) the Victorian Inspectorate;

(c) the Auditor-General;

(d) the Chief Commissioner of Police;

(e) the Director of Public Prosecutions;

(f) the Freedom of Information Commissioner;

(g) the Privacy Commissioner;

(h) the Health Services Commissioner;

(i) a person or body prescribed by Rules of Parliament made under this Act.

- (3) Subsection (1) applies subject to any restriction on the provision or disclosure of information under this Act or any other Act (including any Commonwealth Act).

### Division 3—Conduct of investigations

#### 17 Procedure relating to investigations

- (1) Before conducting an investigation under this Act, the Ombudsman must inform the following in writing of the Ombudsman's intention to conduct the investigation—
- (a) the complainant or the person who made the relevant protected disclosure complaint; and
- (b) the principal officer (if any) of the authority or protected disclosure entity to which the investigation relates; and
- (c) the responsible Minister (if any) for the authority or protected disclosure entity to which the investigation relates; and
- (d) if the investigation relates to a member of staff of a Council or a Councillor, the Mayor of the Council.
- (1A) Information given under subsection (1)(a) to a person who made a relevant protected disclosure complaint must include a written statement advising the recipient that it is an offence under section 26FA to disclose the Ombudsman's intention to conduct an investigation.

S. 17(1) substituted by No. 8884 s. 4(a), amended by Nos 12/1989 s. 4(1)(Sch. 2 item 86.8), 103/2003 s. 30(3)(4), 65/2007 s. 112, substituted by No. 82/2012 s. 232(1).

S. 17(1)(a) amended by No. 85/2012 s. 153(1)(a).

S. 17(1)(b) amended by No. 85/2012 s. 153(1)(b).

S. 17(1)(c) substituted by No. 85/2012 s. 153(1)(c).

S. 17(1)(d) amended by No. 85/2012 s. 153(1)(d).

S. 17(1A) inserted by No. 85/2012 s. 153(2).



s. 17

S. 17(1B)  
inserted by  
No. 85/2012  
s. 153(2).

(1B) The Ombudsman must not inform a person under subsection (1) if doing so would result in information being disclosed that—

- (a) is likely to lead to the identification of a person who has made an assessable disclosure; and
- (b) is not information to which section 53(2)(a), (c) or (d) of the **Protected Disclosure Act 2012** applies.

(2) Every investigation under this Act shall be conducted in private.

S. 17(3)  
amended by  
Nos 35/1996  
s. 453(Sch. 1  
item 62.2),  
18/2005  
s. 18(Sch. 1  
item 73.2),  
82/2012  
s. 232(2).

(3) Subject to any Rules of Parliament under this Act the Ombudsman is not required to hold any hearing for the purposes of an investigation, and he may obtain information from such persons and in such manner as he thinks fit.

S. 17(4)  
substituted by  
No. 82/2012  
s. 232(3),  
amended by  
No. 85/2012  
s. 153(3).

(4) If at any time during an investigation it appears to the Ombudsman that there may be grounds for making a report adverse to an authority or a protected disclosure entity, the Ombudsman must, before making the report, give the principal officer (if any) of the authority or protected disclosure entity the opportunity to comment on the subject-matter of the investigation.

S. 17(4A)  
inserted by  
No. 85/2012  
s. 153(4).

(4A) If at any time during the course of an investigation on a relevant protected disclosure complaint about a Councillor it appears to the Ombudsman that there may be grounds for making a report adverse to the Councillor, the Ombudsman must, before making the report, give the responsible Minister or the Mayor of the relevant Council the opportunity to comment on the subject-matter of the investigation.

(5) The Ombudsman may at any time during or after an investigation (other than an investigation on a relevant protected disclosure complaint about a member of Parliament) consult a Minister who is concerned in the subject-matter of an investigation, and if a Minister so requests or the investigation relates to a recommendation made to a Minister, shall consult the Minister before forming an adverse opinion in relation to the administrative action concerned or, in case of an investigation of a relevant protected disclosure complaint, an adverse opinion in relation to the conduct.

S. 17(5)  
amended by  
No. 85/2012  
s. 153(5).

(5A) If an investigation relates to an administrative action taken by a member of staff of a Council or relates to a relevant protected disclosure complaint about conduct of a Councillor or a member of staff of a Council, the Ombudsman—

S. 17(5A)  
inserted by  
No. 8884  
s. 4(b),  
amended by  
No. 12/1989  
s. 4(1)(Sch. 2  
items 86.9–  
86.11) (as  
amended by  
No. 13/1990  
s. 38(2)(m)),  
substituted by  
No. 82/2012  
s. 232(4),  
amended by  
No. 85/2012  
s. 153(6)(a).

(a) may, at any time during or after the investigation, consult the Mayor of the Council; and

(b) must, if the Mayor so requests or the investigation relates to a recommendation made to the Council, consult the Mayor before forming an adverse opinion in relation to the administrative action or conduct.

S. 17(5A)(b)  
amended by  
No. 85/2012  
s. 153(6)(b).

s. 17

S. 17(6)  
amended by  
Nos 8884  
s. 4(c),  
12/1989  
s. 4(1)(Sch. 2  
item 86.12),  
substituted by  
No. 82/2012  
s. 232(4),  
amended by  
No. 85/2012  
s. 153(7)(a).

(6) If, during or after an investigation, the Ombudsman considers that there is evidence of a breach of duty or misconduct on the part of an authority or a protected disclosure entity, or a member, officer or employee of an authority or a protected disclosure entity, the Ombudsman must—

S. 17(6)(a)  
amended by  
No. 85/2012  
s. 153(7)(b).

(a) report the matter to the principal officer (if any) of the authority or protected disclosure entity; and

S. 17(6)(b)  
amended by  
No. 85/2012  
s. 153(7)(c).

(b) send a copy of the report to the responsible Minister and, if the authority or protected disclosure entity is a member of staff of a Council or a Councillor, to the Mayor of the Council.

S. 17(6A)  
inserted by  
No. 85/2012  
s. 153(8).

(6A) The Ombudsman must not disclose any information under subsection (4), (4A), (5), (5A) or (6) that—

(a) is likely to lead to the identification of a person who has made an assessable disclosure; and

(b) is not information to which section 53(2)(a), (c) or (d) of the **Protected Disclosure Act 2012** applies.

(7) Subject to this Act and any Rules of Parliament made under this Act the Ombudsman may regulate his procedures on an investigation in such manner as he thinks fit.

## 18 Investigation powers and privileges

S. 18  
(Heading)  
inserted by  
No. 82/2012  
s. 233(1).

- (1) The provisions of sections 17, 18, 19, 20 and 20A of the **Evidence (Miscellaneous Provisions) Act 1958** shall apply to and in relation to any investigation which the Ombudsman is authorized to conduct under this Act as if he were the sole Commissioner issued with a commission by the Governor in Council.

S. 18(1)  
amended by  
Nos 15/1989  
s. 28(2),  
69/2009  
s. 54(Sch. Pt 2  
item 37).

- (1A) A witness summons issued by the Ombudsman—

S. 18(1A)  
inserted by  
No. 82/2012  
s. 233(2).

- (a) must be in the form (if any) prescribed by Rules of Parliament made under this Act; and
- (b) if the witness summons requires the person to whom it is directed to give evidence, must state the nature of the matters about which the person is to give evidence, except to the extent to which the Ombudsman forms the opinion on reasonable grounds that this may—
- (i) prejudice the conduct of the investigation to which the witness summons relates; or
- (ii) be contrary to the public interest.

- (1B) For the avoidance of doubt, the Ombudsman is not required to give reasons for forming the opinion referred to in subsection (1A)(b).

S. 18(1B)  
inserted by  
No. 82/2012  
s. 233(2).

- (2) For the purpose of an investigation under this Act the Ombudsman may take a statutory declaration from any witness or other person.

S. 18(2)  
amended by  
No. 82/2012  
s. 233(3).

- (3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the service

S. 18(3)  
amended by  
Nos 8884 s. 5,  
85/2012 s. 154.

**s. 18A**

of the Crown or an authority or a protected disclosure entity, where imposed by any enactment or any rule of law, shall apply to the disclosure of information for the purposes of an investigation under this Act.

- (4) The Crown shall not, in relation to an investigation under this Act, be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

S. 18(4A)  
inserted by  
No. 52/2012  
s. 21(1).

- (4A) A person is not, in relation to an investigation under this Act, entitled to the privilege provided for in Division 1C of Part 3.10 of the **Evidence Act 2008**.

S. 18(5)  
amended by  
No. 52/2012  
s. 21(2).

- (5) Subject to subsections (3), (4) and (4A) a person shall not be compelled for the purposes of an investigation under this Act to produce any document or give any evidence which he could not be compelled to produce or give in proceedings before a court.

S. 18A  
inserted by  
No. 52/2012  
s. 234.

**18A Ombudsman to report to Victorian Inspectorate on issue of witness summons**

Within 3 days after the issue of a witness summons, the Ombudsman must give a written report to the Victorian Inspectorate specifying—

- (a) the name of the person summoned;  
(b) the reasons why the summons was issued.

S. 18B  
inserted by  
No. 82/2012  
s. 234.

**18B Witness summons directed to person under 16 years**

- (1) A witness summons directed to a person under the age of 16 years at the date of issue of the witness summons has no effect.
- (2) A person who claims to be under the age of 16 years at the date of issue of a witness summons directed to them must provide proof of age to the

Ombudsman in accordance with Rules of  
Parliament made under this Act.

**18C Legal advice and representation**

S. 18C  
inserted by  
No. 82/2012  
s. 234.

- (1) A person may seek legal advice from, and be represented by, a legal practitioner in relation to—
  - (a) an enquiry or investigation conducted by the Ombudsman under this Act; and
  - (b) the person's rights, liabilities, obligations and privileges under this Act or the **Protected Disclosure Act 2012**.
- (2) Without limiting subsection (1) but subject to subsection (3), a person may seek legal advice, and be represented by, a legal practitioner in relation to—
  - (a) the issue of a witness summons directed to the person;
  - (b) a compulsory appearance by the person;
  - (c) a proposed report, or draft or part of a proposed report, under this Act received by the person.
- (3) The Ombudsman may direct a person in writing not to seek legal advice or representation from a specified legal practitioner in relation to any or all of the matters referred to in subsection (2) if the Ombudsman considers on reasonable grounds that the enquiry or investigation to which the matter relates may be prejudiced because the legal practitioner is—
  - (a) appearing at a compulsory appearance; or
  - (b) representing another person who is appearing at a compulsory appearance; or

S. 18C(1)(b)  
amended by  
No. 85/2012  
s. 155.

- 
- (c) involved, or suspected of being involved, in a matter—
    - (i) that is the subject of an enquiry or investigation by the Ombudsman under this Act; or
    - (ii) that is being investigated by the IBAC or the Victorian Inspectorate; or
  - (d) representing a person involved, or suspected of being involved, in a matter—
    - (i) that is the subject of an enquiry or investigation by the Ombudsman under this Act; or
    - (ii) that is being investigated by the IBAC or the Victorian Inspectorate.
  - (4) A direction under subsection (3)—
    - (a) may be given to a person at any time; and
    - (b) takes effect at the time it is given to the person.
  - (5) If the Ombudsman gives a direction to a person under subsection (3) in relation to the issue of a witness summons or a compulsory appearance, the Ombudsman must allow the person at least 3 days after the day it is given to the person to obtain representation by another legal practitioner before the person is required to comply with the witness summons or appear at the compulsory appearance.
  - (6) Within 24 hours after giving a direction under subsection (3), the Ombudsman must inform the Victorian Inspectorate in writing of the direction and the reasons for giving it.

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**18D Advance notice for voluntary appearances**

S. 18D  
inserted by  
No. 82/2012  
s. 234.

- (1) Within a reasonable time before a voluntary appearance, the Ombudsman must advise the person who is to appear of the nature of the matters in respect of which the person is to be asked questions, except to the extent to which the Ombudsman forms the opinion on reasonable grounds that this may prejudice the conduct of the investigation to which the appearance relates or may be contrary to the public interest.
- (2) For the avoidance of doubt, the Ombudsman is not required to give reasons for forming the opinion referred to in subsection (1).

**18E Further provisions relating to appearances**

S. 18E  
inserted by  
No. 82/2012  
s. 234.

- (1) This section applies to a compulsory appearance and a voluntary appearance.
- (2) Before the person appearing is asked any questions or required to produce any document, the presiding officer must—
  - (a) confirm the age of the person if the presiding officer considers that he or she may be under the age of 18 years; and
  - (b) release the person from the appearance if the person is under the age of 16 years; and
  - (c) give the person a copy of the statement (if any) prescribed for the purposes of this subsection by Rules of Parliament made under this Act; and
  - (d) inform a legal practitioner who is representing the person of—
    - (i) any non-disclosure requirements that apply under this Act; and

S. 18E(2)(d)  
substituted by  
No. 85/2012  
s. 156(1).



S. 18E(2A)  
inserted by  
No. 85/2012  
s. 156(2).

- (ii) in the case of an investigation on a protected disclosure complaint, the confidentiality requirements under Part 7 of the **Protected Disclosure Act 2012**; and
  - (e) take any other actions prescribed for the purposes of this subsection by Rules of Parliament made under this Act.
- (2A) In an investigation on a protected disclosure complaint, before the person appearing is asked any questions or required to produce any document, the presiding officer must—
  - (a) advise the person that the person may be subject to further confidentiality obligations under Part 7 of the **Protected Disclosure Act 2012**; and
  - (b) advise the person of the nature of those requirements.
- (3) At any time during the appearance, if the presiding officer becomes aware that the person appearing is under the age of 16 years, the presiding officer must immediately release the person from the appearance.
- (4) If the person appearing does not have knowledge of the English language that is sufficient to enable the person to understand questions asked of him or her or to answer those questions, before the questioning commences the presiding officer must provide for a competent interpreter to be present.
- (5) If the person appearing is under the age of 18 years, the person must be accompanied by a parent or guardian or an independent person.
- (6) The presiding officer must direct that an independent person be present during the appearance if—

- (a) the presiding officer believes the person appearing has a mental impairment; or
- (b) the person appearing provides the presiding officer with reasonably satisfactory medical evidence that the person has a mental impairment.

**18F Audio or video recording of compulsory appearances**

S. 18F  
inserted by  
No. 82/2012  
s. 234.

- (1) This section applies to a compulsory appearance.
- (2) The presiding officer must ensure that the appearance is audio or video recorded.
- (3) Subject to subsection (4), evidence of anything said by the person appearing during the appearance is inadmissible as evidence against any person in any proceeding before a court or tribunal unless—
  - (a) the appearance was audio or video recorded; and
  - (b) the audio or video recording is available to be tendered in evidence.
- (4) A court may admit evidence of anything said by the person appearing during the appearance that is otherwise inadmissible because of subsection (3) if the court is satisfied that there are exceptional circumstances that justify the admission of the evidence.
- (5) Unless the Ombudsman considers on reasonable grounds that doing so may prejudice an investigation under this Act, the Ombudsman must provide the person appearing with a copy of—
  - (a) the audio or video recording; and
  - (b) any transcript created.

- (6) If the Ombudsman determines not to provide the person with a copy of the audio or video recording and any transcript in accordance with subsection (5), the Ombudsman must allow the person to listen to or view the recording of his or her evidence at Ombudsman premises at any reasonable time.
- (7) As soon as possible after the appearance, the Ombudsman must provide the Victorian Inspectorate with a copy of the audio or video recording and any transcript of the appearance.

S. 18G  
inserted by  
No. 82/2012  
s. 234.

#### **18G Protection of legal practitioners and witnesses at compulsory appearances**

- (1) This section applies to a compulsory appearance.
- (2) A legal practitioner representing the person appearing or assisting the presiding officer at the appearance has the same protection and immunity as a legal practitioner has in representing a party in a proceeding in the Supreme Court.
- (3) The person appearing has the same protection and immunity as a witness has in a proceeding in the Supreme Court.

#### **19 Deliberations of Ministers and Parliamentary committees not to be disclosed**

- (1) A person shall not be required or authorized by virtue of this Act—
  - (a) to furnish any information or answer any question; or
  - (b) to produce or inspect so much of any document—

which relates to the deliberations of Ministers or any committee consisting of Members of Parliament where the committee is formed for the purpose of advising the Ministers in respect of their deliberations.

- (2) This section does not apply in relation to an investigation on a relevant protected disclosure complaint.

S. 19(2)  
substituted by  
No. 85/2012  
s. 157.

**19A Cabinet information not to be disclosed—relevant protected disclosure complaints**

S. 19A  
inserted by  
No. 85/2012  
s. 158.

In relation to an investigation on a relevant protected disclosure complaint, a person is not required or authorised to—

- (a) furnish any information that is Cabinet information; or
- (b) answer any question that relates to Cabinet information; or
- (c) produce or inspect any document that is Cabinet information.

**19B Deliberations of Parliamentary Committees not to be disclosed—relevant protected disclosure complaints**

S. 19B  
inserted by  
No. 85/2012  
s. 158.

In relation to an investigation on a relevant protected disclosure complaint, a person is not required or authorised to furnish any information or produce or inspect any document or answer any question that relates to any deliberation in private of the following—

- (a) a Joint Investigatory Committee or the House Committee, within the meaning of the **Parliamentary Committees Act 2003**;
- (b) a committee of the Legislative Council or Legislative Assembly on a private Bill;
- (c) a committee consisting of members of Parliament established by resolution of either the Legislative Council or the Legislative Assembly, or the resolution of both the Legislative Council and the Legislative Assembly.

**s. 19C**

**S. 19C**  
inserted by  
No. 85/2012  
s. 158.

**19C Conclusive certificates**

- (1) The Secretary to the Department of Premier and Cabinet may issue a certificate certifying that—
  - (a) any information or question or document or part of a document relates to deliberations of Ministers or of a committee referred to in section 19; or
  - (b) any information or document or part of a document—
    - (i) is Cabinet information; or
    - (ii) would, if it existed, be Cabinet information; or
  - (c) any question relates to Cabinet information; or
  - (d) any information or question or document or part of a document relates to deliberations in private of a committee referred to in section 19B.
- (2) A certificate issued under this section is conclusive of the facts certified.

**S. 19D**  
inserted by  
No. 85/2012  
s. 158.

**19D Disclosure of information subject to legal professional privilege or client legal privilege—relevant protected disclosure complaints**

Nothing in this Act entitles a person to disclose information that is the subject of legal professional privilege or client legal privilege in an investigation on a relevant protected disclosure complaint.

**20 Disclosing or taking advantage of information—  
transitional provision**

S. 20  
(Heading)  
inserted by  
No. 82/2012  
s. 235(1).

(1) A person (other than the complainant) who obtains or receives information in the course or as a result of the exercise of the functions of the Ombudsman under this Act—

S. 20(1)  
amended by  
No. 62/1989  
s. 10(1)(a)–(c).

(a) shall not disclose that information except—

(i) for the purposes of the exercise of the functions of the Ombudsman and of any report or recommendation to be made under this Act; or

S. 20(1)(a)(i)  
amended by  
No. 62/1989  
s. 10(1)(d)(i)(ii).

(ii) for the purposes of any proceedings in relation to an offence against this Act or section 19 of the **Evidence (Miscellaneous Provisions) Act 1958**; or

S. 20(1)(a)(ii)  
amended by  
Nos 9256  
s. 2(a),  
62/1989  
s. 10(1)(e),  
69/2009  
s. 54(Sch. Pt 2  
item 37).

(iii) for the purposes of any communication authorized under section 20A, 20B, 20C or 20D of this Act; and

S. 20(1)(a)(iii)  
inserted by  
No. 9256  
s. 2(b),  
amended by  
No. 6/2012  
s. 45.

(b) shall not take advantage of any knowledge gained from that information to benefit himself or any other person.

(2) A person who in contravention of this section discloses information or takes advantage of knowledge gained from information shall be guilty of an offence against this Act.

Ombudsman Act 1973  
No. 8414 of 1973  
Part IV—Investigations

s. 20A

S. 20(3)  
inserted by  
No. 62/1989  
s. 10(2),  
amended by  
No. 69/2009  
s. 54(Sch. Pt 2  
item 37),  
repealed by  
No. 82/2012  
s. 235(2).

\* \* \* \* \*

S. 20(4)  
inserted by  
No. 62/1989  
s. 12(1).

- (4) Proceedings may only be instituted for an offence under subsection (2)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

S. 20(5)  
inserted by  
No. 82/2012  
s. 235(3).

- (5) This section does not apply to any information obtained or received by a person on or after the commencement of Division 1 of Part 7 of the **Integrity and Accountability Legislation Amendment Act 2012**.

**Note**

Part VA applies to information acquired on or after the commencement of Division 1 of Part 7 of the **Integrity and Accountability Legislation Amendment Act 2012**.

S. 20A  
inserted by  
No. 9256 s. 3,  
amended by  
No. 62/1989  
s. 11(a)(b).

**20A Communication of information to Commonwealth and State Ombudsmen**

The Ombudsman or the Acting Ombudsman may communicate—

- (a) to the Commonwealth Ombudsman or a Deputy Commonwealth Ombudsman appointed under any law of the Commonwealth relating to an Ombudsman; or
- (b) to an Ombudsman Acting Ombudsman or Deputy Ombudsman of any State or Territory of the Commonwealth

administering any law of that State or Territory relating to an Ombudsman—

any information obtained or received in the course or as a result of the exercise of the functions of the Ombudsman under this Act being information relating to a matter arising under an Act of the Commonwealth or of any State or Territory of the Commonwealth other than Victoria or arising out of a joint undertaking between Victoria and the Commonwealth of Australia or between Victoria and another State or Territory of the Commonwealth.

\* \* \* \* \* S. 20B inserted by No. 98/2000 s. 80, repealed by No. 82/2012 s. 236.

\* \* \* \* \* S. 20C inserted by No. 2/2001 s. 114, repealed by No. 82/2012 s. 236.

\* \* \* \* \* S. 20D inserted by No. 6/2012 s. 46, repealed by No. 82/2012 s. 236.

## 21 Entry of premises

- (1) For the purposes of conducting an investigation under this Act (other than an investigation on a relevant protected disclosure complaint) the Ombudsman or a member of Ombudsman staff authorised to do so by the Ombudsman may at any reasonable time enter any premises occupied or used by an authority to which this Act applies, and

S. 21 amended by Nos 82/2012 s. 237, 85/2012 s. 159 (ILA s. 39B(1)).



inspect those premises or anything for the time being therein or thereon.

S. 21(2)  
inserted by  
No. 85/2012  
s. 159(2).

- (2) For the purpose of conducting an investigation on a relevant protected disclosure complaint, the Ombudsman or a member of Ombudsman staff authorised to do so by the Ombudsman may at any reasonable time enter any premises occupied or used by an authority or a protected disclosure entity in its capacity as such and inspect those premises or anything for the time being in them or on them.

S. 22  
amended by  
No. 62/1989  
s. 12(2)(a)(b).

## 22 Obstruction

- (1) A person who—
- (a) without lawful excuse (proof of which shall lie upon him) wilfully obstructs hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;
  - (b) without lawful excuse (proof of which shall lie upon him) refuses to or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
  - (c) wilfully makes a statement he knows to be false or to be misleading in a material particular or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act—

shall be guilty of an offence against this Act.

S. 22(2)  
inserted by  
No. 62/1989  
s. 12(2)(b).

- (2) Proceedings may only be instituted for an offence under subsection (1)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

\* \* \* \* \*

\* \* \* \* \*

Pt 4 Div. 3A  
(Heading and  
ss 22A–22C)  
inserted by  
No. 102/1998  
s. 36,  
repealed by  
No. 82/2012  
s. 238.

Pt 4 Div. 3B  
(Heading and  
ss 22D, 22E)  
inserted by  
No. 56/2004  
s. 77,  
repealed by  
No. 79/2004  
s. 71(b).

## Division 4—Action on completion of investigations

### 23 Procedure on completion of investigation

- (1) Where as a result of an investigation conducted under this Act (other than an investigation conducted under Division 1A or 2) the Ombudsman is of the opinion that the administrative action to which the investigation relates—

S. 23(1)  
amended by  
No. 85/2012  
s. 160(1).

- (a) appears to have been taken contrary to law;
- (b) was unreasonable unjust oppressive or improperly discriminatory;
- (c) was in accordance with a rule of law or a provision of an enactment or practice that is or may be unreasonable unjust oppressive or improperly discriminatory;
- (d) was taken in the exercise of a power or discretion, and was so taken for an improper purpose or on irrelevant grounds, or on the taking into account of irrelevant considerations;

(e) was a decision that was made in the exercise of a power or discretion and the reasons for the decision were not, but should have been, given;

(f) was based wholly or partly on a mistake of law or fact; or

(g) was wrong—

he shall take action as set out in subsection (2).

S. 23(2)  
amended by  
No. 82/2012  
s. 239(1).

(2) Where in a case referred to in subsection (1) the Ombudsman is of the opinion—

(a) that the subject-matter of the investigation should be referred to the appropriate authority for further consideration;

(b) that action could be, and should be, taken to rectify or mitigate or alter the effects of the action to which the investigation relates;

(c) that any practice in accordance with which the action was taken should be varied;

(d) that any law in accordance with which or on the basis of which the action was taken should be reconsidered;

(e) that reasons should be given for the action;  
or

(f) that any other steps should be taken—

the Ombudsman must report his or her opinion and the reasons for it to the principal officer of the authority or, if there is no principal officer, to the responsible Minister for the authority, and may make any recommendations the Ombudsman thinks fit.

S. 23(2A)  
inserted by  
No. 85/2012  
s. 160(2).

(2A) On completion of an investigation on a relevant protected disclosure complaint (other than a relevant protected disclosure complaint about a member of Parliament) the Ombudsman—

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- (a) must report the findings of the investigation—
- (i) to the principal officer (if any) of the appropriate authority or protected disclosure entity; or
  - (ii) if there is no principal officer, to the responsible Minister for the authority or protected disclosure entity; or
  - (iii) if the protected disclosure complaint is about a Councillor, to the Mayor of the appropriate Council; and
- (b) may make recommendations as to the action to be taken as a result of the investigation.
- (3) If the Ombudsman makes a report or recommendations under subsection (2) or (2A), the Ombudsman—
- (a) must send a copy—
    - (i) to the responsible Minister for the authority or protected disclosure entity (unless the Ombudsman has made the report or recommendations to the responsible Minister under subsection (2)); and
    - (ii) if the authority is a member of staff of a Council, to the Mayor of the Council; and
  - (b) may send a copy to the Premier.

S. 23(3)  
amended by  
Nos 8884  
s. 6(a),  
79/2004  
s. 72(1),  
substituted by  
No. 82/2012  
s. 239(2),  
amended by  
No. 85/2012  
s. 160(3)(a).

S. 23(3)(a)(i)  
amended by  
No. 85/2012  
s. 160(3)(b).

S. 23(4)  
amended by  
Nos 82/2012  
s. 239(3)(a),  
85/2012  
s. 160(4).

- (4) Where, under subsection (2) or (2A), the Ombudsman makes recommendations to the principal officer of, or responsible Minister for, an authority or a protected disclosure entity, or the Mayor of the appropriate Council, the Ombudsman may request the principal officer or responsible Minister or Mayor to notify the Ombudsman within a specified time of the steps that have been or are proposed to be taken to give effect to the recommendations or, if no such steps have been or are proposed to be taken, the reasons therefor.

S. 23(5)  
substituted by  
No. 8884  
s. 6(b),  
amended by  
Nos 82/2012  
s. 239(3)(b)(i),  
85/2012  
s. 160(5)(a)(b).

- (5) Where it appears to the Ombudsman that no steps that seem to him to be appropriate have been taken within a reasonable time of his making any report or recommendations under subsection (2) or (2A) he may, after considering the comments (if any) made by or on behalf of the principal officer or responsible Minister or Mayor to whom the report or recommendations were made, send—

- (a) to the Governor in Council; and
- (b) where the report relates to a complaint concerning an administrative action by a member of staff of a Council, to the Mayor of the Council; and

S. 23(5)(b)  
amended by  
Nos 12/1989  
s. 4(1)(Sch. 2  
item 86.13),  
74/2000  
s. 3(Sch. 1  
item 92),  
82/2012  
s. 239(3)(b)(ii),  
85/2012  
s. 160(5)(c).

- (c) where the report relates to a relevant protected disclosure complaint about a Councillor or a member of staff of a Council, to the Mayor of the Council—

S. 23(5)(c)  
inserted by  
No. 85/2012  
s. 160(5)(d).

a copy of the report and the recommendations together with a copy of any such comments.

(6) If a copy of any report and recommendations together with a copy of any comments has been sent to the Governor in Council under subsection (5), the Ombudsman may make a report to the Parliament on any of the matters to which the report and recommendations relate that the Ombudsman thinks fit.

S. 23(6)  
substituted by  
No. 79/2004  
s. 72(2).

(6A) The Ombudsman must not include in a recommendation under subsection (2) or (2A) any information that—

S. 23(6A)  
inserted by  
No. 85/2012  
s. 160(6).

(a) is likely to lead to the identification of a person who has made an assessable disclosure; and

(b) is not information to which section 53(2)(a), (c) or (d) of the **Protected Disclosure Act 2012** applies.

\* \* \* \* \*

S. 23(7)  
repealed by  
No. 82/2012  
s. 239(3)(c).

## **23A Report on investigation—relevant protected disclosure complaints about members of Parliament**

S. 23A  
inserted by  
No. 85/2012  
s. 161.

On completion of an investigation on a relevant protected disclosure complaint about a member of Parliament, the Ombudsman must report the findings of the investigation—

(a) to the President of the Legislative Council, if the complaint is about a member of the Legislative Council; or

(b) to the Speaker of the Legislative Assembly, if the complaint is about a member of the Legislative Assembly.

S. 24  
(Heading)  
inserted by  
No. 85/2012  
s. 162(1).

S. 24  
amended by  
No. 62/1989  
s. 13(a)–(d).

S. 24(1)  
substituted by  
No. 85/2012  
s. 162(2).

S. 24(2)  
inserted by  
No. 62/1989  
s. 13(d),  
amended by  
No. 85/2012  
s. 162(3).

S. 24(3)  
inserted by  
No. 82/2012  
s. 240.

## **24 Complainant or person who made relevant protected disclosure complaint to be informed of result of investigation**

- (1) If the Ombudsman conducts an investigation on a complaint or a relevant protected disclosure complaint, or takes any other action on a complaint, the Ombudsman must inform the complainant or person who made the relevant protected disclosure complaint of the following—
  - (a) the result of the investigation or other action;
  - (b) if the Ombudsman has made any recommendations under section 23(2) or (2A) and it appears that appropriate steps have not been taken within a reasonable time of making those recommendations—
    - (i) the recommendations; and
    - (ii) any comments on the recommendations that the Ombudsman thinks fit.
- (2) The Ombudsman may disclose to a complainant or person who made a relevant protected disclosure complaint any information that the Ombudsman thinks proper, in addition to any information disclosed under subsection (1).
- (3) The Ombudsman must not disclose any information under this section if the Ombudsman considers that the disclosure of the information would—
  - (a) not be in the public interest or in the interests of justice; or
  - (b) put a person's safety at risk; or

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- (c) cause unreasonable damage to a person's reputation; or
  - (d) prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or
  - (e) otherwise contravene any applicable statutory secrecy obligations or involve the unreasonable disclosure of information relating to the personal affairs of any person.
- (4) Information disclosed under this section to a person who made a relevant protected disclosure complaint must include a written statement advising the recipient that it is an offence under section 26FA to disclose the information.
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**S. 24(4)**  
**inserted by**  
**No. 85/2012**  
**s. 162(4).**



## PART V—ANNUAL AND OTHER REPORTS

### 25 Annual and other reports to Parliament

S. 25  
substituted by  
No. 79/2004  
s. 73.

- (1) The Ombudsman must make a report to Parliament on the performance of his or her functions during each financial year.

Note to  
s. 25(1)  
inserted by  
No. 85/2012  
s. 163.

#### Note

See also section 69 of the **Protected Disclosure Act 2012** for other matters that must be included in the Ombudsman's report.

- (2) The Ombudsman may at any time make a report to Parliament on any matter arising in connection with the performance of his or her functions.
- (3) Nothing in this section limits the Ombudsman's right to make a report to Parliament under any other provision of this Act.

### 25AA Transmission of sections 23(6) and 25 reports to Parliament

S. 25AA  
(Heading)  
amended by  
No. 82/2012  
s. 241.

S. 25AA  
inserted by  
No. 79/2004  
s. 73.

- (1) The Ombudsman must cause a report under section 23(6) or 25 to be transmitted to each House of the Parliament—
  - (a) in the case of a report under section 25(1)—as soon as practicable after the end of the financial year to which it relates;
  - (b) in the case of a report under subsection 23(6) or 25(2)—as soon as practicable after it is completed.
- (2) The clerk of each House of the Parliament must cause the report to be laid before the House on the day on which it is received or on the next sitting day of the House.
- (3) If the Ombudsman proposes to transmit a report to Parliament when Parliament is in recess, the Ombudsman must—

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- (a) give one business day's notice of his or her intention to do so to the clerk of each House of the Parliament; and
  - (b) give the report to the clerk of each House on the day indicated in the notice; and
  - (c) publish the report on the Ombudsman's Internet website as soon as practicable after giving it to the clerks.
- (4) The clerk of each House must—
- (a) notify each member of the House of the receipt of a notice under subsection (3)(a) on the same day that the clerk receives that notice; and
  - (b) give a copy of a report to each member of the House as soon as practicable after the report is received under subsection (3)(b); and
  - (c) cause the report to be laid before the House on the next sitting day of the House.
- (5) A report that is given to the clerks under subsection (3)(b) is taken to have been published by order, or under the authority, of the Houses of the Parliament.
- (6) The publication of a report by the Ombudsman under subsection (3)(c) is absolutely privileged and the provisions of sections 73 and 74 of the **Constitution Act 1975** and any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the report as if it were a report to which those sections applied and had been published by the Government Printer under the authority of the Parliament.

**s. 25AB**

- (7) For the purposes of this section, Parliament is in recess when each House stands adjourned to a date to be fixed by the presiding officer of that House.

**S. 25AB**  
inserted by  
No. 82/2012  
s. 242.

**25AB Transmission of section 16 reports**

The Ombudsman must send a report under section 16 to—

- (a) the President of the Legislative Council, if the matter was referred by the Legislative Council or a committee of the Legislative Council; or
- (b) the Speaker of the Legislative Assembly, if the matter was referred by the Legislative Assembly or a committee of the Legislative Assembly; or
- (c) the President of the Legislative Council and the Speaker of the Legislative Assembly, if the matter was referred by a joint committee of both Houses of Parliament.

**S. 25A**  
inserted by  
No. 102/1998  
s. 37,  
substituted by  
No. 82/2012  
s. 243.

**25A Content of reports**

- (1) The Ombudsman must not include in a report under this Act—
- (a) any information that the Ombudsman considers would prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or
  - (b) any information, or information in any document, referred to in section 19, 19A or 19B; or
  - (c) a finding or an opinion that a specified person is guilty of or has committed, is committing or is about to commit an offence; or

**S. 25A(1)(b)**  
amended by  
No. 85/2012  
s. 164(1).

(d) a recommendation that a specified person be, or an opinion that a specified person should be, prosecuted for an offence.

(1A) The Ombudsman must not include in a report under this Act any information that—

S. 25A(1A)  
inserted by  
No. 85/2012  
s. 164(2).

(a) is likely to lead to the identification of a person who has made an assessable disclosure; and

(b) is not information to which section 53(2)(a), (c) or (d) of the **Protected Disclosure Act 2012** applies.

(2) If the Ombudsman intends to include in a report under this Act a comment or opinion that is adverse to any person, the Ombudsman must first give the person a reasonable opportunity to respond to the adverse material and fairly set out the response in the report.

(3) The Ombudsman must not include in a report under this Act any information that would identify any person who is not the subject of any adverse comment or opinion unless the Ombudsman—

(a) is satisfied that it is necessary or desirable to do so in the public interest; and

(b) is satisfied that it will not cause unreasonable damage to the person's reputation, safety or wellbeing; and

(c) states in the report that the person is not the subject of any adverse comment or opinion.

**25B Persons who receive proposed or draft reports or information in them**

S. 25B  
inserted by  
No. 56/2004  
s. 78,  
repealed by  
No. 79/2004  
s. 71(c), new  
s. 25B  
inserted by  
No. 82/2012  
s. 243.

(1) Subject to subsections (4), (5), and (6), a person who receives a proposed report, or a draft or part of a proposed report or information contained in a proposed report or draft or part of a proposed report, before the relevant time must not disclose

any information contained in the proposed report or draft or part of the proposed report unless—

- (a) the disclosure is permitted under subsection (3); and
- (b) the advice required by subsection (7) is given at the same time the disclosure is made.

Penalty: 120 penalty units or imprisonment for 12 months or both.

(2) For the purposes of subsection (1) the *relevant time* is—

- (a) for a report that is to be laid before a House of the Parliament, the time when the report is so laid; or
- (b) for any other report, the time when the report is made by the Ombudsman.

(3) For the purposes of subsection (1), a disclosure is permitted if the disclosure—

- (a) is made in accordance with a direction or authorisation given by the Ombudsman; or
- (b) is made by an officer of an authority or a protected disclosure entity, the responsible Minister for an authority or a protected disclosure entity or a member of staff of the responsible Minister to other officers of the authority or protected disclosure entity, the responsible Minister or other members of staff of the responsible Minister for the purposes of enabling the authority or protected disclosure entity or the responsible Minister to respond to the proposed report or draft or part of the proposed report; or
- (c) is made by a member of staff of a Council to the Mayor of the Council or by the Mayor to a member of staff of the Council for the purposes of enabling the Council to respond

S. 25B(3)(b)  
amended by  
No. 85/2012  
s. 165.

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- to the proposed report or draft or part of the proposed report; or
- (d) subject to any direction given under section 18C(3), is made for the purposes of obtaining legal advice or representation in relation to the proposed report or draft or part of the proposed report; or
  - (e) is otherwise authorised or required to be made by or under this Act.
- (4) Despite subsection (1), a disclosure is permitted if the disclosure is made for the purposes of making a complaint about the conduct of an Ombudsman officer—
- (a) to the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (b) to the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**.
- (5) Despite subsection (1), a disclosure is permitted if the disclosure is made for the purposes of complying with—
- (a) a witness summons served on a person by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (b) a witness summons served on a person by the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**.
- (6) Despite subsection (1), a disclosure is permitted if the disclosure is made after the information is laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with the Act.

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- (7) A person who makes a disclosure of information permitted by subsection (3) must advise any person to whom the disclosure is made that this section applies in relation to the subsequent disclosure of that information by the person to whom the disclosure is made.
- (8) Proceedings may only be instituted for an offence under subsection (1)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

## **26 Rules of Parliament**

Rules of Parliament made under this Act may authorize the Ombudsman to publish in the public interest or in the interests of any person authority or other organization reports relating generally to the exercise of his functions or to any case investigated by him (whether or not the matters to be dealt with in that report have been the subject of a report laid before either House of Parliament under this Act).

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**PART VA—CONFIDENTIALITY**

**Division 1—Confidentiality requirements for Ombudsman officers**

Pt 5A  
(Headings  
and ss 26A–  
26F)  
inserted by  
No. 82/2012  
s. 244.

**26A Unauthorised disclosure**

S. 26A  
inserted by  
No. 82/2012  
s. 244.

(1) A person who is, or was, an Ombudsman officer must not, directly or indirectly, provide or disclose any information acquired by the person by reason of, or in the course of, the performance of the duties and functions of the Ombudsman, or the exercise of the powers of the Ombudsman, under this Act or any other Act except—

(a) for the performance of the duties and functions of the Ombudsman, or the exercise of the powers of the Ombudsman, in accordance with this Act or any other Act; or

(b) for the purposes of—

(i) proceedings for an offence; or

(ii) a disciplinary process or action—  
instituted as a result of an investigation conducted by the Ombudsman; or

(c) for the purposes of proceedings for an offence against section 19 of the **Evidence (Miscellaneous Provisions) Act 1958**; or

(ca) for the purposes of proceedings for an offence against this Act or the **Protected Disclosure Act 2012**; or

S. 26A(1)(ca)  
inserted by  
No. 85/2012  
s. 166(1)(a).

(d) as is otherwise authorised or required to be made by or under this Act or the **Protected Disclosure Act 2012**.

S. 26A(1)(d)  
amended by  
No. 85/2012  
s. 166(1)(b).

Penalty: 120 penalty units or imprisonment for 12 months or both.



**s. 26B**

Note to  
s. 26A(1)  
inserted by  
No. 85/2012  
s. 166(2).

**Note**

The person may be subject to further confidentiality obligations under Part 7 of the **Protected Disclosure Act 2012**.

- (2) Proceedings may only be instituted for an offence under subsection (1)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

S. 26B  
inserted by  
No. 82/2012  
s. 244.

**26B Taking advantage of information**

- (1) A person who is, or was, an Ombudsman officer must not take advantage of any knowledge gained from information referred to in section 26A to benefit the person or any other person.

Penalty: 120 penalty units or imprisonment for 12 months or both.

- (2) Proceedings may only be instituted for an offence under subsection (1)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

**Division 2—Confidentiality notices**

S. 26C  
inserted by  
No. 82/2012  
s. 244.

**26C Confidentiality notice**

- (1) During an investigation—
- (a) if the Ombudsman considers on reasonable grounds that the disclosure of one or more restricted matters would be likely—
    - (i) to prejudice an investigation by the IBAC or the Victorian Inspectorate; or
    - (ii) to prejudice the safety or reputation of a person; or

- (iii) to prejudice the fair trial of a person who has been, or may be, charged with an offence—

the Ombudsman must issue a confidentiality notice in respect of the investigation to a person (other than a member of Ombudsman staff, an IBAC Officer or a Victorian Inspectorate Officer) specifying the restricted matter or restricted matters in accordance with this section; and

- (b) if the Ombudsman considers on reasonable grounds that the disclosure of one or more restricted matters would be likely to prejudice the investigation, the Ombudsman may issue a confidentiality notice in respect of the investigation to a person (other than a member of Ombudsman staff, an IBAC Officer or a Victorian Inspectorate Officer) specifying the restricted matter or restricted matters in accordance with this section.

(2) A confidentiality notice must—

- (a) be in the form (if any) prescribed by Rules of Parliament made under this Act;
- (b) specify the restricted matter or restricted matters in respect of which the confidentiality notice is issued;
- (c) include a copy of the provisions of subsections (3) to (7) and sections 26D and 26F and an explanation of the effect of those provisions;

(ca) include a statement—

- (i) advising the person to whom the confidentiality notice is issued that additional obligations under the **Protected Disclosure Act 2012**

S. 26C(2)(ca)  
inserted by  
No. 85/2012  
s. 167(1).

relating to confidentiality may apply to the person; and

- (ii) directing the person to the provisions of that Act which impose those obligations;
- (d) if a restricted matter specified in the confidentiality notice is the fact that the person has given, or may give, evidence, or has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance, specify that the Ombudsman authorises the person to whom the confidentiality notice is issued to disclose the restricted matter to—
  - (i) the person's spouse or domestic partner; and
  - (ii) the principal officer (if any) of the authority or protected disclosure entity to which the investigation relates; and
  - (iii) the person's employer or manager or both, for the purpose of enabling the person to take the appropriate leave from his or her employment in order to appear—

except to the extent that the Ombudsman considers that the authorisation to make the disclosure would be likely to have the effect specified in subsection (1)(a) or (b).

- (3) If at any time the Ombudsman considers on reasonable grounds that it is necessary to restrict disclosure of a different restricted matter from any of those specified in a confidentiality notice in respect of a particular investigation to ensure that the disclosure would not be likely to have the effect specified in subsection (1)(a) or (b), the

S. 26C(2)(d)(ii)  
amended by  
No. 85/2012  
s. 167(2).

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Ombudsman must issue to the person to whom the confidentiality notice was issued—

- (a) a notice cancelling the previous confidentiality notice; and
  - (b) a new confidentiality notice in respect of that investigation under subsection (1).
- (4) If at any time the Ombudsman considers on reasonable grounds that disclosure of a particular restricted matter specified in a confidentiality notice in respect of a particular investigation would no longer be likely to have the effect specified in subsection (1)(a) or (b), the Ombudsman must issue to the person to whom the confidentiality notice was issued—
  - (a) a notice cancelling the previous confidentiality notice; and
  - (b) a new confidentiality notice in respect of that investigation under subsection (1).
- (5) If at any time the Ombudsman considers on reasonable grounds that disclosure of the restricted matter or restricted matters specified in a confidentiality notice in respect of a particular investigation would no longer be likely to have the effect specified in subsection (1)(a) or (b), the Ombudsman must issue to the person to whom the confidentiality notice was issued a notice cancelling the confidentiality notice.
- (6) At the conclusion of an investigation in respect of which a confidentiality notice was issued, the Ombudsman must issue to the person to whom the confidentiality notice was issued a notice cancelling the confidentiality notice, unless—
  - (a) the Ombudsman has applied for an order under section 26D extending the confidentiality notice and the application has not been determined; or

- (b) the Supreme Court has made an order under section 26D extending the confidentiality notice; or
  - (c) the confidentiality notice has already been cancelled under subsection (3), (4) or (5) or section 26D(3).
- (7) A confidentiality notice in respect of a particular investigation ceases to have effect on whichever of the following occurs first—
- (a) the date on which the Ombudsman issues a notice cancelling the confidentiality notice under subsection (3), (4), (5) or (6) or section 26D(3);
  - (b) the date specified in an order under section 26D extending the confidentiality notice.
- (8) A confidentiality notice under subsection (1) or a notice cancelling a confidentiality notice under subsection (3), (4), (5) or (6) may be issued to a person by serving a copy on the person in the same manner that a witness summons can be served.

S. 26D  
inserted by  
No. 82/2012  
s. 244.

## **26D Extension of confidentiality notice**

- (1) If, before the conclusion of an investigation in respect of which a confidentiality notice has been issued, the Ombudsman considers on reasonable grounds that it is necessary to extend the confidentiality notice for a period following the investigation, the Ombudsman may apply to the Supreme Court for an order extending the confidentiality notice.
- (2) On an application under subsection (1), the Supreme Court may, by order, extend a confidentiality notice to a date specified in the order, if the Supreme Court is satisfied that disclosure of the restricted matter or restricted

matters specified in the confidentiality notice before that date would be likely to have the effect specified in section 26C(1)(a) or (b).

- (3) If, on an application under subsection (1), the Supreme Court declines to make an order under subsection (2), the Ombudsman must issue to the person to whom the confidentiality notice was issued a notice cancelling the confidentiality notice, unless the investigation in respect of which the confidentiality notice was issued has not concluded.

**Note**

Section 26C(6) provides for the issue of a notice cancelling a confidentiality notice at the conclusion of the investigation to which the confidentiality notice relates.

- (4) A notice cancelling a confidentiality notice under subsection (3) may be issued to a person by serving a copy on the person in the same manner that a witness summons can be served.

**26E Ombudsman to provide Victorian Inspectorate with copies**

S. 26E  
inserted by  
No. 82/2012  
s. 244.

The Ombudsman, as soon as reasonably practicable, must provide the Victorian Inspectorate with a copy of—

- (a) each confidentiality notice issued by the Ombudsman;
- (b) each notice cancelling a confidentiality notice issued by the Ombudsman under section 26C(3), (4), (5) or (6) or section 26D(3);
- (c) each application to the Supreme Court under section 26D(1) to extend a confidentiality notice;

- (d) each order of the Supreme Court under section 26D(2) extending a confidentiality notice.

S. 26F  
inserted by  
No. 82/2012  
s. 244.

**26F Disclosure subject to confidentiality notice**

- (1) Subject to subsections (2), (3), (4) and (5), a person who—
- (a) is duly served with a confidentiality notice and, if applicable, a copy of any order extending the confidentiality notice; or
  - (b) receives a copy of a confidentiality notice under subsection (6) or (7) and, if applicable, a copy of any order extending the confidentiality notice—

must not disclose a restricted matter specified in the confidentiality notice while it has effect.

Penalty: 120 penalty units or imprisonment for 12 months or both.

- (2) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made in any of the following circumstances—
- (a) in accordance with a direction or authorisation given by the Ombudsman;
  - (b) to any person where necessary for the purposes of obtaining any information, document or other thing to comply with a witness summons or a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice, including if the person—
    - (i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons or confidentiality notice, notice cancelling the confidentiality notice or order

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- extending the confidentiality notice, to an interpreter;
- (ii) is a person under the age of 18 years, to a parent, guardian or independent person;
- (iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice without assistance, to an independent person;
- (c) subject to any direction given under section 18C(3), for the purposes of obtaining legal advice or representation in relation to—
- (i) an enquiry or investigation conducted by the Ombudsman under this Act; or
- (ii) the person's rights, liabilities, obligations and privileges under this Act or the **Protected Disclosure Act 2012**;
- (d) by a legal practitioner who receives a disclosure in the circumstances specified in paragraph (c), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from his or her professional relationship with his or her client;
- (e) as is otherwise authorised or required to be made by or under this Act.
- (3) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made for the purposes of making—

S. 26F(2)(c)(ii)  
amended by  
No. 85/2012  
s. 168(1).



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- (a) a complaint to the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (b) a complaint to the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**.
- (4) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made for the purposes of complying with—
- (a) a witness summons served on a person by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
  - (b) a witness summons served on a person by the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**.
- (5) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure made is of information that has been laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with this Act.
- (6) A person who makes a disclosure of information permitted by subsection (2) must, when making the disclosure, provide the person to whom the disclosure is made with a copy of the confidentiality notice and of any order extending the confidentiality notice, unless the person has a reasonable excuse for not doing so.
- Penalty: 120 penalty units or imprisonment for 12 months or both.
- (7) If in respect of a particular investigation a person who makes a disclosure of information permitted by subsection (2) receives a new confidentiality notice, a notice cancelling the confidentiality

notice or an order extending the confidentiality notice, the person must as soon as reasonably practicable provide a copy of the new confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice to each person to whom the disclosure has been made, unless the person has a reasonable excuse for not doing so.

Penalty: 120 penalty units or imprisonment for 12 months or both.

- (8) Proceedings may only be instituted for an offence under subsection (1), (6) or (7)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

**Note**

A person who is served with or receives a confidentiality notice may be subject to further confidentiality obligations under Part 7 of the **Protected Disclosure Act 2012**.

Note to  
s. 26F  
inserted by  
No. 85/2012  
s. 168(2).

**Division 3—Confidentiality requirements—certain  
information received from the Ombudsman about relevant  
protected disclosure complaints**

Pt 5A Div. 3  
(Heading and  
s. 26FA)  
inserted by  
No. 85/2012  
s. 170.

**26FA Offence to disclose certain information received  
from the Ombudsman about relevant protected  
disclosure complaints**

S. 26FA  
inserted by  
No. 85/2012  
s. 170.

- (1) A person who made a relevant protected disclosure complaint who is informed by the Ombudsman under section 17(1)(a) of the intention to conduct an investigation must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

- (2) A person who made a relevant protected disclosure complaint who receives information under section 24(1) or (2) must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

- (3) A person who receives information referred to in subsection (1) or (2) in any circumstance specified in subsection (5) must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

- (4) A person other than a person referred to in subsection (3) who receives information referred to in subsection (1), (2) or (3) from a person referred to in those subsections must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

- (5) For the purposes of this section, the specified circumstances are—

(a) disclosure to any person where necessary for the purposes of obtaining any information, document or other thing to comply with a witness summons or a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice or to comply with this section, including if the person—

(i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons or confidentiality notice, notice cancelling

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- the confidentiality notice or order extending the confidentiality notice or this section, to an interpreter;
- (ii) is a person under the age of 18 years, to a parent, guardian or independent person;
  - (iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice or this section without assistance, to an independent person;
- (b) disclosure for the purposes of obtaining legal advice or representation in relation to—
- (i) an investigation conducted by the Ombudsman under this Act; or
  - (ii) the person's rights, liabilities, obligations and privileges under this Act or the **Protected Disclosure Act 2012**;
- (c) disclosure by a legal practitioner who receives a disclosure in the circumstances specified in paragraph (b), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from his or her professional relationship with his or her client;
- (d) disclosure for the purpose of making—
- (i) a complaint to the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or

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- (ii) a complaint to the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**;
  - (e) disclosure for the purpose of complying with—
    - (i) a witness summons served on a person by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
    - (ii) a witness summons served on a person by the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**;
  - (f) disclosure of information that has been laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with this Act;
  - (g) disclosure to a person's spouse or domestic partner;
  - (h) disclosure to a person's employer or manager or both;
  - (i) disclosure as is otherwise authorised or required to be made by or under this Act.
  - (6) Proceedings may only be instituted for an offence against subsection (1), (2), (3) or (4)—
    - (a) by the Ombudsman; or
    - (b) by or with the consent of the Director of Public Prosecutions.
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**PART VB—OVERSIGHT OF THE OMBUDSMAN**

Pt 5B  
(Heading and  
ss 26G–26I)  
inserted by  
No. 82/2012  
s. 245.

**26G Oversight by Victorian Inspectorate**

S. 26G  
inserted by  
No. 82/2012  
s. 245.

The functions of the Victorian Inspectorate in respect of Ombudsman officers are set out in the **Victorian Inspectorate Act 2011**.

**26H Oversight by Accountability and Oversight Committee**

S. 26H  
inserted by  
No. 82/2012  
s. 245.

- (1) The functions of the Accountability and Oversight Committee under this Act are—
- (a) to monitor and review the performance of the duties and functions of the Ombudsman;
  - (b) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Ombudsman that requires the attention of the Parliament;
  - (c) to examine any reports by the Ombudsman that are laid before a House of the Parliament.
- (2) Despite anything to the contrary in subsection (1), the Accountability and Oversight Committee cannot—
- (a) investigate a matter relating to particular conduct the subject of any particular complaint, protected disclosure complaint, referred complaint or referred matter;
  - (b) review any decision to investigate, not to investigate or to discontinue an investigation of, a particular complaint, protected

S. 26H(2)(a)  
amended by  
No. 85/2012  
s. 169.

S. 26H(2)(b)  
amended by  
No. 85/2012  
s. 169.

**s. 26I**

**S. 26H(2)(c)**  
**amended by**  
**No. 85/2012**  
**s. 169.**

- disclosure complaint, referred complaint or referred matter;
- (c) review any findings, recommendations, determinations or other decisions of the Ombudsman in relation to a particular complaint, protected disclosure complaint, referred complaint or referred matter or an investigation conducted by the Ombudsman;
  - (d) disclose any information relating to the performance of a function or duty or the exercise of a power by the Ombudsman which may—
    - (i) prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or
    - (ii) contravene any secrecy or confidentiality provision in any relevant Act.

**S. 26I**  
**inserted by**  
**No. 82/2012**  
**s. 245.**

**26I Powers and procedures of Accountability and Oversight Committee**

The powers and procedures of a Joint Investigatory Committee under the **Parliamentary Committees Act 2003** apply to the Accountability and Oversight Committee in the performance of its functions under this Act.

**PART VI—MISCELLANEOUS**

**27 Application to Supreme Court**

- (1) Where in the course of an investigation under this Act the question arises as to whether the Ombudsman has jurisdiction to conduct the investigation, the Ombudsman or the party subject to the investigation, may make an application to the Supreme Court for a determination of that question, and on the application the Court may make such order as it considers proper.

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S. 27(2)  
repealed by  
No. 57/1989  
s. 3(Sch.  
item 143.1).

- (3) For the purposes of this section the principal officer of the authority or protected disclosure entity affected by the investigation shall be deemed to be a party subject to the investigation.

S. 27(3)  
amended by  
No. 85/2012  
s. 171.

**28 Letters by persons in custody etc. to be forwarded immediately to the Ombudsman**

- (1) Notwithstanding any provision to the contrary in any enactment where a letter written by a person in custody on a charge or after conviction of an offence or by a patient in a mental health service within the meaning of the **Mental Health Act 1986** or residential service, residential institution or residential treatment facility within the meaning of the **Disability Act 2006** is addressed to the Ombudsman it shall immediately be forwarded unopened to the Ombudsman by the person in charge.

S. 28(1)  
amended by  
Nos 59/1986  
s. 143(2),  
15/1989  
s. 26(1),  
23/2006 s. 246.

- (1A) Despite anything to the contrary in any Act (other than subsection (3)), if a letter written by the Ombudsman is addressed to a person in custody on a charge or after conviction of an offence or to a patient in a mental health service within the

S. 28(1A)  
inserted by  
No. 15/1989  
s. 26(2),  
amended by  
No. 23/2006  
s. 246.



meaning of the **Mental Health Act 1986** or residential service, residential institution or residential treatment facility within the meaning of the **Disability Act 2006**, it must immediately be forwarded unopened to the person to whom it is addressed by the person for the time being in charge.

S. 28(2)  
amended by  
No. 15/1989  
s. 26(3).

- (2) A person who prevents or hinders the forwarding of a letter referred to in subsection (1) or (1A) shall be guilty of an offence against this Act.

S. 28(2A)  
inserted by  
No. 62/1989  
s. 12(3).

- (2A) Proceedings may only be instituted for an offence under subsection (2)—
- (a) by the Ombudsman; or
  - (b) by or with the consent of the Director of Public Prosecutions.

S. 28(3)  
inserted by  
No. 15/1989  
s. 26(4).

- (3) If a letter referred to in subsection (1) or (1A) is suspected by the person in charge of containing drugs, weapons or other contraband, the letter may be opened by the person in charge in the presence of—

S. 28(3)(a)  
amended by  
No. 82/2012  
s. 246(a).

- (a) the person who wrote the letter and an Ombudsman officer; or

S. 28(3)(b)  
amended by  
No. 82/2012  
s. 246(b).

- (b) the person to whom the letter is addressed and an Ombudsman officer—

as the case requires.

S. 28(4)  
inserted by  
No. 15/1989  
s. 26(4).

- (4) A person who opens a letter in accordance with subsection (3) is not guilty of an offence under subsection (2).

S. 28(5)  
inserted by  
No. 15/1989  
s. 26(4).

- (5) In this section, *person in charge* means the person who is for the time being in charge of the place, service or institution where the writer of the letter, or the person to whom the letter is addressed

(as the case requires) is detained or of which he or she is a patient.

## **29 Protection of the Ombudsman and officers of the Ombudsman**

- (1) Neither the Ombudsman nor any of his officers shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act, unless the act was done in bad faith. **S. 29(1) amended by No. 8884 s. 7(a).**
- (2) No civil or criminal proceedings shall be brought against the Ombudsman or any of his officers in respect of any act referred to in subsection (1) without the leave of the Supreme Court, and the Supreme Court shall not give leave unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith. **S. 29(2) amended by No. 8884 s. 7(b).**
- (3) Despite subsections (1) and (2)—
- (a) no order shall be made—
- (i) restraining the Ombudsman from carrying out, or compelling him to carry out, an enquiry to determine whether an investigation should be conducted; or
- (ii) restraining the Ombudsman from carrying out, or compelling him to carry out, any investigation; or
- (iii) restraining the Ombudsman from making, or compelling him to make a report; or
- (iv) restraining the Ombudsman from making, or compelling him to make a recommendation; and **S. 29(3) amended by No. 57/1989 s. 3(Sch. item 143.2), substituted by No. 36/2001 s. 113.**

s. 29A

(b) no proceedings shall be brought against the Ombudsman under which the issue of such an order is sought.

S. 29(4)  
amended by  
Nos 15/1989  
s. 27, 61/1999  
s. 20(Sch.  
item 2).

(4) Neither the Ombudsman nor any of his officers shall be called to give evidence in any court or in any judicial proceedings or before the Police Appeals Board in respect of any matter coming to his knowledge in the exercise of his functions under this Act.

S. 29A  
inserted by  
No. 36/2001  
s. 114.

## 29A Exemption from Freedom of Information Act 1982

S. 29A(1)  
amended by  
No. 32/2004  
s. 8,  
substituted by  
No. 82/2012  
s. 247.

(1) The **Freedom of Information Act 1982** does not apply to a document that is in the possession of any person or body to the extent to which the document discloses information that relates to—

- (a) a complaint, a referred complaint, a referred matter or a matter referred to the Ombudsman under section 16; or
- (b) an enquiry or investigation conducted under this Act; or
- (c) a recommendation made by the Ombudsman under this Act; or
- (d) a report made under this Act or a draft of a report.

(2) In this section—

*document* has the same meaning as in the **Freedom of Information Act 1982**.

S. 29B  
inserted by  
No. 82/2012  
s. 248.

## 29B Evidence

Information obtained or received by a party from the Ombudsman in the course of or as a result of the performance of the Ombudsman's functions under this Act is not admissible in evidence

(if given by that party) in any legal proceedings other than proceedings in relation to—

- (a) an offence against this Act; or
- (b) an offence against section 19 of the **Evidence (Miscellaneous Provisions) Act 1958**; or
- (c) an offence against section 45, section 72 or section 73 of the **Protected Disclosure Act 2012**; or
- (d) an action for damages brought under section 47 of the **Protected Disclosure Act 2012**; or
- (e) an application for an injunction or order under section 50 of the **Protected Disclosure Act 2012**.

S. 29B(b)  
amended by  
No. 85/2012  
s. 172(a).

S. 29B(c)  
inserted by  
No. 85/2012  
s. 172(b).

S. 29B(d)  
inserted by  
No. 85/2012  
s. 172(b).

S. 29B(e)  
inserted by  
No. 85/2012  
s. 172(b).

### 30 Penalties

Unless another penalty is specified in the provision creating the offence, a person who is guilty of an offence against this Act shall be liable to a penalty not exceeding \$1000 or imprisonment for 12 months or to both such penalty and imprisonment.

S. 30  
amended by  
No. 82/2012  
s. 249.

### 30A Supreme Court—limitation of jurisdiction

It is the intention of section 29(3) of this Act, as substituted by section 113 of the **Whistleblowers Protection Act 2001**, to alter or vary section 85 of the **Constitution Act 1975**.

S. 30A  
inserted by  
No. 36/2001  
s. 115.

### 31 Rules of Parliament

- (1) Rules of Parliament may be made for the guidance of the Ombudsman in the exercise of his functions and for any other purpose for which Rules of Parliament may be made under this Act.

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- (2) Subject to this Act the functions of the Ombudsman shall be exercised in accordance with the Rules of Parliament made under this Act.
  - (3) The Rules of Parliament referred to in this section are Rules that have been agreed upon by both Houses of Parliament in accordance with the Rules and Orders thereof.
  - (4) Rules of Parliament made under this Act shall be published in the Government Gazette.

### **32 Administration of Act**

Except as otherwise expressly provided in this Act the expenses incurred in the administration of this Act shall be defrayed out of the moneys to be provided by Parliament for that purpose.

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**PART VII—SAVING AND TRANSITIONAL PROVISIONS**

Pt 7 (Heading  
and s. 33)  
inserted by  
No. 27/2009  
s. 17.

**33 Validity of certain actions taken by Ombudsman**

S. 33  
inserted by  
No. 27/2009  
s. 17.

- (1) Without limiting the effect of section 13(3AA), the following actions are taken to be and always to have been valid to the extent (if any) that they were not authorised because of the effect of section 13(3)(aa) as in force before the commencement day—
- (a) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity before the commencement day;
  - (b) any act or action taken or decision made by, or on behalf of, the Ombudsman concerning—
    - (i) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity before the commencement day; or
    - (ii) any complaint received by the Ombudsman concerning the Director, Police Integrity or the Office of Police Integrity before the commencement day.
- (2) Without limiting the effect of section 13(3AA), any enquiry into or investigation by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity may relate to conduct that occurred before the commencement day.

- (3) In this section *commencement day* means the date of commencement of section 16 of the **Public Administration Amendment Act 2009**.

S. 34  
inserted by  
No. 6/2012  
s. 47.

**34 Transitional provision—complaints under the Freedom of Information Act 1982**

Despite the amendment of this Act by section 43 of the **Freedom of Information Amendment (Freedom of Information Commissioner) Act 2012**, this Act continues to apply to any complaint made to the Ombudsman before the commencement of section 43 in relation to an administrative action under the **Freedom of Information Act 1982**, as if section 43 had not been enacted.

S. 35  
inserted by  
No. 82/2012  
s. 250.

**35 Transitional provisions—Integrity and Accountability Legislation Amendment Act 2012**

- (1) Subject to this section, this Act, as in force immediately before the commencement day, continues to apply on and after the commencement day to—
- (a) a complaint made before the commencement day under section 14;
  - (b) an investigation begun before the commencement day under section 14(1) on the Ombudsman's own motion;
  - (c) a matter referred to the Ombudsman before the commencement day under section 16 for investigation and report;
  - (d) a review begun before the commencement day under section 13(2AB).
- (2) Section 18, as amended by section 233 of the amending Act, applies to a witness summons issued on or after the commencement day, including a witness summons issued in relation to

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a complaint, investigation, matter or review referred to in subsection (1).

- (3) Sections 18A and 18B apply in relation to a witness summons issued on or after the commencement day, including a witness summons issued in relation to a complaint, investigation, matter or review referred to in subsection (1).
- (4) A summons issued by the Ombudsman under section 17 of the **Evidence (Miscellaneous Provisions) Act 1958** to a person who is under the age of 16 years that was in force immediately before the commencement day ceases to have any force or effect on and from that day.
- (5) Section 18C applies on and after the commencement day including in relation to a complaint, investigation, matter or review referred to in subsection (1). However, section 18C(3) applies only in relation to—
  - (a) a witness summons issued on or after the commencement day; or
  - (b) a compulsory appearance on or after that day; or
  - (c) a proposed report, or draft or part of a proposed report, under this Act received by a person on or after that day.
- (6) Sections 18D, 18E, 18F and 18G apply to a compulsory appearance or voluntary appearance (as the case requires) on or after the commencement day, including a compulsory or voluntary appearance in relation to a complaint, investigation, matter or review referred to in subsection (1).



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- (7) Section 24, as amended by section 240 of the amending Act, applies on and after the commencement day including in relation to a complaint referred to in subsection (1)(a).
  - (8) Section 25A applies to a report made on or after the commencement day, including a report made in relation to a complaint, investigation, matter or review referred to in subsection (1).
  - (9) Section 25B applies to a person who receives a proposed report, or a draft or part of a proposed report or information contained in a proposed report or draft or part of a proposed report, on or after the commencement day, including a proposed report, or a draft or part of a proposed report or information contained in a proposed report or draft or part of a proposed report, in relation to a complaint, investigation, matter or review referred to in subsection (1).
  - (10) Part VA, as inserted by section 244 of the amending Act, applies to information acquired on or after the commencement day, including information acquired on or after the commencement day in relation to a complaint, investigation, matter or review referred to in subsection (1).
  - (11) Section 20(5), as inserted by section 235(3) of the amending Act, applies on and after the commencement day in relation to a complaint, investigation, matter or review referred to in subsection (1).
  - (12) For a complaint, investigation or matter referred to in subsection (1) that involves administrative action taken by the Director, Police Integrity or by or in the Office of Police Integrity, this Act applies on or after the commencement day as if—

- (a) a reference to the relevant authority were a reference to the IBAC; and
  - (b) a reference to the principal officer were a reference to the Commissioner within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011**; and
  - (c) a reference to the responsible Minister were a reference to the Minister administering the **Independent Broad-based Anti-corruption Commission Act 2011**.
- (13) The Ombudsman must give the IBAC any document, information or other thing in the Ombudsman's possession that is reasonably required by the IBAC for the performance of functions under Part 8 of the **Independent Broad-based Anti-corruption Commission Act 2011**.
- (14) The Ombudsman may make and retain a copy of any document, information or other thing given to the IBAC under subsection (13) if it is necessary to do so for the performance of the Ombudsman's functions or duties or the exercise of the Ombudsman's powers under this or any other Act.
- (15) In this section—
- amending Act*** means the **Integrity and Accountability Legislation Amendment Act 2012**;
- commencement day*** means the day on which Division 1 of Part 7 of the amending Act comes into operation.

S. 35(13)  
amended by  
No. 82/2012  
s. 313(g).

Sch. 1

Schs  
(Heading)  
inserted by  
No. 82/2012  
s. 251.

Sch.  
amended by  
Nos 35/1989  
s. 22, 29/2006  
s. 3(Sch. 1  
item 25)  
substituted as  
Sch. 1 by  
No. 82/2012  
s. 251.

## SCHEDULES

### SCHEDULE 1

Section 2(1)

#### SPECIFIED ENTITIES

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
1	Office of the Commissioner for Environmental Sustainability	Commissioner for Environment Sustainability	Minister administering the <b>Commissioner for Environmental Sustainability Act 2003</b>
2	Office of the Essential Services Commission	The Chairperson within the meaning of the <b>Essential Services Commission Act 2001</b>	Minister administering the <b>Essential Services Commission Act 2001</b>
3	Office of the Freedom of Information Commissioner	Freedom of Information Commissioner	Minister administering Part IA of the <b>Freedom of Information Act 1982</b>
4	Office of the Legal Services Commissioner	Legal Services Commissioner	Minister administering the <b>Legal Profession Act 2004</b>
5	Office of the Privacy Commissioner	Privacy Commissioner	Minister administering the <b>Information Privacy Act 2000</b>

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No. 8414 of 1973

Sch. 1

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
6	Office of Public Prosecutions	Solicitor for Public Prosecutions	Minister administering the <b>Public Prosecutions Act 1994</b>
7	Office of the Road Safety Camera Commissioner	Road Safety Camera Commissioner	Minister administering the <b>Road Safety Camera Commissioner Act 2011</b>
8	Office of the Taxi Services Commission	Chairperson of the Commission	Minister administering Division 3 of Part 5 of the <b>Transport Integration Act 2010</b>
9	Victorian Commission for Gambling and Liquor Regulation	Chairperson of the Commission	Minister administering the <b>Victorian Commission for Gambling and Liquor Regulation Act 2011</b>
10	Victorian Equal Opportunity and Human Rights Commission	The Commissioner within the meaning of the <b>Equal Opportunity Act 2010</b>	Minister administering the <b>Equal Opportunity Act 2010</b>
11	Victorian Multicultural Commission	Chairperson of the Commission	Minister administering the <b>Multicultural Victoria Act 2011</b>

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**Sch. 1**

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
12	State Trustees	The Chair of State Trustees	Minister administering the <b>State Trustees (State Owned Company) Act 1994</b>
13	A public statutory body that is not specified elsewhere in this Schedule	The chairperson or presiding member of the body	For a body established by or under an Act, the Minister administering the provision of the Act under which the body is constituted or established  In any other case, the Minister who is responsible for the body
14	The holder of an office established by or under an Act to which the right to appoint is vested in the Governor in Council or a Minister	There is no principal officer	The Minister administering the provision of the Act by or under which the office is established
15	A member of staff of a Council	The Chief Executive Officer of the Council	Minister administering Part 4 of the <b>Local Government Act 1989</b>
16	A person in the person's capacity as a delegate of the Victorian WorkCover Authority administering claims under the <b>Workers Compensation Act 1958</b>	The delegate or, if the delegate is a body corporate, the senior executive officer of the delegate (by whatever title he or she is known)	Minister administering Part II of the <b>Accident Compensation Act 1985</b>

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Sch. 1

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
17	A person in the person's capacity as an authorised agent of the Victorian WorkCover Authority under the <b>Accident Compensation Act 1985</b>	The authorised agent or, if the authorised agent is a body corporate, the senior executive officer of the authorised agent (by whatever title he or she is known)	Minister administering Part II of the <b>Accident Compensation Act 1985</b>
18	A body corporate in its capacity as a self-insurer under the <b>Accident Compensation Act 1985</b>	The senior executive officer of the self-insurer (by whatever title he or she is known)	Minister administering Part V of the <b>Accident Compensation Act 1985</b>
19	A registered community service within the meaning of section 3(1) of the <b>Children, Youth and Families Act 2005</b> in its capacity as carrying out any duty or function or exercising any power under that Act	The person in charge of the registered community service	Minister administering Chapter 2 of the <b>Children, Youth and Families Act 2005</b>
20	A person authorised under section 18 or 19 of the <b>Children, Youth and Families Act 2005</b> in the person's capacity as carrying out any duty or function or exercising any power under that Act	The Secretary within the meaning of section 3(1) of the <b>Children, Youth and Families Act 2005</b>	Minister administering Chapter 2 of the <b>Children, Youth and Families Act 2005</b>

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**Sch. 1**

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
21	A person in the person's capacity as an authorised assessor under Division 5 of Part 3.3 of the <b>Children, Youth and Families Act 2005</b>	The Secretary within the meaning of section 3(1) of the <b>Children, Youth and Families Act 2005</b>	Minister administering Division 5 of Part 3.3 of the <b>Children, Youth and Families Act 2005</b>
22	A person in the person's capacity as an authorised investigator under Division 4 of Part 3.4 of the <b>Children, Youth and Families Act 2005</b>	The Secretary within the meaning of section 3(1) of the <b>Children, Youth and Families Act 2005</b>	Minister administering Division 4 of Part 3.4 of the <b>Children, Youth and Families Act 2005</b>
23	A contractor within the meaning of section 3(1) of the <b>Corrections Act 1986</b> in its capacity as a provider of services under that Act	The holder of the office specified in the agreement under section 8B(1), 9(1) or 9AA of the <b>Corrections Act 1986</b> for the purposes of the application of this Act to the contractor	Minister administering Part 2A of the <b>Corrections Act 1986</b>
24	A sub-contractor within the meaning of section 3(1) of the <b>Corrections Act 1986</b> in its capacity as a manager of a prison or police gaol under a sub-contract agreement	The holder of the office specified in the sub-contract agreement for the purposes of the application of this Act to the sub-contractor	Minister administering Part 2A of the <b>Corrections Act 1986</b>

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	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
25	A contractor within the meaning of section 2(1) of the <b>Court Security Act 1980</b> in its capacity as a provider of court security services under that Act	The holder of the office specified in the agreement under section 2C of the <b>Court Security Act 1980</b> for the purposes of the application of this Act to the contractor	Minister administering section 2C of the <b>Court Security Act 1980</b>
26	A person appointed as an authorised officer under section 71A(1) of the <b>Domestic Animals Act 1994</b>	There is no principal officer	Minister administering the <b>Domestic Animals Act 1994</b>
27	A person appointed as an authorised officer under section 72A(1) of the <b>Domestic Animals Act 1994</b>	The Mayor of the relevant Council	Minister administering the <b>Domestic Animals Act 1994</b>
28	A contractor or sub-contractor within the meaning of section 69A of the <b>Health Services Act 1988</b> in its capacity as a provider of health services to public hospital patients at the hospital in accordance with an agreement under section 69B(1) of that Act or a sub-contract agreement	The holder of the office specified in the agreement under section 69B(1) of the <b>Health Services Act 1988</b> or the sub-contract agreement for the purposes of the application of this Act to the contractor or sub-contractor	Minister administering Part 3A of the <b>Health Services Act 1988</b>



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**Sch. 1**

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
29	A contractor within the meaning of section 124A of the <b>Magistrates' Court Act 1989</b> in its capacity as a provider of services under an agreement under section 124B(1) of that Act	The holder of the office specified in the agreement under section 124B(1) of the <b>Magistrates' Court Act 1989</b> for the purposes of the application of this Act to the contractor	Minister administering Part 6A of the <b>Magistrates' Court Act 1989</b>
30	A sub-contractor within the meaning of section 124A of the <b>Magistrates' Court Act 1989</b> in its capacity as a provider of services under a sub-contract agreement under that Act	The holder of the office specified in the sub-contract agreement for the purposes of the application of this Act to the contractor	Minister administering Part 6A of the <b>Magistrates' Court Act 1989</b>
31	An approved inspection service within the meaning of section 3(1) of the <b>Plant Biosecurity Act 2010</b> in its capacity as a provider of services under an agreement under section 66 of that Act	The holder of the office specified in the agreement under section 66 of the <b>Plant Biosecurity Act 2010</b> for the purposes of the application of this Act to the approved inspection service	Minister administering Division 2 of Part 7 of the <b>Plant Biosecurity Act 2010</b>

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No. 8414 of 1973

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	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
32	An officer of the Royal Society for the Prevention of Cruelty to Animals who is approved as a general inspector under section 18(1)(b)(ii) of the <b>Prevention of Cruelty to Animals Act 1986</b>	The Chief Executive Officer of the Royal Society for the Prevention of Cruelty to Animals	Minister administering the <b>Prevention of Cruelty to Animals Act 1986</b>
33	A person in the person's capacity as an authorised officer within the meaning of section 3(1) of the <b>Public Health and Wellbeing Act 2008</b>	For a person appointed by a Council under section 29 of the <b>Public Health and Wellbeing Act 2008</b> , the Chief Executive Officer of the Council  For a person appointed under section 30 of the <b>Public Health and Wellbeing Act 2008</b> , the Secretary within the meaning of section 3(1) of that Act  For a person appointed by a Council under section 224(1) of the <b>Local Government Act 1989</b> , the Chief Executive Officer of the Council	Minister administering Part 9 of the <b>Public Health and Wellbeing Act 2008</b>

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No. 8414 of 1973

**Sch. 1**

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
34	A person in the person's capacity as an authorised officer within the meaning of section 208 of the <b>Transport (Compliance and Miscellaneous) Act 1983</b>	For a person appointed under section 221A of the <b>Transport (Compliance and Miscellaneous) Act 1983</b> , the Secretary within the meaning of section 2(1) of that Act  For a person appointed under section 221AB of the <b>Transport (Compliance and Miscellaneous) Act 1983</b> , the senior executive officer of the person or body by whom the person is employed or engaged	Minister administering Division 4AA of Part VII of the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

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	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Specified entity</i>	<i>Principal officer</i>	<i>Responsible Minister</i>
35	A person in the person's capacity as a transport safety officer within the meaning of section 2(1) of the <b>Transport (Compliance and Miscellaneous) Act 1983</b> (other than a person employed by a public statutory body)	For a person appointed under section 228T of the <b>Transport (Compliance and Miscellaneous) Act 1983</b> who is employed by or in an authority, the principal officer of the authority  For any other person, the senior executive officer (by whatever title he or she is known) of the person's employer	Minister administering Division 4B of Part VII of the <b>Transport (Compliance and Miscellaneous) Act 1983</b>
36	The Victorian Auditor-General's Office	The Auditor-General	Minister administering the <b>Audit Act 1994</b>
37	A person or body prescribed by Rules of Parliament made under this Act for the purposes of this Schedule	The person prescribed by Rules of Parliament made under this Act as the principal officer of the prescribed person or body	The Minister prescribed by Rules of Parliament made under this Act as the responsible Minister for the prescribed person or body

Sch. 2  
inserted by  
No. 82/2012  
s. 251,  
amended by  
Nos 85/2012  
s. 173, 5/2013  
s. 63(2).

## SCHEDULE 2

Section 2(1)

### EXEMPT PERSONS AND BODIES

- 1 Police personnel
- 2 The Office of the Governor, the Official Secretary within the meaning of the **Public Administration Act 2004** and employees in the Office of the Governor
- 3 The IBAC and IBAC Officers
- 4 The Victorian Inspectorate and Victorian Inspectorate Officers
- 5 A Public Interest Monitor
- 6 The Chief Examiner and an Examiner appointed under Part 3 of the **Major Crime (Investigative Powers) Act 2004**
- 7 A Victorian court or VCAT and any of the following—
  - (a) a Judge of the Supreme Court;
  - (b) an Associate Judge of the Supreme Court;
  - (c) a reserve Judge within the meaning of the **Constitution Act 1975**;
  - (d) a Judge or a reserve Judge of the Supreme Court who is appointed or assigned to VCAT;
  - (e) a judge of the County Court;
  - (f) an associate judge of the County Court;
  - (g) a reserve judge within the meaning of the **County Court Act 1958**;
  - (h) a judge or a reserve judge of the County Court who is appointed or assigned to VCAT;
  - (i) a magistrate of the Magistrates' Court;
  - (j) a reserve magistrate within the meaning of the **Magistrates' Court Act 1989**;

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- (k) a magistrate or a reserve magistrate who is appointed or assigned to the Coroners Court, the Children's Court or VCAT;
  - (l) an acting coroner;
  - (m) a judicial registrar of the Supreme Court, the County Court, the Magistrates' Court, the Children's Court or the Coroners Court;
  - (n) a judicial employee employed under Division 3 of Part 6 of the **Public Administration Act 2004**;
  - (o) any other member of VCAT.
- 8 A board, tribunal (other than VCAT), commission or other body presided over by a judge, magistrate or Australian lawyer (within the meaning of the **Legal Profession Act 2004**) presiding as such by virtue of a statutory requirement and appointment
  - 9 A Commission of Inquiry established under section 88B of the **Constitution Act 1975**
  - 10 A Board of Inquiry appointed under section 88C of the **Constitution Act 1975**
  - 11 A person acting as legal adviser to the Crown or an authority or a protected disclosure entity, or as counsel for the Crown or an authority or a protected disclosure entity in any proceedings, including Crown Prosecutors and Associate Crown Prosecutors
  - 12 The Solicitor-General appointed under the **Attorney-General and Solicitor-General Act 1972**
  - 13 The Director of Public Prosecutions
  - 14 A person in the capacity of trustee under the **Trustee Act 1958** (but not including State Trustees)
  - 15 The Victorian Electoral Commission
  - 16 The Auditor-General

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17 The Electoral Boundaries Commission

18 A Department of the Parliament

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**SCHEDULE 3**

Section 16I

Sch. 3  
inserted by  
No. 82/2012  
s. 251.

**PERSONS AND BODIES TO WHOM OR WHICH THE  
OMBUDSMAN MAY REFER COMPLAINTS**

- 1 The Auditor-General
- 2 The Chief Commissioner of Police
- 3 The Commissioner for Environmental Sustainability
- 4 The Commissioner for Law Enforcement Data Security
- 5 The Director of Public Prosecutions
- 6 The Electoral Boundaries Commission
- 7 The Emergency Services Commissioner
- 8 The Environment Protection Authority
- 9 The Health Services Commissioner
- 10 The IBAC
- 11 The Privacy Commissioner
- 12 The Racing Integrity Commissioner
- 13 The Road Safety Camera Commissioner
- 14 The Taxi Services Commission
- 15 The Victorian Electoral Commission
- 16 The Victorian Equal Opportunity and Human Rights Commission
- 17 The Victorian Inspectorate
- 18 The Victorian WorkCover Authority
- 19 A coroner
- 20 A Commission of Inquiry established under section 88B of the **Constitution Act 1975**
- 21 A Board of Inquiry established under section 88C of the **Constitution Act 1975**



Sch. 3
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- 22 An inspector of municipal administration appointed under the **Local Government Act 1989**
- 23 A person or body prescribed for the purposes of this Schedule by Rules of Parliament made under this Act
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## ENDNOTES

### 1. General Information

The **Ombudsman Act 1973** was assented to on 17 April 1973 and came into operation on 30 October 1973: Government Gazette 30 October 1973 page 3595.

## 2. Table of Amendments

This Version incorporates amendments made to the **Ombudsman Act 1973** by Acts and subordinate instruments.

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### **Ombudsman (Exemption) Act 1974, No. 8651/1974**

*Assent Date:* 17.12.74  
*Commencement Date:* 17.12.74  
*Current State:* All of Act in operation

### **Ombudsman (Municipalities) Act 1976, No. 8884/1976**

*Assent Date:* 19.10.76  
*Commencement Date:* 1.1.77: Government Gazette 22.12.76 p. 3739  
*Current State:* All of Act in operation

### **Statute Law Revision Act 1977, No. 9059/1977**

*Assent Date:* 29.11.77  
*Commencement Date:* 29.11.77; subject to s. 2(2)  
*Current State:* All of Act in operation

### **Ombudsman (Co-operation) Act 1979, No. 9256/1979**

*Assent Date:* 26.6.79  
*Commencement Date:* 26.6.79  
*Current State:* All of Act in operation

### **Police Regulation (Amendment) Act 1985, No. 10250/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* S. 22 never proclaimed, repealed by No. 14/1988 s. 19  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

### **Mental Health Act 1986, No. 59/1986**

*Assent Date:* 3.6.86  
*Commencement Date:* S. 143(2)(Sch. 7) on 1.10.87: Government Gazette 30.9.87 p. 2585  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

### **Deputy Ombudsman (Police Complaints) Act 1988, No. 14/1988**

*Assent Date:* 11.5.88  
*Commencement Date:* 11.5.88: Government Gazette 11.5.88 p. 1150  
*Current State:* All of Act in operation

### **State Superannuation Act 1988, No. 50/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 93(2) (Sch. 2 item 42) on 1.7.88: Government Gazette 1.6.88 p. 1487  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

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Endnotes

**Local Government (Consequential Provisions) Act 1989 No. 12/1989** (as amended by No. 13/1990)

*Assent Date:* 9.5.89  
*Commencement Date:* S. 4(1)(Sch. 2 items 86.1–86.13) on 1.11.89: Government Gazette 1.11.89 p. 2798  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Police Regulation (Amendment) Act 1989, No. 15/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* Ss 1–32 on 16.5.89; s. 33 on 23.8.89: Government Gazette 23.8.89 p. 2146  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Legal Profession Practice (Amendment) Act 1989, No. 35/1989**

*Assent Date:* 6.6.89  
*Commencement Date:* S. 22 on 20.9.89: Government Gazette 20.9.89 p. 2404  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 3(Sch. item 143) on 1.9.90: Government Gazette 25.7.90 p. 2217.  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Ombudsman (Amendment) Act 1989, No. 62/1989**

*Assent Date:* 12.9.89  
*Commencement Date:* 12.12.89: Special Gazette (No. 72) 12.12.89 p. 1  
*Current State:* All of Act in operation

**Local Government (Miscellaneous Amendments) Act 1993, No. 125/1993**

*Assent Date:* 7.12.93  
*Commencement Date:* S. 20(9) on 7.12.93: s. 2 (4)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* S. 32(Sch. 2 item 4) on 5.12.95: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Public Sector Management and Parliamentary Officers (Amendment) Act 1996, No. 24/1996**

*Assent Date:* 2.7.96  
*Commencement Date:* S. 33(1) on 16.11.93: s. 2(2); rest of Act on 2.7.96: s. 2(1)  
*Current State:* All of Act in operation

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Endnotes

**Legal Practice Act 1996, No. 35/1996**

*Assent Date:* 6.11.96  
*Commencement Date:* S. 453(Sch. 1 item 62) on 1.1.97 s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Audit (Amendment) Act 1997, No. 93/1997**

*Assent Date:* 16.12.97  
*Commencement Date:* S. 26(2) on 16.12.97: s. 2(1); s. 26(1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**State Trustees (Amendment) Act 1998, No. 15/1998**

*Assent Date:* 28.4.98  
*Commencement Date:* S. 10 on 1.7.98: Government Gazette 18.6.98 p. 1511  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Melbourne City Link (Amendment) Act 1998, No. 102/1998**

*Assent Date:* 1.12.98  
*Commencement Date:* Ss 34–37 on 1.12.98: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Police Regulation (Amendment) Act 1999, No. 61/1999**

*Assent Date:* 21.12.99  
*Commencement Date:* S. 20(Sch. item 2) on 2.4.00: Government Gazette 30.3.00 p. 569  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 92) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Information Privacy Act 2000, No. 98/2000**

*Assent Date:* 12.12.00  
*Commencement Date:* Ss 79, 80 on 1.9.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Health Records Act 2001, No. 2/2001**

*Assent Date:* 10.4.01  
*Commencement Date:* Ss 113, 114 on 1.7.02: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

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**Whistleblowers Protection Act 2001, No. 36/2001**

*Assent Date:* 19.6.01  
*Commencement Date:* S. 114 on 19.6.01: s. 2(1); ss 113, 115 on 1.1.02:  
s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Electoral Act 2002, No. 23/2002**

*Assent Date:* 12.6.02  
*Commencement Date:* S. 201 on 1.9.02: Government Gazette 29.8.02 p. 2333  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Animals Legislation (Animal Welfare) Act 2003, No. 103/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* S. 30(1)(3) on 10.12.03: s. 2(1); s. 30(2)(4) on 1.12.05:  
s. 2(3)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Ombudsman Legislation (Police Ombudsman) Act 2004, No. 32/2004**

*Assent Date:* 1.6.04  
*Commencement Date:* Ss 3–8 on 2.6.04: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Sex Offenders Registration Act 2004, No. 56/2004**

*Assent Date:* 21.9.04  
*Commencement Date:* Ss 76–78 on 1.10.04: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Major Crime Legislation (Office of Police Integrity) Act 2004, No. 63/2004**

*Assent Date:* 12.10.04  
*Commencement Date:* S. 7 on 16.11.04: Special Gazette (No. 237) 16.11.04  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Major Crime (Investigative Powers) Act 2004, No. 79/2004**

*Assent Date:* 16.11.04  
*Commencement Date:* Ss 71–73 on 16.11.04: Special Gazette (No. 237)  
16.11.04 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 144) on 5.4.05: Government  
Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

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**Legal Profession (Consequential Amendments) Act 2005, No. 18/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 18(Sch. 1 item 73) on 12.12.05: Government Gazette 1.12.05 p. 2781  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Disability Act 2006, No. 23/2006**

*Assent Date:* 16.5.06  
*Commencement Date:* S. 246 on 1.7.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Statute Law (Further Revision) Act 2006, No. 29/2006**

*Assent Date:* 6.6.06  
*Commencement Date:* S. 3(Sch. 1 item 25) on 7.6.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Charter of Human Rights and Responsibilities Act 2006, No. 43/2006**

*Assent Date:* 25.7.06  
*Commencement Date:* S. 47(Sch. item 2) on 1.1.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006**

*Assent Date:* 10.10.06  
*Commencement Date:* S. 20 on 11.10.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Animals Legislation Amendment (Animal Care) Act 2007, No. 65/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* Ss 111, 112 on 1.9.09: Special Gazette (No. 298) 1.9.09 p. 1  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Police Integrity Act 2008, No. 34/2008**

*Assent Date:* 1.7.08  
*Commencement Date:* S. 143(Sch. 2 item 9) on 5.12.08: Special Gazette (No. 340) 4.12.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

**Public Administration Amendment Act 2009, No. 27/2009**

*Assent Date:* 17.6.09  
*Commencement Date:* Ss 16, 17 on 18.6.09: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Ombudsman Act 1973**

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**Statute Law Amendment (Evidence Consequential Provisions) Act 2009,  
No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 2 item 37) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Statute Law Revision Act 2011, No. 29/2011**

*Assent Date:* 21.6.11  
*Commencement Date:* S. 3(Sch. 1 item 64) on 22.6.11: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Independent Broad-based Anti-corruption Commission Act 2011, No. 66/2011**

*Assent Date:* 29.11.11  
*Commencement Date:* S. 42 on 1.7.12: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Victorian Inspectorate Act 2011, No. 70/2011**

*Assent Date:* 29.11.11  
*Commencement Date:* S. 46 on 1.7.12: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Public Interest Monitor Act 2011, No. 72/2011**

*Assent Date:* 6.12.11  
*Commencement Date:* S. 52 on 18.9.12: Special Gazette (No. 316) 18.9.12  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Freedom of Information Amendment (Freedom of Information Commissioner)  
Act 2012, No. 6/2012**

*Assent Date:* 6.3.12  
*Commencement Date:* Ss 43–47 on 1.12.12: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Statute Law Revision Act 2012, No. 43/2012**

*Assent Date:* 27.6.12  
*Commencement Date:* S. 3(Sch. item 36) on 28.6.12: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Evidence Amendment (Journalist Privilege) Act 2012, No. 52/2012**

*Assent Date:* 18.9.12  
*Commencement Date:* S. 21 on 1.1.13: s. 2(2)  
*Current State:* This information relates only to the provision/s  
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**Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* Ss 224–251 on 10.2.13: Special Gazette (No. 32)  
6.2.13 p. 2; s. 313 on 11.2.13: s. 2(5)  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Protected Disclosure Act 2012, No. 85/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* Ss 144–173 on 10.2.13: Special Gazette (No. 32)  
6.2.13 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

**Courts Legislation Amendment (Reserve Judicial Officers) Act 2013, No. 5/2013**

*Assent Date:* 26.2.13  
*Commencement Date:* S. 63 on 17.4.13: Special Gazette (No. 141) 16.4.13  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Ombudsman Act 1973**

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### **3. Explanatory Details**

No entries at date of publication.