

Attachment 3: Version of the Bill with Track Changes showing suggested revisions < ART Parliamentary Standards Bill (drafting revisions).docx>.

2019

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

National Integrity (Parliamentary Standards) Bill 2019

No. , 2019

(Senator Waters)

**A Bill for an Act to enhance the integrity of the Parliament of
Australia, and for related purposes**

Attachment 3: Version of the Bill with Track Changes showing suggested revisions < ART Parliamentary Standards Bill (drafting revisions).docx>.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement	2
3 Objects of Act.....	3
4 Saving of powers, privileges and immunities.....	3
5 Act binds the Crown.....	3
6 Application of Act.....	3
7 Definitions.....	4
Part 2—Parliamentary values and conduct	8
Division 1—Statement of parliamentary values	8
8 Parliamentary values	8
Division 2—Parliamentary code of conduct	9
9 Upholding democracy and respecting others regardless of background	9
10 Conflicts of interest.....	9
11 Using position for profit	9
12 Outside employment and activities	10
13 Accepting any gift, hospitality or other benefit.....	10
14 Use of influence	10
15 Use of public resources	11
16 Personal conduct	11
17 Managing confidential and personal information	11
18 Post-retirement activities	12
19 Staff of parliamentarians	12
20 Extending code of conduct	12
Part 3—Registers of Interests	13
21 Register of interests—House of Representatives.....	13
22 Register of interests—Senate.....	13
Part 4—Parliamentary Standards Commissioner	14
Division 1—Establishment and functions and powers of the Parliamentary Standards Commissioner	14
23 Parliamentary Standards Commissioner	14
24 Functions of Parliamentary Standards Commissioner	14

Division 2—Provision of advice	16
Subdivision A—Requests for advice	16
25 Parliamentarian, former parliamentarian or staff may request advice	16
26 Minister may request advice	17
27 Presiding Officer or chair of committee may request advice.....	18
28 Requirements relating to requests for advice	18
29 Provision of advice	18
30 Limited protection from acting on conflict of interest issue.....	19
Subdivision B—Confidentiality of information	20
31 Interpretation	20
32 Authorised use or disclosure—performing functions etc.	20
33 Authorised use or disclosure—required or authorised by law.....	21
34 Authorised disclosure—person to whom information relates.....	21
35 Offence for unauthorised use or disclosure.....	21
36 No requirement to provide information to courts etc.	22
37 Offence for unauthorised use or disclosure—any person.....	22
Division 3—Better practices guides and fact sheets	23
38 Better practices guides and fact sheets	23
Division 4—Annual report	24
39 Annual report.....	24
Part 5—Parliamentary Standards Commissioner	26
Division 1—Establishment and functions and powers of the Parliamentary Standards Commissioner	26
40 Parliamentary Standards Commissioner	26
41 Functions of Parliamentary Standards Commissioner	26
Division 2—Alleged or suspected contraventions of parliamentary code of conduct	28
42 Referral of alleged or suspected contravention	28
43 How alleged or suspected contraventions must be dealt with	28
44 Assessment and preliminary enquiries	30
45 Inquiries	32
46 Report of inquiry.....	34
47 Opportunity to be heard.....	35
48 Parliamentary Standards Commissioner to give report to Committee.....	36
49 Advice of outcome of inquiry	37
50 Public advice of outcome of inquiry.....	38

Attachment 3: Version of the Bill with Track Changes showing suggested revisions < ART Parliamentary Standards Bill (drafting revisions).docx>.

51	Report to House	38
52	Failure to comply with parliamentary code of conduct.....	39
Division 3—Alleged or suspected contraventions of ministerial code of conduct		41
53	Referral of alleged or suspected contravention	41
54	How alleged or suspected contraventions must be dealt with	41
55	Assessment and preliminary enquiries	43
56	Inquiries	45
57	Report of inquiry.....	46
58	Opportunity to be heard.....	48
59	Parliamentary Standards Commissioner to give report to Prime Minister	49
60	Advice of outcome of inquiry	49
61	Public advice of outcome of inquiry.....	50
62	Report to House	51
Division 4—Confidentiality of information		52
63	Interpretation	52
64	Authorised use or disclosure—performing functions etc.	52
65	Authorised use or disclosure—required or authorised by law	53
66	Authorised disclosure—person to whom information relates.....	53
67	Offence for unauthorised use or disclosure.....	53
68	No requirement to provide information to courts etc.	54
69	Offences for unauthorised use or disclosure—any person	54
Division 5—Annual report		56
70	Annual report.....	56
Part 6—Administrative provisions relating to the Parliamentary Standards Commissioner and Parliamentary Standards Commissioner		58
Division 1—Administrative provisions relating to the Parliamentary Standards Commissioner		58
71	Appointment of Parliamentary Standards Commissioner	58
72	General terms and conditions of appointment.....	59
73	Other paid work	59
74	Remuneration	59
75	Leave of absence.....	60
76	Resignation.....	60
77	Removal from office	60

78	Disclosure of interests	61
79	Acting appointments	61
80	Assistance to Parliamentary Standards Commissioner	62
Division 2—Administrative provisions relating to the Parliamentary Standards Commissioner		63
81	Appointment of Parliamentary Standards Commissioner	63
82	General terms and conditions of appointment.....	64
83	Other paid work	64
84	Remuneration	64
85	Leave of absence.....	65
86	Resignation.....	65
87	Removal from office	65
88	Disclosure of interests	66
89	Acting appointments	67
90	Assistance to Parliamentary Standards Commissioner	67
91	Assistant Parliamentary Standards Commissioner	68
Division 3—Approval or rejection of recommendations for appointments		69
92	Committees may approve or reject recommendation for appointment.....	69
Part 7—Miscellaneous		70
93	Offence of victimisation.....	70
94	Protection from liability	70
95	Immunities from certain State and Territory laws	71
96	Review relating to Independent Parliamentary Standards Authority	71
97	Review relating to lobbying and post-separation employment.....	72
98	Review relating to political finance, funding, donations and campaign regulation.....	73
99	Review of operation of Act.....	74
100	Schedules	76
101	Regulations.....	76
Schedule 1—House of Representatives—Register of Members’ Interests		1
1	Registration of Members’ interests	1
2	Registrable interests	1
3	Register and Registrar of Members’ Interests	3

Attachment 3: Version of the Bill with Track Changes showing suggested revisions < ART Parliamentary Standards Bill (drafting revisions).docx>.

Schedule 2—The Senate—Register of Senators’

	Interests	5
1	Registration of Senators’ Interests.....	5
2	Registrable interests of spouses or partners and dependants	6
3	Registrable interests	6
4	Register and Registrar of Senators’ Interests	7
5	Interpretation	8

Schedule 3—Amendments	1
<i>Public Interest Disclosure Act 2013</i>	1

1 **A Bill for an Act to enhance the integrity of the**
2 **Parliament of Australia, and for related purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

7 This Act is the *National Integrity (Parliamentary Standards) Act*
8 *2019*.

Part 1 Preliminary**Section 2****2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 101	<p>The later of:</p> <p>(a) day after the day on which the Consolidated Revenue Fund is appropriated under an Act to the Department in which this Act is administered for payment for the purposes of this Act; and</p> <p>(b) the day section 3 of the <i>National Integrity Commission Act 2019</i> commences.</p> <p>However, the provisions do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.</p>	
3. Schedules 1 to 3	At the same time as the provisions covered by table item 2.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

Section 3

3 Objects of Act

- (1) The object of this Act is to promote public trust and confidence in the integrity of the institutions of the Parliament, and of parliamentarians, and the responsibilities and obligations of parliamentarians reflect community expectations and community standards
- (a) provide for a statement of values for parliamentarians, and their staff; and
- (b) provide for a code of conduct for parliamentarians, and their staff; and
- (c) provide for a register of pecuniary interests for parliamentarians; and
- (d) assist parliamentarians, and their staff, to deal appropriately with ethics or integrity issues including compliance with this Act; and
- (e) provide for the investigation, referral and resolution of alleged contraventions of the Act; and
- (f) make consequential amendments to certain other Acts;
- (2) To assist in achieving the objects in paragraphs (1)(a) to (d), this Act establishes the office of Parliamentary Integrity Adviser.
- (3) To assist in achieving the objects in paragraph (1)(e), this Act establishes the office of Parliamentary Standards Commissioner.

4 Saving of powers, privileges and immunities

Except as expressly provided otherwise in this Act, this Act does not affect the powers, privileges and immunities of each House of the Parliament, and of the members and committees of each House.

5 Act binds the Crown

This Act binds the Crown in right of the Commonwealth.

6 Application of Act

This Act applies both within and outside Australia and extends to every external Territory.

Part 1 Preliminary

Section 7

7 Definitions

(1) In this Act:

applicable code of conduct means:

(a) in the case of a Minister:

(i) a Ministerial code of conduct imposed by the Prime Minister on the Prime Minister's Ministers, including the *Statement of Ministerial Standards* dated 30 August 2018 and as revised from time to time and any replacement document; or

(ii) a Ministerial code of conduct prescribed by the regulations for the purposes of this definition; or

(iii) a Ministerial code of conduct adopted by a joint resolution of both Houses; or

(b) in the case of a parliamentarian (including a Minister)—a parliamentary code of conduct adopted by a joint resolution of both Houses.

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

civil penalty provision means a provision of a law of the Commonwealth or of a State or Territory in relation to a contravention which does not constitute a criminal offence..

conflict of interest has its ordinary meaning and, without limiting the ordinary meaning, includes a parliamentarian:

(a) participating; or

(b) making a decision;

in the execution of the parliamentarian's office which furthers the private interests of the parliamentarian, or the private interests of a specified person or organisation, or the interests of a foreign power.

conflict of interest issue is an issue whether a person:

(a) had, or may have had, a conflict of interest; or

(b) has, or may have, a conflict of interest; or

Section 7

1 (c) will, or may at any time in the future, have a conflict of
2 interest;
3 and includes a reasonably held perception that a person had, has or
4 will have a conflict of interest.

5 **criminal offence** means an offence against a law, other than a civil
6 penalty provision, of the Commonwealth or of a State or Territory.

7 **disciplinary proceeding** has the same meaning as in the *National*
8 *Integrity Commission Act 2019*.

9 **engage in conduct** means:

- 10 (a) do an act; or
11 (b) omit to do an act.

12 **ethics or integrity issue** means an issue concerning ethics or
13 integrity and includes a conflict of interest issue.

14 **former parliamentarian** means person who was, but is no longer, a
15 member of the Commonwealth Parliament.

16 **gift** means a gift registrable in accordance with this Act or a
17 resolution of a House of the Parliament.

18 **interest** means an interest registrable in accordance with this Act or
19 a resolution or resolutions of a House of the Parliament.

20 **Law Enforcement Integrity Commissioner** means the person
21 appointed under section 175 of the *Law Enforcement Integrity*
22 *Commissioner Act 2006* as the Integrity Commissioner.


23 **paid work** means work for financial gain or reward.

24 **parliamentarian** means:

- 25 (a) a member of the Senate ; or
26 (b) a member of the House of Representatives; or
27 (c) a Minister of State who is not a senator or member of the
28 House of Representatives; or
29 (d) a person who is taken to be the President of the Senate under
30 the *Parliamentary Presiding Officers Act 1965* and who is
31 not a senator or member of the House of Representatives; or

Part 1 Preliminary

Section 7

1 (e) a person who is taken to be the Speaker of the House of
2 Representatives under the *Parliamentary Presiding Officers*
3 *Act 1965* and who is not a senator or member of the House of
4 Representatives. 


5 ***parliamentary code of conduct*** means.

- 6 (a) the code of conduct in Division 2 of Part 2; or
7 (b) a code of conduct for parliamentarians adopted by resolution
8 of the House of which the parliamentarian is or was a
9 member, to the extent that the code is of effect in accordance
10 with section 20.

11 ***parliamentary remuneration, expenses or allowances*** means
12 official allowances (including allowances by way of salary),
13 expenses and entitlements (including superannuation entitlements)
14 of parliamentarians under the *Remuneration Tribunal Act 1973*,
15 *Independent Parliamentary Expenses Authority Act 2017* or any
16 other law of the Commonwealth.

17 ***Presiding Officer*** means:

- 18 (a) in relation to the Senate—the President of the Senate; or
19 (b) in relation to the House of Representatives—the Speaker of
20 the House of Representatives.


21 ***Presiding Officers*** means the President of the Senate and the
22 Speaker of the House of Representatives acting jointly. 

23 ***protected Adviser information***: see subsection 31(1).


24 ***protected Commissioner information***: see subsection 63(1).

25 ***public official*** has the same meaning as in the *National Integrity*
26 *Commission Act 2019*.

27 ***relevant document*** means:

- 28 (a) for a request for advice under Subdivision A of Division 4 of
29 Part 4—see subsection 31(2); or
30 (b) for an alleged or suspected contravention of a provision of an
31 applicable code of conduct under Division 2 or 3 of Part 5—
32 see subsection 63(2). 

Section 7

- 1 **sensitive information** has the same meaning as in the *National*
2 *Integrity Commission Act 2019*.
- 3 **staff**, in relation a parliamentarian, means a person employed by
4 the parliamentarian under the *Members of Parliament (Staff) Act*
5 *1984*.
- 6 **use**, in relation to information, includes make a record of.
- 7 (2) For the purposes of this Act, a family member, in relation to a
8 parliamentarian or staff member, is taken to include the following
9 (without limitation):
- 10 (a) a de facto partner of the parliamentarian or staff member
11 (within the meaning of the *Acts Interpretation Act 1901*);
- 12 (b) someone who is the child of the person, or of whom the
13 person is the child, because of the definition of **child** in this
14 section; 
- 15 (c) anyone else who would be a family member of the
16 parliamentarian or staff member if a person mentioned in
17 paragraph (a) or (b) is taken to be a family member of the
18 person.

Part 2 Parliamentary values and conduct
Division 1 Statement of parliamentary values

Section 8

1 **Part 2—Parliamentary values and conduct**

2 **Division 1—Statement of parliamentary values**

3 **8 Parliamentary values**

- 4 (1) Parliamentarians are public officials who have responsibility to
5 secure and sustain the public trust against abuse or harm.
- 6 (2) Parliamentarians should demonstrate the following values in
7 carrying out their public duties:
- 8 (a) selflessness;
9 (b) integrity;
10 (c) objectivity;
11 (d) accountability;
12 (e) openness;
13 (f) honesty;
14 (g) leadership.
- 15 (3) The code of conduct in Division 2 sets out the manner in which a
16 parliamentarian demonstrates the values set out in subsection (2)..

Division 2—Parliamentary code of conduct

9 Upholding democracy and respecting others regardless of background

A parliamentarian must:

- (a) make the performance of their public duties their prime responsibility; and
- (b) exercise reasonable care and diligence in performing their public duties; and
- (c) submit themselves to lawful scrutiny appropriate to their office; and
- (d) treat all persons with respect and have due regard for their opinions, beliefs, experiences, rights and responsibilities.

10 Conflicts of interest

(1) A parliamentarian must:

- (a) declare any actual or perceived conflict of interest, including when speaking or voting in parliamentary proceedings, including the proceedings of parliamentary committees; and
- (b) avoid any actual or perceived conflict of interest, including, where appropriate, by excusing themselves from speaking or voting in parliamentary proceedings, including the proceedings of parliamentary committees.

(2)



(3) Without limiting subsection (1), a parliamentarian does not have a conflict of interest if the parliamentarian or a specified person is only affected as a member of the public or a broad class of persons.

11 Using position for profit

(1) A parliamentarian must not:

- (a) receive a fee, payment, retainer or reward; or
- (b) permit any compensation to accrue to their beneficial interest or the beneficial interest of a specified person; or

Part 2 Parliamentary values and conduct

Division 2 Parliamentary code of conduct

Section 12

- 1 (c) entertain or accept an offer or expectation of a future fee,
2 payment, retainer, reward or compensation to themselves or a
3 specified person;
4 for, or on account of, or as a result of the use of, their position as a
5 parliamentarian.
- 6 (2) Subsection (1) does not apply to any parliamentary salary or
7 work-related parliamentary expenses or allowances, the Budget or
8 other public resources under the *Remuneration Tribunal Act 1973*,
9 *Independent Expenses Authority Act 2017* or any other law.

10 **12 Outside employment and activities**

11 A parliamentarian may engage in employment, business and
12 community activities outside their duties as a parliamentarian, but
13 must avoid any actual or perceived conflict of interest that might
14 arise from those activities, including where the activities
15 compromise the parliamentarian's ability to fulfil their public
16 duties.

17 **13 Accepting any gift, hospitality or other benefit**

18 A parliamentarian must not accept any gift, hospitality or other
19 benefit which:
20 (a) creates an actual or perceived conflict of interest; or
21 (b) might create a perception of an attempt to influence the
22 parliamentarian in the exercise of their public duties.

23 **14 Use of influence**

24 A parliamentarian:
25 (a) must exercise their influence as a parliamentarian
26 responsibly; and
27 (b) must not use their influence to improperly further their
28 private interests, or the private interests of a specified person
29 or organisation, or the interests of a foreign power.

1 **15 Use of public resources**

2 A parliamentarian must comply with:

- 3 (a) the *Remuneration Tribunal Act 1973*, the *Independent*
4 *Parliamentary Expenses Authority Act 2017* and any
5 regulations made under those Acts; and
6 (b) any other law, rule or guidance regarding the use of public
7 resources.

8 **16 Personal conduct**

- 9 (1) A parliamentarian must ensure that their conduct as a
10 parliamentarian does not bring discredit upon the Parliament.
- 11 (2) A parliamentarian:
- 12 (a) must act ethically, reasonably and in good faith when using,
13 and accounting for the use of, public resources in relation to
14 the performance of their public duties;
- 15 (b) must not knowingly mislead the Parliament or the public
16 about any matter relating to the performance of their public
17 duties;
- 18 (c) must not bully or harass any person;
- 19 (d) must act in a manner that is consistent with the values of
20 respect and inclusion; and
- 21 (e) must not knowingly humiliate or degrade an individual or
22 community based on their colour, national or ethnic origin,
23 culture, religious belief, gender or sexual orientation, or
24 incite hatred or create fear of a community.
- 25 (3) A parliamentarian must be fair, objective and courteous:
- 26 (a) in their dealings with the community; and
- 27 (b) within the parliament whilst recognising the importance of
28 robust public debate .

29 **17 Managing confidential and personal information**

- 30 (1) A parliamentarian must not use confidential information gained in
31 the performance of their public duties to further their private

Part 2 Parliamentary values and conduct

Division 2 Parliamentary code of conduct

Section 18

1 interests, or the private interests of a specified person or
2 organisation, or the interests of a foreign power.

3 (2) A parliamentarian must respect the confidentiality of information
4 they receive in the course of their public duties.

5 **18 Post-retirement activities**

6 A former parliamentarian must not take improper advantage of any
7 office held as a parliamentarian after they cease to be a
8 parliamentarian.

9 **19 Staff of parliamentarians**

10 The duties and obligations of this Part apply to a person employed
11 under the *Members of Parliament (Staff) Act 1984* as if that person
12 were a parliamentarian.

13 **20 Extending code of conduct**

14 (1) Subject to subsection (2), this Act is not intended to exclude or
15 limit the power of a House of the Parliament to adopt or amend, by
16 resolution, a code of conduct or the operation of such a code of
17 conduct.

18 (2) A code of conduct adopted by a House of the Parliament that is
19 inconsistent with this Division has no effect to the extent of the
20 inconsistency, ~~but the code of conduct is taken to be consistent~~
21 ~~with this Division to the extent that the code of conduct is capable~~
22 ~~of operating concurrently with this Division.~~

1 **Part 3—Registers of Interests**
2

3 **21 Register of interests—House of Representatives**

4 (1) A member of the House of Representatives must register the
5 member's interests as provided for in Schedule 1.

6 (2) The House of Representatives may, by resolution carried by two
7 thirds of Members, impose additional requirements to those in
8 Schedule 1, so long as the additional requirements are not
9 inconsistent with Schedule 1.

10 **22 Register of interests—Senate**

11 (1) A senator must register the senator's interests as provided for in
12 Schedule 2.

13 (2) The Senate may, by resolution carried by two thirds of Senators,
14 impose additional requirements to those in Schedule 2, so long as
15 the additional requirements are not inconsistent with Schedule 2.

Part 4 Parliamentary Integrity Adviser

Division 1 Establishment and functions and powers of the Parliamentary Integrity Adviser

Section 23

Part 4—Parliamentary Integrity Adviser

**Division 1—Establishment and functions and powers of the
Parliamentary Integrity Adviser**

23 Parliamentary Integrity Adviser

- (1) There is to be a Parliamentary Integrity Adviser.
- (2) The Parliamentary Integrity Adviser is an independent officer of the Parliament.
- (3) Subject to this Act and to any other laws of the Commonwealth, the Parliamentary Integrity Adviser is not subject to direction by any person in the performance or exercise of the Parliamentary Integrity Adviser's functions or powers.

24 Functions of Parliamentary Integrity Adviser

- (1) The Parliamentary Integrity Adviser has the following functions:
 - (a) at the request of a parliamentarian, a former parliamentarian, or a person employed under the *Members of Parliament (Staff) Act 1984*, to provide independent confidential advice, which may be requested to be in writing, to that parliamentarian or person about:
 - (i) an applicable code of conduct, including a parliamentary code of conduct; or
 - (ii) parliamentary remuneration, expenses or allowances; or
 - (iii) an ethics or integrity issue; or
 - (iv) an interest, including an actual or potential conflict of interest issue; or
 - (v) a matter of propriety, including the receipt of a gift or benefit or
 - (vi) a matter relating to involvement with a foreign power, or
 - (vii) any similar issue;

Parliamentary Integrity Adviser **Part 4**
Establishment and functions and powers of the Parliamentary Integrity Adviser
Division 1

Section 24

- 1 whether the request for advice relates to an issue that arose
2 before or after the commencement of this Act in relation to
3 the parliamentarian, the former parliamentarian or the person
4 employed under the *Members of Parliament (Staff) Act 1984*;
5 (b) at the request of a Minister, to provide independent
6 confidential advice, which may be requested to be in writing,
7 to that Minister about the Minister's compliance with an
8 applicable code of conduct being a Ministerial code of
9 conduct, whether the request for advice relates to an issue
10 that arose before or after the commencement of this Act in
11 relation to the Minister;
12 (c) to act as the registrar of statements of interests for members
13 of the House of Representatives and for senators, as provided
14 for in Schedules 1 and 2;
15 (d) at the request of a Presiding Officer or a committee of a
16 House of the Parliament, to provide independent confidential
17 written advice in relation to any matter related to the objects
18 of this Act;
19 (e) to provide advice and recommendations on changes to
20 practice guides and fact sheets, in relation to matters of
21 conduct, propriety and ethics, for Ministers, parliamentarians,
22 former parliamentarians and persons employed under the
23 *Members of Parliament (Staff) Act 1984*;
24 (f) to provide an annual report to the Parliament outlining
25 the nature of all matters considered under paragraphs (a), (b),
26 (d) and (e) without identifying any of the parties involved,
27
28 (g) any other function conferred by this Act or another Act (or an
29 instrument under this Act or another Act) on the
30 Parliamentary Integrity Adviser.
31 (2) The Parliamentary Integrity Adviser has power to do all things
32 necessary or convenient to be done for or in connection with the
33 performance of the Parliamentary Integrity Adviser's functions.

Part 4 Parliamentary Integrity Adviser

Division 2 Provision of advice

Section 25

Division 2—Provision of advice

Subdivision A—Requests for advice

25 A parliamentary, former parliamentary or staff may request advice

(1) A parliamentary, a former parliamentary, or a person employed under the *Members of Parliament (Staff) Act 1984*, may request advice from the Parliamentary Integrity Adviser about:

- (a) an applicable code of conduct, including a parliamentary code of conduct; or
- (b) parliamentary remuneration, expenses or allowances; or
- (c) an ethics or integrity issue; or
- (d) an interest, including an actual or potential conflict of interest issue; or
- (e) a matter of propriety, including the receipt of a gift; or
- (f) any similar issue;

whether the request for advice relates to an issue that arose before or after the commencement of this Act.

(2) A request for advice must be about a matter relating to:

- (a) the parliamentary or the former parliamentary requesting the advice; or
- (b) the person employed under the *Members of Parliament (Staff) Act 1984* requesting the advice; or
- (c) a family member of the parliamentary, the former parliamentary or person employed under the *Members of Parliament (Staff) Act 1984* requesting the advice; or
- (d) a person employed or formerly employed under the *Members of Parliament (Staff) Act 1984* by the parliamentary or the former parliamentary requesting the advice.

(3) Despite subsection (2), a parliamentary who is the leader of a political party may request advice about a matter relating to:

- (a) a parliamentary who is a member of that political party; or

Section 26

- 1 (b) a person employed under the *Members of Parliament (Staff)*
2 *Act 1984* by a parliamentarian who is a member of that
3 political party; or
4 (c) a family member of a parliamentarian who is a member of
5 that political party;
6 provided that in all cases, the leader of the political party must first
7 inform the parliamentarian, person or family member concerned of
8 their intention to request the advice.
- 9 (4) To avoid doubt, a request for advice may not be about a matter
10 relating to any other parliamentarian or person, except as provided
11 for in subsection (3).

12 **26 Minister may request advice**

- 13 (1) A Minister may request advice from the Parliamentary Integrity
14 Adviser about any issue relating to compliance with an applicable
15 code of conduct, being a Ministerial code of conduct, whether the
16 request for advice relates to an issue that arose before or after the
17 commencement of this Act.
- 18 (2) A request for advice must be about a matter relating to:
19 (a) the Minister requesting the advice; or
20 (b) a family member of the Minister requesting the advice; or
21 (c) a person employed or formerly employed under the *Members*
22 *of Parliament (Staff) Act 1984* by the Minister requesting the
23 advice.
- 24 (3) Despite subsection (2), the Prime Minister may request advice
25 about a matter relating to:
26 (a) a Minister or former Minister; or
27 (b) a person employed under the *Members of Parliament (Staff)*
28 *Act 1984* by a Minister; or
29 (c) a family member of a Minister;
30 provided that in all cases, the Prime Minister must first inform the
31 Minister, person or family member concerned of their intention to
32 request the advice.

Part 4 Parliamentary Integrity Adviser

Division 2 Provision of advice

Section 27

- 1 (4) To avoid doubt, a request for advice may not be about a matter
2 relating to any other parliamentarian or person, except as provided
3 for in subsection (2) or (3).

4 **27 Presiding Officer or chair of committee may request advice**

5 A Presiding Officer or a chair of a committee of a House of the
6 Parliament may request advice from the Parliamentary Integrity
7 Adviser about any ethics or integrity issue, or any general matter
8 relating to ethics and integrity including revision or development
9 of a code of conduct, as may relate to the roles, functions and
10 operations of that House or committee.

11 **28 Requirements relating to requests for advice**

- 12 (1) If requested by the Parliamentary Integrity Adviser, a request for
13 advice under section 25, 26 or 27 must be in writing.
- 14 (2) The person making the request for advice must disclose to the
15 Parliamentary Integrity Adviser all information relevant to the
16 matter or issue the subject of the request.
- 17 (3) The Parliamentary Integrity Adviser may request additional
18 information from the person for the purpose of giving the advice.
19 The request must explain how the additional information relates to
20 request for advice.

21 **29 Provision of advice**

- 22 (1) If a person makes a request for advice on a matter or issue under
23 section 25, 26 or 27, the Parliamentary Integrity Adviser must give
24 the person advice on the matter or issue.
- 25 (2) However, subsection (1) does not apply if the Parliamentary
26 Integrity Adviser:
27 (a) reasonably believes that:
28 (i) the Parliamentary Integrity Adviser does not have
29 sufficient information in relation to the matter or issue
30 to give the advice (whether or not after making a request
31 for additional information under section 28); or

Section 30

- 1 (ii) the advice is asked for in circumstances where the
2 giving of the advice would not be in keeping with the
3 objects of this Act; and
4 (b) gives the person written reasons for refusing to give the
5 advice.
- 6 (3) If the person requests advice in writing, or the Parliamentary
7 Integrity Adviser decides that the advice should be provided in
8 writing, then the advice must be in writing.
- 9 (4) In giving advice under subsection (1), the Parliamentary Integrity
10 Adviser:
11 (a) must have regard to the ethical principles set out in an
12 applicable code of conduct; and
13 (b) may have regard to any other ethical standards the
14 Parliamentary Integrity Adviser considers appropriate.

15 **30 Limited protection from acting on conflict of interest issue**

- 16 (1) This section applies if a person:
17 (a) requests advice under section 25, 26 or 27 on a conflict of
18 interest issue involving the person; and
19 (b) discloses all information relevant to the matter or issue the
20 subject of the request when seeking the advice; and
21 (c) makes the request in writing; and
22 (d) receives written advice from the Parliamentary Integrity
23 Adviser on the issue; and
24 (e) does an act to resolve the conflict of interest issue
25 substantially in accordance with the Parliamentary Integrity
26 Adviser's advice on the issue.
- 27 (2) The person is not subject to any civil liability for, or in relation to,
28 the act.
- 29 (3) **To a**void any doubt, subsection (2) does not affect the person's
30 liability for any act or omission done or made in connection with
31 the conflict of interest issue before the person receives the
32 Parliamentary Integrity Adviser's advice.

Part 4 Parliamentary Integrity Adviser

Division 2 Provision of advice

Section 31

- (3b) The act of seeking advice does not absolve the person seeking advice from any civil or criminal liability knowingly incurred prior to the date on which advice was requested.

Subdivision B—Confidentiality of information

31 Interpretation

- (1) ***Protected Adviser information*** is information contained in a relevant document about a person, matter or issue obtained by the Parliamentary Integrity Adviser in the course of exercising powers, or performing duties or functions, under or in accordance with this Division.
- (2) Each of the following documents is a ***relevant document*** for a request for advice under Subdivision A:
- (a) a request, if made in writing;
 - (b) any other records of the request;
 - (c) any documents given under subsection 28(2) in relation to the request;
 - (d) any additional information given under subsection 28(3) in relation to the request;
 - (e) any written reasons given by the Parliamentary Integrity Adviser under subsection 28(3) in relation to additional information sought;
 - (f) any written advice given by the Parliamentary Integrity Adviser under subsection 29(1) in relation to the request.
- (3) A reference in this Subdivision to the Parliamentary Integrity Adviser includes a reference to a person assisting the Parliamentary Integrity Adviser under section 80.

32 Authorised use or disclosure—performing functions etc.

The Parliamentary Integrity Adviser may use or disclose Protected Adviser Information if the Parliamentary Integrity Adviser uses or discloses the information for the purposes of performing functions or duties or exercising powers under this Division.

Section 33

Note 1: This section is an authorisation for the purposes of other laws, including the Australian Privacy Principles.

Note 2: Use, in relation to information, includes make a record of (see the definition of *use* in section 7).

33 Authorised use or disclosure—required or authorised by law

The Parliamentary Integrity Adviser may use or disclose protected Adviser information if the use or disclosure is required or authorised by or under a law of the Commonwealth, or of a State or Territory.

Note: This section is an authorisation for the purposes of other laws, including the Australian Privacy Principles.

34 Authorised disclosure—person to whom information relates

The Parliamentary Integrity Adviser may disclose protected Adviser information to the person to whom the protected Adviser information relates.

Note: This section is a requirement for the purposes of other laws, including the Australian Privacy Principles.

35 Offence for unauthorised use or disclosure

- (1) A person commits an offence if:
- (a) the person is or was the Parliamentary Integrity Adviser; and
 - (b) the person has obtained protected Adviser information; and
 - (c) the person wilfully uses or discloses the information; and
 - (d) the use or disclosure is not authorised or required by a provision in this Subdivision.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

- (2) Subsection (1) does not apply to a person to the extent that the person uses or discloses protected information in good faith and in purported compliance with a provision in this Subdivision.

Note: A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3) of the *Criminal Code*).

Part 4 Parliamentary Integrity Adviser

Division 2 Provision of advice

Section 36

36 No requirement to provide information to courts etc.

Except where it is necessary to do so for the purposes of giving effect to this Act, the Parliamentary Integrity Adviser is not required to disclose Protected Adviser Information, or produce a document containing Protected Adviser Information, to a court; tribunal, authority or person otherwise having power to require the answering of questions or the production of documents.

37 Offence for unauthorised use or disclosure—any person

- (1) A person other than the Parliamentary Integrity Advisor must not record, use or disclose information in relation to an ethics or integrity issue about another person that came to that person's knowledge because of that person's involvement in the administration of this Act.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

- (2) Subsection (1) does not apply to a person's recording, use or disclosure of information if the recording, use or disclosure is:
- (a) in the performance of his or her functions under this Act; or
 - (b) authorised under this or another Act.



A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person other than the Parliamentary Integrity Advisor who is or has been involved in the administration of this Act is not, in any proceeding, compellable to disclose information in relation to an ethics or integrity issue about another person that came to that person's knowledge because of that person's involvement in the administration of this Act.

1 **Division 3—Better practices guides and fact sheets**

2 **38 Better practices guides and fact sheets**

3 The Parliamentary Integrity Adviser may promote better practice in
4 relation to matters of conduct, propriety, ethics and integrity for
5 parliamentarians, former parliamentarians, and persons employed
6 under the *Members of Parliament (Staff) Act 1984*, by preparing
7 and disseminating better practice guides and fact sheets..



Part 4 Parliamentary Integrity Adviser

Division 4 Annual report

Section 39

Division 4—Annual report

39 Annual report

- (1) The Parliamentary Integrity Adviser must prepare and give:
- (a) the President of the Senate for presentation to the Senate; and
 - (b) the Speaker of the House of Representatives for presentation to the House of Representatives;

a report on the activities of the Parliamentary Integrity Adviser during the preceding financial year in accordance with Section 34C of the *Acts Interpretation Act 1901*.

- (2) A report under subsection (1) must include:

- (a) the number of times advice was prepared by the Parliamentary Integrity Adviser during the year, including but not limited to information regarding:
 - (i) the number of times advice related to an applicable code of conduct or part thereof; and
 - (ii) the nature of gifts to which advice related; and
 - (iii) the nature of interests to which advice related; and
- (b) the general areas on which advice was given by the Parliamentary Integrity Adviser ; and
- (c) details of any better practice guides or fact sheets prepared and disseminated by the Parliamentary Integrity Adviser .

- (3) A report under subsection (1) may include such other information relating to the objects of this Act and the activities of the Parliamentary Integrity Adviser, as the Parliamentary Integrity Adviser considers appropriate.

- (4) Despite subsection (3), a report under subsection (1) must not include information likely to identify a specific request for the Parliamentary Integrity Adviser's advice on any matter or issue, including information likely to identify:
- (a) a person who requested the Parliamentary Integrity Adviser's advice; or

Section 39

- 1 (b) in the case of a family member or employee about whom the
2 Parliamentary Integrity Adviser's advice was requested, that
3 family member or employee.

Part 5 Parliamentary Standards Commissioner

Division 1 Establishment and functions and powers of the Parliamentary Standards Commissioner

Section 40

Part 5—Parliamentary Standards Commissioner

**Division 1—Establishment and functions and powers of the
Parliamentary Standards Commissioner**

40 Parliamentary Standards Commissioner

- (1) There is to be a Parliamentary Standards Commissioner.
- (2) The Parliamentary Standards Commissioner is an independent officer of the Parliament.

41 Functions of Parliamentary Standards Commissioner

- (1) The Parliamentary Standards Commissioner has the following functions:
 - (a) to investigate alleged or suspected contraventions of this Act or any applicable code of conduct, including a parliamentary code of conduct;
 - (b) at the request of a Minister, including the Prime Minister, to investigate alleged or suspected contraventions of an applicable code of conduct, being a Ministerial code of conduct, whether the request for advice relates to an issue that arose before or after the commencement of this Act in relation to the Minister;
 - (c) at the request of a Presiding Officer or a committee of a House of the Parliament, to inquire into and report upon any matter related to ethical and integrity standards among parliamentarians or their staff;
 - (d) to provide an annual report to the Parliament outlining the nature of all matters considered under paragraphs (a) and (b), without identifying any of the parties involved;
 - (e) any other function conferred by this Act or another Act (or an instrument under this Act or another Act) on the Parliamentary Standards Commissioner.

Parliamentary Standards Commissioner **Part 5**
Establishment and functions and powers of the Parliamentary Standards Commissioner
Division 1

Section 41

- 1 (2) The Parliamentary Standards Commissioner has power to do all
2 things necessary or convenient to be done for or in connection with
3 the performance of the Parliamentary Standards Commissioner's
4 functions.

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 42

**Division 2—Alleged or suspected contraventions of
parliamentary code of conduct**

42 Referral of alleged or suspected contravention

(1) A person who considers that there has been a contravention of a provision of a parliamentary code of conduct may refer the alleged or suspected contravention to:

- (a) the Presiding Officer of the House of the Parliament of which the Member who is alleged to have contravened the requirement is a Member; or
- (b) the Privileges Committee of the House of the Parliament of which the Member who is alleged to have contravened the requirement is a Member; or
- (c) the Parliamentary Standards Commissioner.

(2) Without limiting subsection (1):

- (a) the person may refer the allegation or information anonymously; and
- (b) the person may refer the allegation or information either orally or in writing.

(3) If the person refers the allegation or information orally, the Presiding Officer, Privileges Committee or Parliamentary Standards Commissioner may require the person to put the allegation or the information in writing.

(4) If the person is asked to put the allegation or information in writing under subsection (3), the Presiding Officer, Privileges Committee or Parliamentary Standards Commissioner may refuse to deal further with the allegation or information until the allegation or information is put in writing.

43 How alleged or suspected contraventions must be dealt with

(1) A Presiding Officer or Privileges Committee who receives a referral under subsection 42 shall within seven (7) days consider the allegation and, if deemed a prima facie breach of a

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of parliamentary code of conduct **Division 2**

Section 43

1 parliamentary code of conduct, within seven (7) days of making
2 that decision, refer it to the Parliamentary Standards
3 Commissioner.

4 (2) If the Parliamentary Standards Commissioner determines that a
5 referral under this Division may involve conduct that may
6 constitute a criminal offence, the Parliamentary Standards
7 Commissioner must refer the alleged contravention to the National
8 Integrity Commissioner, the Australian Federal Police or another
9 appropriate law enforcement agency.

10 Note: Division 2 of Part 4 of the *National Integrity Commission Act 2019*
11 provides how the National Integrity Commissioner deals with
12 corruption issues including criminal offences.

13 (3) If the Parliamentary Standards Commissioner determines that a
14 referral under this Division involves a corruption issue within the
15 meaning of the *National Integrity Commission Act 2019*, the
16 Parliamentary Standards Commissioner must deal with the
17 corruption issue in one of the following ways:

- 18 (a) by inquiring into the corruption issue;
19 (b) by referring the corruption issue to the National Integrity
20 Commissioner.

21 (4) The Parliamentary Standards Commissioner may inquire into the
22 corruption issue under paragraph (3)(a) either alone or jointly with
23 the National Integrity Commissioner or with another government
24 agency with appropriate functions or powers for the purpose.

25 (5) The Parliamentary Standards Commissioner may refer the
26 corruption issue under paragraph (3)(b) with any of the following:

- 27 (a) a request for the National Integrity Commissioner to
28 investigate or otherwise deal with the corruption issue;
29 (b) a request for advice on how the corruption issue should be
30 investigated;
31 (c) a request for a joint investigation.

32 (6) In deciding how to deal with a corruption issue under
33 subsection (3), the Parliamentary Standards Commissioner must
34 have regard to the following:

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 44

- 1 (a) whether the corruption issue may involve serious corrupt
2 conduct or systemic corrupt conduct;
3 (b) the need to ensure that the corruption issue is fully
4 investigated;
5 (c) the rights and obligations of the National Integrity
6 Commissioner or any other agency to investigate the
7 corruption issue;
8 (d) the rights and obligations of any person who refers or
9 provides information in relation to the corruption issue,
10 including any need to protect the person's identity or
11 confidentiality or to protect the person from reprisal or
12 detrimental action;
13 (e) if a joint investigation with the National Integrity
14 Commissioner is being considered—the extent to which the
15 National Integrity Commissioner is able to cooperate in the
16 investigation;
17 (f) the resources that are available to investigate the corruption
18 issue;
19 (g) the need to ensure a balance between:
20 (i) the National Integrity Commissioner's role in dealing
21 with corruption issues (particularly in dealing with
22 significant corruption issues); and
23 (ii) ensuring that the Parliament takes responsibility for the
24 conduct of parliamentarians and their staff;
25 (h) the likely significance of the corruption issue for the
26 Parliament and for the Commonwealth.
27 (7) Subsection (6) does not limit the matters to which the
28 Parliamentary Standards Commissioner may have regard.

44 Assessment and preliminary enquiries

- 30 (1) This section applies if:
31 (a) an alleged or suspected contravention is referred to the
32 Parliamentary Standards Commissioner under this Division;
33 and

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of parliamentary code of conduct **Division 2**

Section 44

- 1 (b) the Parliamentary Standards Commissioner does not refer the
2 alleged or suspected contravention under either
3 subsection 43(2) or (3).
- 4 (2) The Parliamentary Standards Commissioner must deal with the
5 alleged or suspected contravention in one of the following ways:
6 (a) by making preliminary enquiries to determine whether to
7 further inquire into the alleged or suspected contravention;
8 (b) by inquiring into the alleged or suspected contravention;
9 (c) at any time, by determining to take no further action.
- 10 (3) The Parliamentary Standards Commissioner may make preliminary
11 enquiries under paragraph (2)(a) in such manner as the
12 Parliamentary Standards Commissioner sees fit.
- 13 (4) The Parliamentary Standards Commissioner may decide under
14 paragraph (2)(c) to take no further action in relation to an alleged
15 or suspected contravention, at any time, only if the Parliamentary
16 Standards Commissioner is satisfied on reasonable grounds that:
17 (a) the contravention is already being, or will be, investigated by
18 another Commonwealth agency or resolved by another
19 process; or
20 (b) the referral of the allegation, or information, that raised the
21 contravention is frivolous or vexatious; or
22 (c) the conduct which is the subject of the alleged or suspected
23 contravention has been, is or will be, the subject of
24 proceedings before a court; or
25 (d) the subject matter of the allegation or suspicion does not
26 sufficiently relate to any provision of an applicable code of
27 conduct; or
28 (e) there is insufficient information or evidence with which to
29 deal or inquire into the contravention; or
30 (f) after due consideration, including any enquiries, there is
31 insufficient basis for concluding that a contravention has
32 occurred; or
33 (g) further action in relation to the alleged or suspected
34 contravention is not warranted having regard to all the
35 circumstances.

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 45

- 1 (5) Without limiting paragraph (4)(d), the Parliamentary Standards
2 Commissioner may determine that the subject matter does not
3 sufficiently relate to any provision of an applicable code of conduct
4 on the grounds that it solely or overwhelmingly concerns:
5 (a) the political position, policy, platform, views or opinions of a
6 parliamentarian; or
7 (b) the private or personal life of a parliamentarian or of other
8 persons.
- 9 (6) If, at any time, the Parliamentary Standards Commissioner forms
10 the opinion that:
11 (a) a particular action by a parliamentarian, Presiding Officer or
12 Privileges Committee could be taken to rectify or resolve an
13 issue giving rise to the alleged or suspected contravention;
14 and
15 (b) the action would not prejudice any further inquiry or other
16 inquiry, or the making of a report in relation to the
17 contravention or any related matter;
18 the Parliamentary Standards Commissioner may convey that
19 opinion to the parliamentarian, Presiding Officer or Privileges
20 Committee, with a recommendation that they take such action.

45 Inquiries

- 21 (1) This section applies if the Parliamentary Standards Commissioner
22 decides under subsection 44(2) to undertake an inquiry into the
23 alleged or suspected contravention.
24
- 25 (2) The following provisions apply in relation to an inquiry that is
26 conducted by the Parliamentary Standards Commissioner under
27 subsection (1) (with references to the Auditor-General being
28 replaced by references to the Parliamentary Standards
29 Commissioner):
30 (a) sections 32, 33 and 35 of the *Auditor-General Act 1997*;
31 (b) any other provisions of the *Auditor-General Act 1997*, or of
32 regulations under that Act, that are relevant to the operation
33 of section 32, 33 or 35 of that Act.
- 34 (3) The Parliamentary Standards Commissioner must advise:
-

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of parliamentary code of conduct **Division 2**

Section 45

- 1 (a) the Privileges Committee of the House or Houses to which
2 the contravention relates; and
3 (b) the parliamentarian or parliamentarians and any other persons
4 to which the contravention relates;
5 of the decision to inquire into the contravention, and of any
6 decision to take no further action in relation to the contravention.
- 7 (4) However, the Parliamentary Standards Commissioner need not
8 advise a person under subsection (3), if doing so would be likely to
9 prejudice:
10 (a) the inquiry or any other inquiry; or
11 (b) the protection of the identity or confidentiality of any person
12 who referred or provided information in relation to the
13 contravention, or protection of such a person from reprisal or
14 detrimental action; or
15 (c) any action taken as a result of an inquiry referred to in
16 paragraph (a).
- 17 (5) A parliamentarian or person employed under the *Members of*
18 *Parliament (Staff) Act 1984* is to cooperate and assist with an
19 inquiry.
- 20 (6) The Parliamentary Standards Commissioner may keep any person
21 (or a representative nominated by the person) informed of the
22 progress of an inquiry, if the person:
23 (a) raised the alleged or suspected contravention; or
24 (b) is a parliamentarian or other person to whom the
25 contravention or inquiry relates.
- 26 (7) Except where disclosed or authorised by the Parliamentary
27 Standards Commissioner, a House or a Committee, or in
28 accordance with this Act, a person may not disclose any relevant
29 document relating to an alleged or suspected contravention under
30 this Division.
- 31 Note: Subsection 69(4) provides that relevant documents, as defined by
32 subsection 63(2), are in camera evidence for the purposes of
33 section 13 of the *Parliamentary Privileges Act 1987*. The penalty for
34 unauthorised disclosure is, in the case of a natural person,
35 imprisonment for 6 months or 50 penalty units or, in the case of a
36 corporation, 250 penalty units.
-

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 46

46 Report of inquiry

Report and its contents

(1) After completing an inquiry into an alleged or suspected contravention, the Parliamentary Standards Commissioner must prepare a report on the inquiry.

(2) The report must set out:

(a) whether or not there are grounds to sustain the allegation;

(b) The reasons for finding that a prima facie case exists to support the allegation; on the contravention; and

(b) the evidence and other material on which those findings are based; and

(c) any recommendations for further action and the reasons for those recommendations.

This subsection has effect subject to subsections (4) and (5).

Note: See section 47 for the need for the Parliamentary Standards Commissioner to give certain people an opportunity to be heard before including critical statements in a report.

(3) Without limiting paragraph (2)(c), the Parliamentary Standards Commissioner may recommend:

(a) taking action to rectify or mitigate the effects of a contravention; or

(b) the adoption of measures to remedy deficiencies in policy, procedures or practices that facilitated a contravention; or

(c) such actions as the Parliamentary Standards Commissioner considers will assist to resolve a contravention.

(d) taking appropriate action to determine whether disciplinary proceedings should be taken against the person or persons involved; or

(e) taking appropriate action with a view to having a person or persons charged with a criminal offence; or

Section 47

- 1 (4) The Parliamentary Standards Commissioner may exclude
2 information from the report if the Parliamentary Standards
3 Commissioner is satisfied that:
4 (a) the information is sensitive information or the inclusion of
5 the information may:
6 (i) endanger a person's life or physical safety; or
7 (ii) prejudice proceedings that may be brought as a result of
8 an inquiry by another agency ; and
9 (b) ~~it is desirable in the circumstances to exclude the information~~
10 ~~from the report.~~
11 (5) In deciding whether to exclude information from the report under
12 subsection (4), the Parliamentary Standards Commissioner must
13 seek to achieve an appropriate balance between:
14 (a) the public interest that would be served by including the
15 information in the report; and
16 (b) the prejudicial consequences that might result from including
17 the information in the report.
18 *Supplementary report*
19 (6) If the Parliamentary Standards Commissioner excludes information
20 from a report under subsection (4), the Parliamentary Standards
21 Commissioner must prepare a supplementary report that sets out:
22 (a) the information; and
23 (b) the reasons for excluding the information from the report
24 under subsection (4).

25 **47 Opportunity to be heard**

- 26 (1) Subject to subsection (2), the Parliamentary Standards
27 Commissioner must not include in a report under section 46 in
28 relation to an investigation of a corruption issue an opinion or
29 finding that is critical of a person or persons (either expressly or
30 impliedly) unless the Parliamentary Standards Commissioner has
31 taken the action required by subsection (3) before completing the
32 investigation.

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 48

- 1 (2) Subsection (1) does not apply if the Parliamentary Standards
2 Commissioner is satisfied that:
3 (a) a person may have:
4 (i) committed a criminal offence; or
5 (ii) contravened a civil penalty provision; or
6 (iii) engaged in conduct that could be the subject of
7 disciplinary proceedings; or
8 (iv) engaged in conduct that could be grounds for
9 terminating the person's appointment or employment;
10 and
11 (b) taking action under subsection (3) would compromise the
12 effectiveness of:
13 (i) the inquiry into the contravention or another inquiry; or
14 (ii) any action taken as a result of an inquiry referred to in
15 subparagraph (i).
16 (3) If the opinion or finding is critical of a person, the Parliamentary
17 Standards Commissioner must give the person:
18 (a) a statement setting out the opinion or finding; and
19 (b) a reasonable opportunity to appear before him or her and to
20 make submissions in relation to the opinion or finding.
21 (4) Submissions under subsection (3) may be made orally or in
22 writing.
23 (5) A person referred to in subsection (3):
24 (a) may appear before the Parliamentary Standards
25 Commissioner personally; or
26 (b) may, with the Parliamentary Standards Commissioner's
27 approval, be represented by another person.

28 **48 Parliamentary Standards Commissioner to give report to a**
29 **Privilege's Committee**

30 Where a report by the Parliamentary Standards Commissioner
31 under s. 46 (1) recommends proceedings be taken against a person
32 by the relevant House a copy of the report must be given to the
33 Privileges Committee of that House :

49 Advice of outcome of inquiry

- (1) The Parliamentary Standards Commissioner may advise a person (or a representative nominated by the person), in such manner as is considered appropriate, of the outcome of an inquiry, if the person:
 - (a) raised the alleged or suspected contravention; or
 - (b) is a parliamentarian or other person to whom the contravention or inquiry relates.
- (2) However, if a report under subsection 46(1) included:
 - (a) a finding that a contravention occurred; or
 - (b) a recommendation that any action be taken as a result of a contravention;the Parliamentary Standards Commissioner may only advise a person of the outcome of an inquiry after the report has been considered by the Privileges Committee of the House to which the inquiry relates.
- (3) A copy of all or part of any report prepared under subsection 46(1) in relation to the investigation may be given at the discretion of the Parliamentary Standards Commissioner.
- (4) In advising a person of the outcome of the investigation, the Parliamentary Standards Commissioner may exclude information from the advice if the Commissioner is satisfied that:
 - (a) the information is sensitive information; and
 - (b) it is desirable in the circumstances to exclude the information from the advice.
- (5) In deciding whether to exclude information from the advice under paragraph (4)(b), the Parliamentary Standards Commissioner must seek to achieve an appropriate balance between:
 - (a) the person's interest in having the information included in the advice; and
 - (b) the prejudicial consequences that might result from including the information in the advice.

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 50

50 Public advice of outcome of inquiry

- (1) If, in the opinion of the Parliamentary Standards Commissioner:
- (a) an alleged or suspected contravention has been the subject of public attention or debate; and
 - (b) no contravention occurred, or it could not be concluded that a contravention occurred;
- the Parliamentary Standards Commissioner may, if he or she considers it to be in the public interest to do so, make public the outcome of the inquiry.

(2) In determining whether the issuing of public advice under subsection (1) is in the public interest, the Parliamentary Standards Commissioner must consult:

- (a) the person or persons in relation to whom the contravention was alleged or suspected; and
- (b) the Privileges Committee of each House to which the alleged or suspected contravention related.

51 Report to House

- (1) If:
- (a) the Parliamentary Standards Commissioner gives a Privileges Committee a report prepared under subsection 46(1); and
 - (b) the report included:
 - (i) a finding that a contravention occurred; or
 - (ii) a recommendation that any action be taken as a result of a contravention;
- the Committee must table the report in each House of the Parliament within 5 sitting days after its receipt by the Committee.

(2) To avoid doubt, a Privileges Committee is not required by subsection (1) to cause a supplementary report prepared under subsection 46(6) to be tabled in the House.

- (3) In tabling a report of the Parliamentary Standards Commissioner, a Committee may table in the House such further advice or recommendations about the report, or about actions to be taken as a result of the report, as the Committee sees fit.

52 Failure to comply with parliamentary code of conduct

- (1) This section applies where either House of the Parliament determines, following an inquiry under section 45 and consideration of a report tabled under section 51, that a person has contravened a requirement of a provision of a parliamentary code of conduct.
- (2) A wilful contravention of a requirement of a provision of the parliamentary code of conduct is a contempt of the Parliament and may be dealt with accordingly.
- (3) In addition to any other punishment that may be awarded by either House of the Parliament under subsection (2), if a parliamentarian or other person is determined to have contravened a requirement of a provision of the parliamentary code of conduct, the House of which the parliamentarian is a member may impose any of the following penalties:
- (a) a requirement to apologise to the House;
 - (b) a requirement to rectify a statement of interests provided by the parliamentarian or other person, or any information included in the register of interests, under Schedule 1 or 2;
 - (c) a requirement to pay a specified fine (not exceeding 100 penalty units) to the Presiding Officer for payment into the Consolidated Revenue Fund;
 - (d) a formal censure or reprimand by the House;
 - (e) the suspension of the parliamentarian from the House for the period (not exceeding 2 months) determined by the House;
 - (f) such other penalty as the House deems appropriate in the circumstances.
- (4) A motion of a House of Parliament proposing to impose the penalty specified in paragraph (3)(e) must be passed by a special majority.
- (5) For the purposes of subsection (4), special majority means two thirds of the whole number of the members of the House of Parliament.

Part 5 Parliamentary Standards Commissioner

Division 2 Alleged or suspected contraventions of parliamentary code of conduct

Section 52

- 1 (6) If a parliamentarian does not comply with a penalty imposed under
2 paragraph (3)(a), or (b), within the time ordered by the House, the
3 parliamentarian shall be be suspended from the House for a period
4 of time determined by the House, or until such time as they
5 comply.
- 6 (7) **Nothing** in subsections (1) to (6) limits the matters about which the
7 Parliamentary Standards Commissioner may make
8 recommendations in a report under section 46, or a Privileges
9 Committee may make recommendations under section 51, or a
10 House may take action under subsection (2).

**Division 3—Alleged or suspected contraventions of
ministerial code of conduct**

53 Referral of alleged or suspected contravention

- (1) A person who considers that there has been a contravention of a provision of an applicable code of conduct, being a Ministerial code of conduct, may refer the alleged or suspected contravention to:
 - (a) the Prime Minister; or
 - (b) the Parliamentary Standards Commissioner.
- (2) Without limiting subsection (1):
 - (a) the person may refer the allegation or information anonymously; and
 - (b) the person may refer the allegation or information either orally or in writing.
- (3) If the person refers the allegation or information orally, the Prime Minister or Parliamentary Standards Commissioner may require the person to put the allegation or the information in writing.
- (4) If the person is asked to put the allegation or information in writing under subsection (3), the Prime Minister or Parliamentary Standards Commissioner may refuse to deal further with the allegation or information until the allegation or information is put in writing.

54 How alleged or suspected contraventions must be dealt with

- (1) If the Parliamentary Standards Commissioner receives a referral under subsection 53(1), the Parliamentary Standards Commissioner must refer the alleged or suspected contravention to the Prime Minister.
- (2) If, after referring the alleged or suspected contravention to the Prime Minister, the Prime Minister or Parliamentary Standards Commissioner determines that a referral under this Division may involve conduct that may constitute a criminal offence, the Prime

Part 5 Parliamentary Standards Commissioner

Division 3 Alleged or suspected contraventions of ministerial code of conduct

Section 54

1 Minister or Parliamentary Standards Commissioner must refer the
2 alleged contravention to the National Integrity Commissioner, the
3 Australian Federal Police or another appropriate law enforcement
4 agency.

5 Note: Division 2 of Part 4 of the *National Integrity Commission Act 2019*
6 provides how the National Integrity Commissioner deals with
7 corruption issues including criminal offences.

- 8 (3) If the Parliamentary Standards Commissioner determines that a
9 referral under this Division involves a corruption issue within the
10 meaning of the *National Integrity Commission Act 2019*, the
11 Parliamentary Standards Commissioner must, when referring the
12 allegation or suspected contravention to the Prime Minister under
13 subsection (1):
- 14 (a) recommend to the Prime Minister that the Parliamentary
15 Standards Commissioner inquire into the corruption issue; or
16 (b) recommend to the Prime Minister that the corruption issue be
17 referred to the National Integrity Commissioner.
- 18 (4) The Parliamentary Standards Commissioner may inquire into a
19 corruption issue under paragraph (3)(a) either alone or jointly with
20 the National Integrity Commissioner or with another government
21 agency with appropriate functions or powers for the purpose.
- 22 (5) In deciding what to recommend in respect of a corruption issue
23 under subsection (3), the Parliamentary Standards Commissioner
24 must have regard to the following:
- 25 (a) whether the corruption issue may involve serious corrupt
26 conduct or systemic corrupt conduct;
- 27 (b) the need to ensure that the corruption issue is fully
28 investigated;
- 29 (c) the rights and obligations of the National Integrity
30 Commissioner or any other agency to investigate the
31 corruption issue;
- 32 (d) the rights and obligations of any person who refers or
33 provides information in relation to the corruption issue,
34 including any need to protect the person's identity or
35 confidentiality or to protect the person from reprisal or
36 detrimental action;

Section 55

- 1 (e) if a joint investigation with the National Integrity
2 Commissioner is being considered—the extent to which the
3 National Integrity Commissioner is able to cooperate in the
4 investigation;
5 (f) the resources that are available to investigate the corruption
6 issue;
7 (g) the need to ensure a balance between:
8 (i) the National Integrity Commissioner’s role in dealing
9 with corruption issues (particularly in dealing with
10 significant corruption issues); and
11 (ii) ensuring that the Prime Minister takes responsibility for
12 the conduct of Ministers and their staff;
13 (h) the likely significance of the corruption issue for the
14 Parliament and for the Commonwealth.
15 (6) Subsection (5) does not limit the matters to which the
16 Parliamentary Standards Commissioner may have regard.

17 **55 Assessment and preliminary enquiries**

- 18 (1) This section applies if:
19 (a) an alleged or suspected contravention is referred to the Prime
20 Minister under this Division; and
21 (b) the alleged or suspected contravention is not referred under
22 either subsection 54(2) or (3).
23 (2) The Prime Minister may refer the alleged or suspected
24 contravention to the Parliamentary Standards Commissioner for
25 advice, assessment or inquiry.
26 (3) If a contravention is referred under subsection (2), the
27 Parliamentary Standards Commissioner must deal with the alleged
28 or suspected contravention in one of the following ways:
29 (a) by making preliminary enquiries to determine whether to
30 further inquire into the alleged or suspected contravention;
31 (b) by inquiring into the alleged or suspected contravention;
32 (c) at any time, by determining to take no further action.

Part 5 Parliamentary Standards Commissioner

Division 3 Alleged or suspected contraventions of ministerial code of conduct

Section 55

- 1 (4) The Parliamentary Standards Commissioner may make preliminary
2 enquiries under paragraph (3)(a) in such manner as the
3 Parliamentary Standards Commissioner sees fit.
- 4 (5) The Parliamentary Standards Commissioner may decide under
5 paragraph (3)(c) to take no further action in relation to an alleged
6 or suspected contravention, at any time, only if the Parliamentary
7 Standards Commissioner is satisfied on reasonable grounds that:
- 8 (a) the contravention is already being, or will be, investigated by
9 another Commonwealth agency or resolved by another
10 process; or
- 11 (b) the referral of the allegation, or information, that raised the
12 contravention is frivolous or vexatious; or
- 13 (c) the conduct which is the subject of the alleged or suspected
14 contravention has been, is or will be, the subject of
15 proceedings before a court; or
- 16 (d) the subject matter of the allegation or suspicion does not
17 sufficiently relate to any provision of an applicable code of
18 conduct; or
- 19 (e) there is insufficient information or evidence with which to
20 deal or inquire into the contravention; or
- 21 (f) after due consideration, including any enquiries, there is
22 insufficient basis for concluding that a contravention has
23 occurred; or
- 24 (g) further action in relation to the alleged or suspected
25 contravention is not warranted having regard to all the
26 circumstances.
- 27 (4) Without limiting paragraph (3)(d), the Parliamentary Standards
28 Commissioner may determine that the subject matter does not
29 sufficiently relate to any provision of an applicable code of conduct
30 on the grounds that it solely or overwhelmingly concerns:
- 31 (a) the political position, policy, platform, views or opinions of a
32 parliamentarian; or
- 33 (b) the private or personal life of a parliamentarian or of other
34 persons.
- 35 (5) If, at any time, the Parliamentary Standards Commissioner forms
36 the opinion that:
-

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of ministerial code of conduct **Division 3**

Section 56

- 1 (a) a particular action by the Prime Minister or a parliamentarian
2 could be taken to rectify or resolve an issue giving rise to the
3 alleged or suspected contravention; and
4 (b) the action would not prejudice any further inquiry or other
5 inquiry, or the making of a report in relation to the
6 contravention or any related matter;
7 the Parliamentary Standards Commissioner may convey that
8 opinion to the Prime Minister or parliamentarian, with a
9 recommendation that they take such action.

10 **56 Inquiries**

- 11 (1) This section applies if the Parliamentary Standards Commissioner
12 decides under subsection 55(3) to undertake an inquiry into the
13 alleged or suspected contravention.
14 (2) The following provisions apply in relation to an inquiry that is
15 conducted by the Parliamentary Standards Commissioner under
16 subsection (1) (with references to the Auditor-General being
17 replaced by references to the Parliamentary Standards
18 Commissioner):
19 (a) sections 32, 33 and 35 of the *Auditor-General Act 1997*;
20 (b) any other provisions of the *Auditor-General Act 1997*, or of
21 regulations under that Act, that are relevant to the operation
22 of section 32, 33 or 35 of that Act.
23 (3) The Parliamentary Standards Commissioner must advise:
24 (a) the Prime Minister; and
25 (b) the parliamentarian or parliamentarians and any other persons
26 to which the contravention relates;
27 of the decision to inquire into the contravention, and of any
28 decision to take no further action in relation to the contravention.
29 (4) However, the Parliamentary Standards Commissioner need not
30 advise a person of a decision to inquire into the contravention, if
31 doing so would be likely to prejudice:
32 (a) the inquiry or another contravention inquiry; or
33 (b) the protection of the identity or confidentiality of any person
34 who referred or provided information in relation to the
-

Part 5 Parliamentary Standards Commissioner

Division 3 Alleged or suspected contraventions of ministerial code of conduct

Section 57

- 1 contravention, or protection of such a person from reprisal or
2 detrimental action; or
3 (c) any action taken as a result of an inquiry referred to in
4 paragraph (a).
- 5 (5) A parliamentarian or person employed under the *Members of*
6 *Parliament (Staff) Act 1984* is to cooperate and assist with an
7 inquiry.
- 8 (6) The Parliamentary Standards Commissioner may keep any person
9 (or a representative nominated by the person) informed of the
10 progress of an inquiry, if the person:
11 (a) raised the alleged or suspected contravention; or
12 (b) is a parliamentarian or other person to whom the
13 contravention or inquiry relates.
- 14 (7) Except where disclosed or authorised by the Parliamentary
15 Standards Commissioner, a House or a Committee, or in
16 accordance with this Act, a person may not disclose any relevant
17 document relating to an alleged or suspected contravention under
18 this Division.
- 19 Note: Subsection 69(4) provides that relevant documents, as defined by
20 subsection 63(2), are in camera evidence for the purposes of
21 section 13 of the *Parliamentary Privileges Act 1987*. The penalty for
22 unauthorised disclosure is, in the case of a natural person,
23 imprisonment for 6 months or 50 penalty units or, in the case of a
24 corporation, 250 penalty units.

57 Report of inquiry

Report and its contents

- 27 (1) After completing an inquiry into an alleged or suspected
28 contravention, the Parliamentary Standards Commissioner must
29 prepare a report on the inquiry.
- 30 (2) The report must set out:
31 (a) the Parliamentary Standards Commissioner's findings on the
32 contravention; and
33 (b) the evidence and other material on which those findings are
34 based; and
-

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of ministerial code of conduct **Division 3**

Section 57

- 1 (c) any recommendations that the Parliamentary Standards
2 Commissioner thinks fit to make and, if recommendations are
3 made, the reasons for those recommendations.
4 This subsection has effect subject to subsections (4) and (5).
- 5 Note: See section 58 for the need for the Parliamentary Standards
6 Commissioner to give certain people an opportunity to be heard before
7 including critical statements in a report.
- 8 (3) Without limiting paragraph (2)(c), the Parliamentary Standards
9 Commissioner may recommend to the Prime Minister:
10 (a) taking action to rectify or mitigate the effects of a
11 contravention; or
12 (b) the adoption of measures to remedy deficiencies in policy,
13 procedures or practices that facilitated a contravention; or
14 (c) taking appropriate action to initiate disciplinary proceedings
15 against a person; or
16 (d) taking appropriate action with a view to having a person
17 charged with a criminal offence; or
18 (e) such actions as the Parliamentary Standards Commissioner
19 considers will assist to resolve a contravention.
- 20 (4) The Parliamentary Standards Commissioner may exclude
21 information from the report if the Parliamentary Standards
22 Commissioner is satisfied that:
23 (a) the information is sensitive information or the inclusion of
24 the information may:
25 (i) endanger a person's life or physical safety; or
26 (ii) prejudice proceedings brought as a result of the inquiry,
27 or another inquiry under this Act; and
28 (b) it is desirable in the circumstances to exclude the information
29 from the report.
- 30 (5) In deciding whether to exclude information from the report under
31 subsection (4), the Parliamentary Standards Commissioner must
32 seek to achieve an appropriate balance between:
33 (a) the public interest that would be served by including the
34 information in the report; and
35 (b) the prejudicial consequences that might result from including
36 the information in the report.
-

Part 5 Parliamentary Standards Commissioner

Division 3 Alleged or suspected contraventions of ministerial code of conduct

Section 58

Supplementary report

- (6) If the Parliamentary Standards Commissioner excludes information from a report under subsection (4), the Parliamentary Standards Commissioner must prepare a supplementary report that sets out:
- (a) the information; and
 - (b) the reasons for excluding the information from the report under subsection (4).

58 Opportunity to be heard

- (1) Subject to subsection (2), the Parliamentary Standards Commissioner must not include in a report under section 46 in relation to an investigation of a corruption issue an opinion or finding that is critical of a person (either expressly or impliedly) unless the Parliamentary Standards Commissioner has taken the action required by subsection (3) before completing the investigation.
- (2) Subsection (1) does not apply if the Parliamentary Standards Commissioner is satisfied that:
- (a) a person may have:
 - (i) committed a criminal offence; or
 - (ii) contravened a civil penalty provision; or
 - (iii) engaged in conduct that could be the subject of disciplinary proceedings; or
 - (iv) engaged in conduct that could be grounds for terminating the person's appointment or employment; and
 - (b) taking action under subsection (3) would compromise the effectiveness of:
 - (i) the inquiry into the contravention or another inquiry; or
 - (ii) any action taken as a result of an inquiry referred to in subparagraph (i).
- (3) If the opinion or finding is critical of a person, the Parliamentary Standards Commissioner must give the person:
- (a) a statement setting out the opinion or finding; and

Section 59

- 1 (b) a reasonable opportunity to appear before him or her and to
2 make submissions in relation to the opinion or finding.
- 3 (4) Submissions under subsection (3) may be made orally or in
4 writing.
- 5 (5) A person referred to in subsection (3):
6 (a) may appear before the Parliamentary Standards
7 Commissioner personally; or
8 (b) may, with the Parliamentary Standards Commissioner's
9 approval, be represented by another person.

10 **59 Parliamentary Standards Commissioner to give report to Prime**
11 **Minister**

- 12 (1) The Parliamentary Standards Commissioner must give the Prime
13 Minister:
14 (a) the report prepared under subsection 57(1); and
15 (b) if a supplementary report is prepared under subsection 57(6)
16 in relation to the inquiry—the supplementary report.
- 17 (2) The Prime Minister may take such actions in relation to, or as a
18 result of, the report, as the Prime Minister sees fit.

19 **60 Advice of outcome of inquiry**

- 20 (1) The Parliamentary Standards Commissioner may advise a person
21 (or a representative nominated by the person) of the outcome of an
22 inquiry, if the person:
23 (a) raised the alleged or suspected contravention; or
24 (b) is a parliamentarian or other person to whom the
25 contravention or inquiry relates.
- 26 (2) However, if the report of the Parliamentary Standards
27 Commissioner under subsection 57(1) included:
28 (a) a finding that a contravention occurred; or
29 (b) a recommendation that any action be taken as a result of a
30 contravention;

Part 5 Parliamentary Standards Commissioner

Division 3 Alleged or suspected contraventions of ministerial code of conduct

Section 61

- 1 the Parliamentary Standards Commissioner may only advise a
2 person of the outcome of an inquiry after the report has been
3 considered by the Prime Minister.
- 4 (3) One way of advising a person (or the representative) is to give a
5 copy of all or part of any report prepared under subsection 46(1) in
6 relation to the investigation.
- 7 (4) In advising a person of the outcome of the investigation, the
8 Parliamentary Standards Commissioner may exclude information
9 from the advice if the Parliamentary Standards Commissioner is
10 satisfied that:
- 11 (a) the information is sensitive information; and
12 (b) it is desirable in the circumstances to exclude the information
13 from the advice.
- 14 (5) In deciding whether to exclude information from the advice under
15 paragraph (4)(b), the Parliamentary Standards Commissioner must
16 seek to achieve an appropriate balance between:
- 17 (a) the person's interest in having the information included in the
18 advice; and
19 (b) the prejudicial consequences that might result from including
20 the information in the advice.

61 Public advice of outcome of inquiry

- 21
- 22 (1) If, in the opinion of the Parliamentary Standards Commissioner:
- 23 (a) an alleged or suspected contravention has been the subject of
24 public attention or debate; and
25 (b) no contravention occurred, or it could not be concluded that a
26 contravention occurred;
- 27 the Parliamentary Standards Commissioner may, if he or she
28 considers it to be in the public interest to do so, issue public advice
29 summarising the outcome of the inquiry.
- 30 (2) In determining whether the issuing of public advice under
31 subsection (1) is in the public interest, the Parliamentary Standards
32 Commissioner must consult:

Parliamentary Standards Commissioner **Part 5**
Alleged or suspected contraventions of ministerial code of conduct **Division 3**

Section 62

- 1 (a) the person or persons in relation to whom the contravention
2 was alleged or suspected; and
3 (b) the Prime Minister.

4 **62 Report to House**

- 5 (1) The Prime Minister may table, or cause to be tabled, a report under
6 this Division by the Parliamentary Standards Commissioner, in the
7 House of which the Minister is a member; or in both Houses.
- 8 (2) Nothing in this Division prevents the tabling in either House of a
9 report of an inquiry into an alleged or suspected contravention of a
10 parliamentary code of conduct under Division 2, in relation to a
11 parliamentarian who also happens to be a Minister.

Part 5 Parliamentary Standards Commissioner

Division 4 Confidentiality of information

Section 63

Division 4—Confidentiality of information

63 Interpretation

- (1) ***Protected Commissioner information*** is information about a person, matter, issue or allegation obtained by the Parliamentary Standards Commissioner in the course of exercising powers, or performing duties or functions, under or in accordance with Division 2 or 3.
- (2) Each of the following documents is a ***relevant document*** for an alleged or suspected contravention of a provision of an applicable code of conduct under Division 2 or 3:
- (a) a written allegation or information relating to a contravention, if given in writing;
 - (b) any other records of an allegation or information, including an acknowledgement of an allegation and correspondence relating to how an allegation is being dealt with;
 - (c) any documents, information or evidence provided or gathered as a part of preliminary enquiries under subsections 44(3) or 55(4);
 - (d) any documents, information or evidence provided or gathered as a part of an inquiry under sections 45 or 56, or as part of the preparation of a report under sections 46 or 57.
- (3) A reference in this Division to the Parliamentary Standards Commissioner includes a reference to a person assisting the Parliamentary Standards Commissioner under section 90.

64 Authorised use or disclosure—performing functions etc.

The Parliamentary Standards Commissioner may use or disclose protected Commissioner information if the Parliamentary Standards Commissioner uses or discloses the information for the purposes of performing functions or duties or exercising powers under Division 2 or 3.

Note 1: This section is an authorisation for the purposes of other laws, including the Australian Privacy Principles.

Section 65

1 Note 2: Use, in relation to information, includes make a record of (see the
2 definition of *use* in section 7).

3 **65 Authorised use or disclosure—required or authorised by law**

4 The Parliamentary Standards Commissioner may use or disclose
5 protected Commissioner information if the use or disclosure is
6 required or authorised by or under a law of the Commonwealth, or
7 of a State or Territory.

8 Note: This section is an authorisation for the purposes of other laws,
9 including the Australian Privacy Principles.

10 **66 Authorised disclosure—person to whom information relates**

11 The Parliamentary Standards Commissioner may disclose
12 protected Commissioner information to a person to whom the
13 protected Commissioner information relates.

14 Note: This section is a requirement for the purposes of other laws, including
15 the Australian Privacy Principles.

16 **67 Offence for unauthorised use or disclosure**

17 (1) A person commits an offence if:

- 18 (a) the person is or was the Parliamentary Standards
19 Commissioner; and
20 (b) the person has obtained protected Commissioner information;
21 and
22 (c) the person uses or discloses the information; and
23 (d) the use or disclosure is not authorised or required by a
24 provision in this Division.

25 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

26 (2) Subsection (1) does not apply to a person to the extent that the
27 person uses or discloses protected information in good faith and in
28 purported compliance with a provision in this Division.

29 Note: A defendant bears an evidential burden in relation to the matters in
30 this section (see subsection 13.3(3) of the *Criminal Code*).

Part 5 Parliamentary Standards Commissioner

Division 4 Confidentiality of information

Section 68

1 **68 No requirement to provide information to courts etc.**

2 Except where it is necessary to do so for the purposes of giving
3 effect to this Act, the Parliamentary Standards Commissioner is not
4 to be required to disclose protected Commissioner information, or
5 produce a document containing protected Commissioner
6 information, to:

- 7 (a) a court; or
8 (b) a tribunal, authority or person that has the power to require
9 the answering of questions or the production of documents.

10 **69 Offences for unauthorised use or disclosure—any person**

11 (1) A person other than the Parliamentary Standards Commissioner
12 must not record, use or disclose information in relation to an
13 alleged or suspected contravention of a code of conduct that came
14 to the person's knowledge because of the person's involvement in
15 the administration of this Act.

16 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

17 (2) Subsection (1) does not apply to a person's recording, use or
18 disclosure of information if the recording, use or disclosure is:
19 (a) in the performance of his or her functions under this Act; or
20 (b) authorised under this or another Act.

21 Note: A defendant bears an evidential burden in relation to the matters in
22 this section (see subsection 13.3(3) of the *Criminal Code*).

23 (3) A person other than the Parliamentary Standards Commissioner
24 who is or has been involved in the administration of this Act is not,
25 in any proceeding, compellable to disclose information in relation
26 to an ethics or integrity issue about another person that came to the
27 person's knowledge because of the person's involvement in the
28 administration of this Act.

29 (4) A relevant document under subsection 63(2), provided by or to any
30 person, is taken to be a document or evidence provided in camera
31 to either or both Houses of Parliament, for the purposes of
32 section 13 of the *Parliamentary Privileges Act 1987*.

Parliamentary Standards Commissioner **Part 5**
Confidentiality of information **Division 4**

Section 69

1 Note: The penalty for unauthorised disclosure of in camera documents or
2 evidence is: in the case of a natural person, imprisonment for 6 months
3 or 50 penalty units; or in the case of a corporation, 250 penalty units.
4 See section 13 of the *Parliamentary Privileges Act 1987*.

Part 5 Parliamentary Standards Commissioner

Division 5 Annual report

Section 70

Division 5—Annual report

70 Annual report

- (1) The Parliamentary Standards Commissioner must give:
- (a) the President of the Senate for presentation to the Senate; and
 - (b) the Speaker of the House of Representatives for presentation to the House of Representatives;
- a report on the activities of the Parliamentary Standards Commissioner during a financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) A report under subsection (1) must include:
- (a) the number of alleged or suspected contraventions of this Act received and investigated by the Parliamentary Standards Commissioner during the year, including information about the number of times a contravention was established; and
 - (b) the general nature of the contraventions; and
 - (c) the actions recommended by the Parliamentary Standards Commissioner or taken by the Presiding Officers, Privileges Committees or the Parliament in response to any contraventions.
- (3) A report under subsection (1) may include such other information relating to the objects of this Act and the activities of the Parliamentary Standards Commissioner, as the Parliamentary Standards Commissioner considers appropriate.
- (4) Despite subsection (3), a report under subsection (1) must not include information likely to identify a specific contravention, or alleged or suspected contravention, of this Act, including information likely to identify:
- (a) a person who referred an alleged or suspected contravention; or
 - (b) a parliamentarian or other person to whom the alleged or suspected contravention relates;
- unless:

Section 70

- 1 (c) the information referred to has already been made public by
2 the House or in a report under subsection 46(6); and
3 (d) the Parliamentary Standards Commissioner is satisfied that,
4 in all the circumstances, it is in the public interest to do so.

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 1 Administrative provisions relating to the Parliamentary Integrity Adviser

Section 71

**Part 6—Administrative provisions relating to the
Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner**

**Division 1—Administrative provisions relating to the
Parliamentary Integrity Adviser**

71 Appointment of Parliamentary Integrity Adviser

- (1) The Parliamentary Integrity Adviser is to be appointed by the
Presiding Officers by written instrument.

Note: Subject to subsection 72(1), the Parliamentary Integrity Adviser may
be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) Before the Presiding Officers appoint a person as the Parliamentary
Integrity Adviser, the Presiding Officers must be satisfied that the
person has.

- (a) suitable qualifications or experience, including a high level of
knowledge and experience in parliamentary practice,
parliamentary law and parliamentary privilege; and
(b) is of good character.

- (3) Before the Presiding Officers appoint a person as the Parliamentary
Integrity Adviser:

- (a) the Presiding Officers must refer the proposed
recommendation for the appointment to the Senate
Committee of Privileges and the House of Representatives
Committee of Privileges and Members' Interests under
section 92; and

- (b) for each of those committees, either:

- (i) the period that the committee has under that section to
consider the proposed recommendation has ended
without the committee rejecting the proposed
recommendation; or
(ii) the committee notifies the Presiding Officers that it has
decided to approve the proposed recommendation.

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Administrative provisions relating to the Parliamentary Integrity Adviser **Division 1**

Section 72

72 General terms and conditions of appointment

- (1) The Parliamentary Integrity Adviser holds office for the period specified in the instrument of appointment. The period must not exceed 5 years. The sum of the periods for which the Parliamentary Integrity Adviser holds office must not exceed 10 years.
- (2) The Parliamentary Integrity Adviser may be appointed on a full-time or part-time basis.
- (3) The Parliamentary Integrity Adviser holds office on the terms and conditions (if any), in relation to matters not covered by this Act, that are determined by the Presiding Officers.

73 Other paid work

- (1) If the Parliamentary Integrity Adviser is appointed on a full-time basis, the Parliamentary Integrity Adviser must not engage in paid work outside the duties of the Parliamentary Integrity Adviser's office without the Presiding Officer's approval.
- (2) If the Parliamentary Integrity Adviser is appointed on a part-time basis, the Parliamentary Integrity Adviser must not engage in any paid work that, in the Presiding Officers' opinion, conflicts or could conflict with the proper performance of the Parliamentary Integrity Adviser's duties.

74 Remuneration

- (1) The Parliamentary Integrity Adviser is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Parliamentary Integrity Adviser is to be paid the remuneration that is prescribed by the regulations.
- (2) The Parliamentary Integrity Adviser is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 1 Administrative provisions relating to the Parliamentary Integrity Adviser

Section 75

75 Leave of absence

- (1) The Parliamentary Integrity Adviser has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Presiding Officers may grant the Parliamentary Integrity Adviser leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Presiding Officers determine.

76 Resignation

- (1) The Parliamentary Integrity Adviser may resign the Parliamentary Integrity Adviser's appointment by giving the Presiding Officers a written resignation.
- (2) The resignation takes effect on the day it is received by the Presiding Officers or, if a later day is specified in the resignation, on that later day.

77 Removal from office

- (1) The Presiding Officers may remove the Parliamentary Integrity Adviser from office if each House of the Parliament, in the same session of the Parliament, presents an address to the Presiding Officers asking for the removal of the Parliamentary Integrity Adviser on the ground:
 - (a) of misbehaviour; or
 - (b) that the Parliamentary Integrity Adviser is unable to perform the duties of the Parliamentary Integrity Adviser's office because of physical or mental incapacity.
- (2) The Presiding Officers must remove the Parliamentary Integrity Adviser from office if any of the following apply:
 - (a) the Parliamentary Integrity Adviser:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Administrative provisions relating to the Parliamentary Integrity Adviser **Division 1**

Section 78

- 1 (iii) compounds with the Parliamentary Integrity Adviser's
2 creditors; or
3 (iv) makes an assignment of the Parliamentary Integrity
4 Adviser's remuneration for the benefit of the
5 Parliamentary Integrity Adviser's creditors;
6 (b) if the Parliamentary Integrity Adviser is appointed on a
7 full-time basis:
8 (i) the Parliamentary Integrity Adviser engages, except
9 with Presiding Officers' approval, in paid work outside
10 the duties of the Parliamentary Integrity Adviser's
11 office; or
12 (ii) the Parliamentary Integrity Adviser is absent, except on
13 leave of absence, for 14 consecutive days or for 28 days
14 in any 12 months;
15 (c) if the Parliamentary Integrity Adviser is appointed on a
16 part-time basis—the Parliamentary Integrity Adviser is
17 absent, except on leave of absence, to an extent that the
18 Presiding Officers consider excessive;
19 (d) the Parliamentary Integrity Adviser fails, without reasonable
20 excuse, to comply with section 78.

21 **78 Disclosure of interests**

22 The Parliamentary Integrity Adviser must give written notice to the
23 Presiding Officers of all interests, pecuniary or otherwise, that the
24 Parliamentary Integrity Adviser has or acquires and that conflict or
25 could conflict with the proper performance of the Parliamentary
26 Integrity Adviser's functions.

27 **79 Acting appointments**

- 28 (1) The Presiding Officers may, by written instrument, appoint a
29 person to act as the Parliamentary Integrity Adviser:
30 (a) during a vacancy in the office of the Parliamentary Integrity
31 Adviser (whether or not an appointment has previously been
32 made to the office); or
33 (b) during any period, or during all periods, when the
34 Parliamentary Integrity Adviser:

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 1 Administrative provisions relating to the Parliamentary Integrity Adviser

Section 80

- 1 (i) is absent from duty or from Australia; or
2 (ii) is, for any reason, unable to perform the duties of the
3 office.
- 4 (2) The Presiding Officers must not appoint the National Integrity
5 Commissioner, the Law Enforcement Integrity Commissioner, the
6 Whistleblowing Protection Commissioner, an Assistant
7 Commissioner of the Australian National Integrity Commission, or
8 the Parliamentary Standards Commissioner to act as the
9 Parliamentary Integrity Adviser.

10 **80 Assistance to Parliamentary Integrity Adviser**

- 11 (1) A Department of the Parliament may assist the Parliamentary
12 Integrity Adviser in the performance of the Parliamentary Integrity
13 Adviser's functions.
- 14 (2) The assistance may include the following:
15 (a) the provision of information;
16 (b) the provision of advice;
17 (c) the making available of resources and facilities;
18 (d) the making available of staff.
- 19 (3) If an officer or employee of a Department mentioned in
20 subsection (1) assists the Parliamentary Integrity Adviser, the
21 officer or employee is taken, for the purposes of this Act, to be a
22 person assisting the Parliamentary Integrity Adviser under this
23 section.

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Administrative provisions relating to the Parliamentary Standards Commissioner
Division 2

Section 81

**Division 2—Administrative provisions relating to the
Parliamentary Standards Commissioner**

81 Appointment of Parliamentary Standards Commissioner

- (1) The Parliamentary Standards Commissioner is to be appointed by the Presiding Officers by written instrument.

Note: Subject to subsection 82(1), the Parliamentary Standards Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) Before the Presiding Officers appoint a person as the Parliamentary Standards Commissioner, the Presiding Officers must be satisfied that the person has.

- (a) suitable qualifications or experience, including a high level of knowledge and experience in parliamentary practice, parliamentary law and parliamentary privilege; and
(b) is of good character.

- (3) Before the Presiding Officers appoint a person as the Parliamentary Standards Commissioner:

- (a) the Presiding Officers must refer the proposed recommendation for the appointment to the Senate Committee of Privileges and the House of Representatives Committee of Privileges and Members' Interests under section 92; and

- (b) for each of those committees, either:

- (i) the period that the committee has under that section to consider the proposed recommendation has ended without the committee rejecting the proposed recommendation; or
(ii) the committee notifies the Presiding Officers that it has decided to approve the proposed recommendation.

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 2 Administrative provisions relating to the Parliamentary Standards
Commissioner

Section 82

1 **82 General terms and conditions of appointment**

2 (1) The Parliamentary Standards Commissioner holds office for the
3 period specified in the instrument of appointment. The period must
4 not exceed 5 years. The sum of the periods for which the
5 Parliamentary Standards Commissioner holds office must not
6 exceed 10 years.

7 (2) The Parliamentary Standards Commissioner may be appointed on a
8 full-time or part-time basis.

9 (3) The Parliamentary Standards Commissioner holds office on the
10 terms and conditions (if any), in relation to matters not covered by
11 this Act, that are determined by the Presiding Officers.

12 **83 Other paid work**

13 (1) If the Parliamentary Standards Commissioner is appointed on a
14 full-time basis, the Parliamentary Standards Commissioner must
15 not engage in paid work outside the duties of the Parliamentary
16 Standards Commissioner's office without the Presiding Officer's
17 approval.

18 (2) If the Parliamentary Standards Commissioner is appointed on a
19 part-time basis, the Parliamentary Standards Commissioner must
20 not engage in any paid work that, in the Presiding Officers'
21 opinion, conflicts or could conflict with the proper performance of
22 the Parliamentary Standards Commissioner's duties.

23 **84 Remuneration**

24 (1) The Parliamentary Standards Commissioner is to be paid the
25 remuneration that is determined by the Remuneration Tribunal. If
26 no determination of that remuneration by the Tribunal is in
27 operation, the Parliamentary Standards Commissioner is to be paid
28 the remuneration that is prescribed by the regulations.

29 (2) The Parliamentary Standards Commissioner is to be paid the
30 allowances that are prescribed by the regulations.

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Administrative provisions relating to the Parliamentary Standards Commissioner
Division 2

Section 85

- 1 (3) This section has effect subject to the *Remuneration Tribunal Act*
2 1973.

3 **85 Leave of absence**

- 4 (1) The Parliamentary Standards Commissioner has the recreation
5 leave entitlements that are determined by the Remuneration
6 Tribunal.
- 7 (2) The Presiding Officers may grant the Parliamentary Standards
8 Commissioner leave of absence, other than recreation leave, on the
9 terms and conditions as to remuneration or otherwise that the
10 Presiding Officers determine.

11 **86 Resignation**

- 12 (1) The Parliamentary Standards Commissioner may resign the
13 Parliamentary Standards Commissioner's appointment by giving
14 the Presiding Officers a written resignation.
- 15 (2) The resignation takes effect on the day it is received by the
16 Presiding Officers or, if a later day is specified in the resignation,
17 on that later day.

18 **87 Removal from office**

- 19 (1) The Presiding Officers may remove the Parliamentary Standards
20 Commissioner from office if each House of the Parliament, in the
21 same session of the Parliament, presents an address to the
22 Presiding Officers asking for the removal of the Parliamentary
23 Standards Commissioner on the ground:
24 (a) of misbehaviour; or
25 (b) that the Parliamentary Standards Commissioner is unable to
26 perform the duties of the Parliamentary Standards
27 Commissioner's office because of physical or mental
28 incapacity.
- 29 (2) The Presiding Officers must remove the Parliamentary Standards
30 Commissioner from office if any of the following apply:
-

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 2 Administrative provisions relating to the Parliamentary Standards
Commissioner

Section 88

- 1 (a) the Parliamentary Standards Commissioner:
- 2 (i) becomes bankrupt; or
- 3 (ii) applies to take the benefit of any law for the relief of
- 4 bankrupt or insolvent debtors; or
- 5 (iii) compounds with the Parliamentary Standards
- 6 Commissioner's creditors; or
- 7 (iv) makes an assignment of the Parliamentary Standards
- 8 Commissioner's remuneration for the benefit of the
- 9 Parliamentary Standards Commissioner's creditors;
- 10 (b) if the Parliamentary Standards Commissioner is appointed on
- 11 a full-time basis:
- 12 (i) the Parliamentary Standards Commissioner engages,
- 13 except with Presiding Officers' approval, in paid work
- 14 outside the duties of the Parliamentary Standards
- 15 Commissioner's office; or
- 16 (ii) the Parliamentary Standards Commissioner is absent,
- 17 except on leave of absence, for 14 consecutive days or
- 18 for 28 days in any 12 months;
- 19 (c) if the Parliamentary Standards Commissioner is appointed on
- 20 a part-time basis—the Parliamentary Standards
- 21 Commissioner is absent, except on leave of absence, to an
- 22 extent that the Presiding Officers consider excessive;
- 23 (d) the Parliamentary Standards Commissioner fails, without
- 24 reasonable excuse, to comply with section 88.

25 **88 Disclosure of interests**

26 The Parliamentary Standards Commissioner must give written

27 notice to the Presiding Officers of all interests, pecuniary or

28 otherwise, that the Parliamentary Standards Commissioner has or

29 acquires and that conflict or could conflict with the proper

30 performance of the Parliamentary Standards Commissioner's

31 functions.

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Administrative provisions relating to the Parliamentary Standards Commissioner
Division 2

Section 89

89 Acting appointments

- (1) The Presiding Officers may, by written instrument, appoint a person to act as the Parliamentary Standards Commissioner:
 - (a) during a vacancy in the office of the Parliamentary Standards Commissioner (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Parliamentary Standards Commissioner:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (2) The Presiding Officers must not appoint the National Integrity Commissioner, the Law Enforcement Integrity Commissioner, the Whistleblowing Protection Commissioner, an Assistant Commissioner of the Australian National Integrity Commission, or the Parliamentary Integrity Adviser to act as the Parliamentary Standards Commissioner.

90 Assistance to Parliamentary Standards Commissioner

- (1) A Department of the Parliament may assist the Parliamentary Standards Commissioner in the performance of the Parliamentary Standards Commissioner's functions.
- (2) The assistance may include the following:
 - (a) the provision of information;
 - (b) the provision of advice;
 - (c) the making available of resources and facilities;
 - (d) the making available of staff.
- (3) If an officer or employee of a Department mentioned in subsection (1) assists the Parliamentary Standards Commissioner, the officer or employee is taken, for the purposes of this Act, to be a person assisting the Parliamentary Standards Commissioner under this section.

Part 6 Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner

Division 2 Administrative provisions relating to the Parliamentary Standards
Commissioner

Section 91

91 Assistant Parliamentary Standards Commissioner

- (1) The Presiding Officers may appoint one or more Assistant
Parliamentary Standards Commissioners.
- (2) Sections 81 to 89 apply to the appointment of an Assistant
Parliamentary Standards Commissioner, as if a reference to the
Parliamentary Standards Commissioner were a reference to an
Assistant Parliamentary Standards Commissioner.
- (3) The Parliamentary Standards Commissioner may, in writing,
delegate all or any of the Parliamentary Standards Commissioner's
functions or powers under this Act to an Assistant Parliamentary
Standards Commissioner.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
provisions relating to delegations.

Administrative provisions relating to the Parliamentary Integrity Adviser and
Parliamentary Standards Commissioner **Part 6**
Approval or rejection of recommendations for appointments **Division 3**

Section 92

Division 3—Approval or rejection of recommendations for appointments

92 Committees may approve or reject recommendation for appointment

- (1) If the Presiding Officers refer a proposed recommendation for an appointment of the Parliamentary Integrity Adviser or the Parliamentary Standards Commissioner to the Senate Committee of Privileges and the House of Representatives Committee of Privileges and Members' Interests for approval, each committee must:
 - (a) approve or reject the proposed recommendation within 10 sitting days after receiving it; or
 - (b) notify the Presiding Officers in accordance with subsection (2).
- (2) A committee may notify the Presiding Officers within 10 sitting days after receiving a proposed recommendation that it needs more time to consider the proposed recommendation. If the committee does so, the committee must approve or reject the proposed recommendation within 20 sitting days after receiving it.
- (3) If a committee does not make a decision on a proposed recommendation by the required time, the committee is taken, at that time, to have approved the proposal.
- (4) The committee must notify the Presiding Officers of its decision in relation to a proposed recommendation as soon as practicable after making the decision.
- (5) A notification under this section must be in writing.
- (6) A committee must report to both Houses of the Parliament on its decision in relation to a proposed recommendation.

Part 7 Miscellaneous

Section 93

Part 7—Miscellaneous

93 Offence of victimisation

- (1) A person commits an offence if the person causes, or threatens to cause, detriment to another person (the *victim*) on the ground that the victim, or any other person:
- (a) has referred, or may refer, to a Presiding Officer or the Parliamentary Standards Commissioner an allegation, or information, that raises a possible contravention of this Act; or
 - (b) has requested, or may request, advice from the Parliamentary Integrity Adviser; or
 - (c) has given, or may give, information to a Presiding Officer, the Parliamentary Standards Commissioner or the Parliamentary Integrity Adviser in accordance with this Act; or
 - (d) has produced, or may produce, a document or thing to a Presiding Officer, the Parliamentary Standards Commissioner or the Parliamentary Integrity Adviser in accordance with this Act.

Penalty: Imprisonment for 2 years.

- (2) For the purpose of subsection (1), a threat may be:
- (a) express or implied; or
 - (b) conditional or unconditional.
- (3) In a prosecution for an offence against subsection (1), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

94 Protection from liability

- (1) Subsection (2) applies to the following persons:
- (a) the Parliamentary Integrity Adviser;

Section 95

- 1 (b) a person assisting the Parliamentary Integrity Adviser under
2 section 80;
3 (c) the Parliamentary Standards Commissioner;
4 (d) a person assisting the Parliamentary Standards Commissioner
5 under section 90;
6 (e) an Assistant Parliamentary Standards Commissioner.
- 7 (2) A person referred to in subsection (1) is not liable to civil
8 proceedings for loss, damage or injury of any kind suffered by
9 another person as a result of the performance or exercise, in good
10 faith, of the person's functions, powers or duties under or in
11 relation to this Act.
- 12 (3) Subsection (4) applies if information, evidence or a document has
13 been given or produced to a person referred to in subsection (1).
- 14 (4) A person is not liable to an action, suit or proceeding in respect of
15 loss, damage or injury of any kind suffered by another person by
16 reason only that the information, evidence or document was given
17 or produced.

95 Immunities from certain State and Territory laws

- 18 The Parliamentary Integrity Adviser or Parliamentary Standards
19 Commissioner is not required under, or by reason of, a law of a
20 State or Territory:
21
22 (a) to obtain or have a licence or permission for doing any act or
23 thing in the exercise of the person's powers or the
24 performance of the person's duties as the Parliamentary
25 Integrity Adviser or Parliamentary Standards Commissioner;
26 or
27 (b) to register any vehicle, vessel, animal or article belonging to
28 the Commonwealth.

**96 Review relating to Independent Parliamentary Standards
Authority**

- 29 (1) It is the intention of Parliament that:
30
31

Part 7 Miscellaneous

Section 97

- 1 (a) the *Independent Parliamentary Expenses Authority Act 2017*
2 be replaced by an *Independent Parliamentary Standards*
3 *Authority Act*; and
4 (b) the functions, powers and resources of the Independent
5 Parliamentary Expenses Authority be expanded to those of an
6 Independent Parliamentary Standards Authority; and
7 (c) the Independent Parliamentary Standards Authority be an
8 authority of the Parliament; and
9 (d) the Independent Parliamentary Standards Authority support
10 the administration of this Act and the functions and
11 assistance of the Parliamentary Integrity Advisor and
12 Parliamentary Standards Commissioner.
- 13 (2) The Minister must cause to be undertaken a review of the preferred
14 legislative options to achieve the objectives in subsection (1).
- 15 (3) The Minister must consult with the Presiding Officers regarding
16 the manner of the review, and may refer any or all of the questions
17 for the review for advice and recommendation by a Parliamentary
18 committee or committees.
- 19 (4) The Minister must ensure that public consultation is undertaken in
20 connection with the undertaking of the review.
- 21 (5) The Minister must cause to be prepared a written report of the
22 review.
- 23 (6) The report must be completed within 6 months after the
24 commencement of this section.
- 25 (7) The Minister must cause a copy of the report to be laid before each
26 House of the Parliament within 15 sitting days of that House after
27 the day on which the Minister receives the report.

97 Review relating to lobbying and post-separation employment

- 29 (1) It is the intention of Parliament that:
30 (a) the Australian Government Lobbying Code of Conduct and
31 policies, rules and standards for the post-separation
32 employment of Commonwealth public officials be revised to
33 meet national and international best practice; and
-

Section 98

- 1 (b) the administration and enforcement of the Lobbying Code of
2 Conduct, Register of Lobbyists and policies, rules and
3 standards for the post-separation employment of
4 Commonwealth public officials be given a statutory basis;
5 and
6 (c) there be enhanced administration and enforcement of the
7 Australian Government's lobbying and post-separation
8 employment regimes by the Independent Parliamentary
9 Standards Authority and Australian National Integrity
10 Commission.
- 11 (2) The Minister must cause to be undertaken a review of the preferred
12 legislative options to achieve the objectives in subsection (1).
- 13 (3) The Minister may refer any or all of the issues in subsection (1) for
14 advice and recommendation by a Parliamentary committee or
15 committees.
- 16 (4) The Minister must ensure that public consultation is undertaken in
17 connection with the undertaking of the review.
- 18 (5) The Minister must cause to be prepared a written report of the
19 review.
- 20 (6) The report must be completed within 6 months after the
21 commencement of this section.
- 22 (7) The Minister must cause a copy of the report to be laid before each
23 House of the Parliament within 15 sitting days of that House after
24 the day on which the Minister receives the report.

25 **98 Review relating to political finance, funding, donations and**
26 **campaign regulation**

- 27 (1) It is the intention of Parliament that:
28 (a) Commonwealth legislation and enforcement for
29 transparency, integrity and accountability in political
30 campaign finance and campaign regulation be revised to
31 meet national and international best practice; and
32 (b) reform should be undertaken to bring about consistency and
33 alignment between Commonwealth, State and Territory rules
-

Part 7 Miscellaneous

Section 99

- 1 and processes for political campaign finance and campaign
2 regulation; and
3 (c) there be enhanced administration and enforcement of
4 Commonwealth rules and processes for political campaign
5 finance and campaign regulation by the Parliamentary
6 Standards Commissioner, Independent Parliamentary
7 Standards Authority, Australian National Integrity
8 Commission and Australian Electoral Commission.
- 9 (2) The Minister must cause to be undertaken a review of the preferred
10 legislative options to achieve the objectives in subsection (1).
- 11 (3) The Minister may refer any or all of the issues in subsection (1) for
12 advice and recommendation by a Parliamentary committee or
13 committees.
- 14 (4) The Minister must consult with the States and Territories in the
15 course of the review.
- 16 (5) The Minister must ensure that public consultation is undertaken in
17 connection with the undertaking of the review.
- 18 (6) The Minister must cause to be prepared a written report of the
19 review.
- 20 (7) The report must be completed within 12 months after the
21 commencement of this section.
- 22 (8) The Minister must cause a copy of the report to be laid before each
23 House of the Parliament within 15 sitting days of that House after
24 the day on which the Minister receives the report.

99 Review of operation of Act

Undertaking the review

- 27 (1) The Presiding Officers must cause an independent review to be
28 undertaken of the first 3 years of the operation of this Act.

Section 99

Report to Presiding Officers

- (2) The persons undertaking the review must give the Presiding Officers a written report of the review within 6 months after the end of the 3-year period.

Submissions

- (3) The review must include an opportunity for:
- (a) parliamentarians, former parliamentarians and persons employed under the *Members of Parliament (Staff) Act 1984*; and
 - (b) members of the public;
- to make written submissions on the operation of this Act.

Assistance

- (4) The Parliamentary Integrity Adviser and Parliamentary Standards Commissioner may, if requested to do so by the persons undertaking the review, assist them in:
- (a) conducting the review; and
 - (b) preparing the written report.

Tabling of report

- (5) The Presiding Officers must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Presiding Officers receive the report.

Section not to apply if review conducted by Parliamentary committee

- (6) However, this section does not apply if a committee of one or both Houses of the Parliament has reviewed the operation of this Act, or started such a review, before the end of the 3-year period.

Definition

- (7) In this section:

Part 7 Miscellaneous

Section 100

1 ***independent review*** means a review undertaken by a person or
2 persons who, in the Presiding Officers' opinions, possess
3 appropriate qualifications to undertake the review.

4 **100 Schedules**

5 Legislation that is specified in Schedule 3 to this Act is amended or
6 repealed as set out in the applicable items in that Schedule, and any
7 other item in that Schedule has effect according to its terms.

8 **101 Regulations**

- 9 (1) The Governor-General may make regulations prescribing matters:
10 (a) required or permitted by this Act to be prescribed; or
11 (b) necessary or convenient to be prescribed for carrying out or
12 giving effect to this Act.
- 13 (2) The regulations may require that information or reports that are
14 required to be given under prescribed provisions are also to be
15 given to prescribed persons in specified circumstances.

Schedule 1—House of Representatives— Register of Members' Interests

Note: See section 21.

1 Registration of Members' interests

- (1) Within 28 days of making and subscribing an oath or affirmation as a Member of the House of Representatives each Member shall provide to the Registrar of Members' Interests, a statement of—
- (a) the Member's registrable interests; and
 - (b) the registrable interests of which the Member is aware—
 - (i) of the Member's spouse and
 - (ii) of any children who are wholly or mainly dependent on the Member for support,
- in accordance with resolutions adopted by the House and in a form determined by the Committee of Members' Interests or by the Committee of Privileges and Members' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 28 days of that alteration occurring.
- (2) The statement to be provided by a Member shall include:
- (a) in the case of a Member who was not a Member of the House of Representatives in the immediately preceding Parliament, interests held at the date of his or her election and any alteration of interests which has occurred between that date and the date of completion of the statement, and
 - (b) in the case of a Member who was a Member of the House of Representatives in the immediately preceding Parliament, interests held at the date of dissolution of the House of Representatives in the previous Parliament and any alteration of interests which has occurred between that date and the date of completion of the statement.

2 Registrable interests

That the statement of a Member's registrable interests to be provided by a Member shall include the registrable interests of which the Member is aware (1) of the Member's spouse and (2) of

Schedule 1 House of Representatives—Register of Members' Interests

-
- 1 any children who are wholly or mainly dependent on the Member
2 for support, and shall cover the following matters:
- 3 (a) shareholdings in public and private companies (including
4 holding companies) indicating the name of the company or
5 companies;
 - 6 (b) shareholdings of any private companies declared under
7 paragraph (a) in any other private company (including
8 holding companies) indicating the name of the company or
9 companies;
 - 10 (c) family and business trusts and nominee companies—
 - 11 (i) in which a beneficial interest is held, indicating the
12 name of the trust, the nature of its operation and
13 beneficial interest, and
 - 14 (ii) in which the Member, the Member's spouse, or a child
15 who is wholly or mainly dependent on the Member for
16 support, is a trustee (but not including a trustee of an
17 estate where no beneficial interest is held by the
18 Member, the Member's spouse or dependent children),
19 indicating the name of the trust, the nature of its
20 operation and the beneficiary of the trust;
 - 21 (d) real estate, including the location (suburb or area only) and
22 the purpose for which it is owned;
 - 23 (e) registered directorships of companies;
 - 24 (f) partnerships indicating the nature of the interests and the
25 activities of the partnership;
 - 26 (g) liabilities indicating the nature of the liability and the creditor
27 concerned;
 - 28 (h) the nature of any bonds, debentures and like investments;
 - 29 (i) saving or investment accounts, indicating their nature and the
30 name of the bank or other institutions concerned;
 - 31 (j) the nature of any other assets (excluding household and
32 personal effects) each valued at over \$7,500;
 - 33 (k) the nature of any other substantial sources of income;
 - 34 (l) gifts valued at more than \$750 received from official sources,
35 or at more than \$300 where received from other than official
36 sources provided that a gift received by a Member, the
37 Member's spouse or dependent children from family
38 members or personal friends in a purely personal capacity
-

-
- 1 need not be registered unless the Member judges that an
2 appearance of conflict of interest may be seen to exist;
3 (m) any sponsored travel or hospitality received where the value
4 of the sponsored travel or hospitality exceeds \$300;
5 (n) membership of any organisation where a conflict of interest
6 with a Member's public duties could foreseeably arise or be
7 seen to arise, and
8 (o) any other interests where a conflict of interest with a
9 Member's public duties could foreseeably arise or be seen to
10 arise.

11 **3 Register and Registrar of Members' Interests**

- 12 (1) The following:
- 13 (a) at the commencement of each Parliament, and at other times
14 as necessary, Mr Speaker shall appoint the Parliamentary
15 Integrity Adviser as the Registrar of Members' Interests and
16 that officer shall also assist the Committee of Privileges and
17 Members' Interests in relation to matters concerning
18 Members' interests;
- 19 (b) the Registrar of Members' Interests shall, in accordance with
20 procedures determined by the Committee of Privileges and
21 Members' Interests, maintain a Register of Members'
22 Interests in a form to be determined by that committee from
23 time to time;
- 24 (c) as soon as possible after the commencement of each
25 Parliament the chairman of the Committee of Privileges and
26 Members' Interests shall table in the House a copy of the
27 completed Register of Members' Interests and shall also table
28 from time to time as required any notification by a Member
29 of alteration of those interests, and
- 30 (d) the Register of Members' Interests shall be available for
31 inspection by any person under conditions to be laid down by
32 the Committee of Privileges and Members' Interests from
33 time to time.
- 34 (2) Any Member of the House of Representatives who—
- 35 (a) knowingly fails to provide a statement of registrable interests
36 to the Registrar of Members' Interests by the due date;

Schedule 1 House of Representatives—Register of Members' Interests

1 (b) knowingly fails to notify any alteration of those interests to
2 the Registrar of Members' Interests within 28 days of the
3 change occurring, or
4 (c) knowingly provides false or misleading information to the
5 Registrar of Members' Interests,
6 shall be guilty of a serious contempt of the House of
7 Representatives and shall be dealt with by the House accordingly,
8 but the question whether any senator has committed such a serious
9 contempt shall first be referred to the Privileges Committee and/or
10 the Parliamentary Standards Commissioner for inquiry and report
11 and may not be considered by any other committee.

Schedule 2—The Senate—Register of Senators' Interests

Note: See section 22.

1 Registration of Senators' Interests

(1) Within:

- (a) 28 days after the first meeting of the Senate after 1 July first occurring after a general election; and
- (b) 28 days after the first meeting of the Senate after a simultaneous dissolution of the Senate and the House of Representatives; and
- (c) 28 days after making and subscribing an oath or affirmation of allegiance as a senator for a Territory or appointed or chosen to fill a vacancy in the Senate;

each senator shall provide to the Registrar of Senators' Interests a statement of:

- (d) the senator's registrable interests; and
- (e) the registrable interests of which the senator is aware:
 - (i) of the senator's spouse or partner, and
 - (ii) of any children who are wholly or mainly dependent on the senator for support;

in accordance with this Schedule and in a form determined by the Committee of Senators' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 35 days of that alteration occurring.

(2) Any senator who:

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 35 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any

Schedule 2 The Senate—Register of Senators’ Interests

1 senator has committed such a serious contempt shall first be
2 referred to the Privileges Committee and/or the Parliamentary
3 Standards Commissioner for inquiry and report and may not be
4 considered by any other committee.

5 **2 Registrable interests of spouses or partners and dependants**

6 Statements of the registrable interests of a senator’s spouse or
7 partner or of any dependent children submitted in accordance with
8 paragraph (1) shall be maintained in a separate part of the register
9 and shall remain confidential to the Parliamentary Integrity
10 Adviser and the Committee of Senators’ Interests, except where the
11 committee or the Parliamentary Standards Commissioner considers
12 that a conflict of interest arises, at which time the committee may
13 table the declaration or the Parliamentary Standards Commissioner
14 may include it in a relevant report.

15 **3 Registrable interests**

16 The statement of a senator’s registrable interests to be provided by
17 a senator shall include the registrable interests of which the senator
18 is aware of the senator’s spouse or partner and of any children who
19 are wholly or mainly dependent on the senator for support, and
20 shall cover the following matters:

- 21 (a) shareholdings in public and private companies (including
22 holding companies) indicating the name of the company or
23 companies;
24 (b) shareholdings of any private companies declared under
25 paragraph (a) in any other private company (including
26 holding companies) indicating the name of the company or
27 companies;
28 (c) family and business trusts and nominee companies:
29 (i) in which a beneficial interest is held, indicating the
30 name of the trust and the nature of its operation and
31 beneficial interest, and
32 (ii) in which the senator, the senator’s spouse or partner, or
33 a child who is wholly or mainly dependent on the
34 senator for support, is a trustee (but not including a
35 trustee of an estate where no beneficial interest is held
36 by the senator, the senator’s spouse or partner or

-
- 1 dependent children), indicating the name of the trust, the
2 nature of its operation and the beneficiary of the trust;
3 (d) real estate, including the location (suburb or area only) and
4 the purpose for which it is owned;
5 (e) registered directorships of companies;
6 (f) partnerships, indicating the nature of the interests and the
7 activities of the partnership;
8 (g) liabilities, indicating the nature of the liability and the
9 creditor concerned;
10 (h) the nature of any bonds, debentures and like investments;
11 (i) saving or investment accounts, indicating their nature and the
12 name of the bank or other institutions concerned;
13 (j) the nature of any other assets (excluding household and
14 personal effects) each valued at more than \$7,500;
15 (k) the nature of any other substantial sources of income;
16 (l) gifts valued at more than \$750 received from official sources
17 (such sources being an Australian or foreign national, state,
18 provincial or local government or a person holding an office
19 in such a government) or at \$300 or more where received
20 from other than official sources, provided that a gift received
21 by a senator, the senator's spouse or partner or dependent
22 children from family members or personal friends in a purely
23 personal capacity need not be registered unless the senator
24 judges that an appearance of conflict of interest may be seen
25 to exist;
26 (m) any sponsored travel or hospitality received where the value
27 of the sponsorship or hospitality exceeds \$300;
28 (n) being an office holder of or financial contributor donating
29 \$300 or more in any single calendar year to any organisation;
30 and
31 (o) any other interests where a conflict of interest with a
32 senator's public duties could foreseeably arise or be seen to
33 arise.

34 **4 Register and Registrar of Senators' Interests**

- 35 (1) At the commencement of each parliament, and at other times as
36 necessary, the President shall appoint the Parliamentary Integrity
37 Adviser as the Registrar of Senators' Interests and that officer shall
38 also be secretary of the Committee of Senators' Interests.
-

Schedule 2 The Senate—Register of Senators’ Interests

-
- 1 (2) The Registrar of Senators’ Interests shall, in accordance with
2 procedures determined by the Committee of Senators’ Interests,
3 maintain a Register of Senators’ Interests in a form to be
4 determined by that committee from time to time.
- 5 (3) As soon as possible after receipt of statements of registrable
6 interests in accordance with subsection 1(1), the chairman of the
7 Committee of Senators’ Interests shall table in the Senate a copy of
8 the completed Register of Senators’ Interests and shall also table
9 every 6 months any notification by a senator of alteration of those
10 interests.
- 11 (4) The Register of Senators’ Interests shall be available for inspection
12 by any person under conditions to be laid down by the Committee
13 of Senators’ Interests from time to time.
- 14 (5) That part of the Register of Senators’ Interests relating to spouses
15 or partners and dependent children shall remain confidential to the
16 Committee of Senators’ Interests as provided for in paragraph 2.

17 **5 Interpretation**

18 For the purposes of sections 1 to 4 of this Schedule, ‘partner’
19 means a person who is living with another person in a bona fide
20 domestic relationship.

Schedule 3—Amendments

Public Interest Disclosure Act 2013

1 Subsection 69(1) (before table item 1)

Insert:

1A	A parliamentarian.	The Parliament.
1B	A staff member of a parliamentarian (within the meaning of the <i>Members of Parliament (Staff) Act 1984</i>).	The Parliament.