### TABLE OF PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Short title and commencement</td>
</tr>
<tr>
<td><strong>Part I— Interpretation</strong></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Definitions</td>
</tr>
<tr>
<td><strong>Part II— The Ombudsman</strong></td>
<td>17</td>
</tr>
<tr>
<td>3</td>
<td>Appointment of Ombudsman</td>
</tr>
<tr>
<td>4</td>
<td>Suspension of Ombudsman</td>
</tr>
<tr>
<td>5</td>
<td>Salary, allowances and leave of absence</td>
</tr>
<tr>
<td>6</td>
<td>Acting Ombudsman</td>
</tr>
<tr>
<td>7</td>
<td>Staff</td>
</tr>
<tr>
<td>8</td>
<td>Application of Public Administration Act 2004</td>
</tr>
<tr>
<td>9</td>
<td>Superannuation</td>
</tr>
<tr>
<td>10</td>
<td>Oath or affirmation</td>
</tr>
<tr>
<td>11</td>
<td>Delegation</td>
</tr>
<tr>
<td>12</td>
<td>Restriction on other employment</td>
</tr>
<tr>
<td><strong>Part III— Functions and jurisdiction of the Ombudsman</strong></td>
<td>26</td>
</tr>
<tr>
<td>13</td>
<td>Principal function of Ombudsman</td>
</tr>
<tr>
<td>13AAA</td>
<td>Function of Ombudsman to investigate protected disclosure complaints</td>
</tr>
<tr>
<td>13AA</td>
<td>Other functions of Ombudsman</td>
</tr>
<tr>
<td>13AB</td>
<td>Ombudsman not to prejudice legal proceedings or investigations</td>
</tr>
<tr>
<td>13AC</td>
<td>Court Services Victoria</td>
</tr>
<tr>
<td><strong>Part IIIA— Enquiries</strong></td>
<td>31</td>
</tr>
<tr>
<td>13A</td>
<td>Conducting of enquiries</td>
</tr>
<tr>
<td>13B</td>
<td>Communication of information to complainant</td>
</tr>
<tr>
<td><strong>Part IV— Investigations</strong></td>
<td>32</td>
</tr>
<tr>
<td><strong>Division I— Complaints generally</strong></td>
<td>32</td>
</tr>
<tr>
<td>14</td>
<td>Making a complaint</td>
</tr>
<tr>
<td>15</td>
<td>How the Ombudsman is to deal with certain complaints</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>15A</td>
<td>35</td>
</tr>
<tr>
<td>15B</td>
<td>36</td>
</tr>
<tr>
<td><strong>Division 1A—Protected disclosure complaints</strong></td>
<td><strong>36</strong></td>
</tr>
<tr>
<td>15C</td>
<td>36</td>
</tr>
<tr>
<td>15D</td>
<td>36</td>
</tr>
<tr>
<td>15E</td>
<td>37</td>
</tr>
<tr>
<td>15F</td>
<td>38</td>
</tr>
<tr>
<td><strong>Division 2—Parliamentary complaints</strong></td>
<td><strong>39</strong></td>
</tr>
<tr>
<td>16</td>
<td>39</td>
</tr>
<tr>
<td><strong>Division 2A—Own motion investigations</strong></td>
<td><strong>40</strong></td>
</tr>
<tr>
<td>16A</td>
<td>40</td>
</tr>
<tr>
<td><strong>Division 2B—Referred complaints and matters</strong></td>
<td><strong>42</strong></td>
</tr>
<tr>
<td>16B</td>
<td>42</td>
</tr>
<tr>
<td>16C</td>
<td>43</td>
</tr>
<tr>
<td>16D</td>
<td>43</td>
</tr>
<tr>
<td><strong>Division 2C—Mandatory notifications by the Ombudsman</strong></td>
<td><strong>44</strong></td>
</tr>
<tr>
<td>16E</td>
<td>44</td>
</tr>
<tr>
<td>16F</td>
<td>45</td>
</tr>
<tr>
<td>16G</td>
<td>45</td>
</tr>
<tr>
<td><strong>Division 2D—Referrals by the Ombudsman</strong></td>
<td><strong>46</strong></td>
</tr>
<tr>
<td>16H</td>
<td>46</td>
</tr>
<tr>
<td>16I</td>
<td>46</td>
</tr>
<tr>
<td>16J</td>
<td>47</td>
</tr>
<tr>
<td>16K</td>
<td>47</td>
</tr>
<tr>
<td><strong>Division 2E—Information sharing</strong></td>
<td><strong>47</strong></td>
</tr>
<tr>
<td>16L</td>
<td>47</td>
</tr>
<tr>
<td>16M</td>
<td>50</td>
</tr>
<tr>
<td><strong>Division 3—Conduct of investigations</strong></td>
<td><strong>52</strong></td>
</tr>
<tr>
<td>17</td>
<td>52</td>
</tr>
<tr>
<td>18</td>
<td>57</td>
</tr>
<tr>
<td>18A</td>
<td>59</td>
</tr>
<tr>
<td>18B</td>
<td>59</td>
</tr>
<tr>
<td>18C</td>
<td>59</td>
</tr>
<tr>
<td>18D</td>
<td>61</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>18E</td>
<td>61</td>
</tr>
<tr>
<td>18F</td>
<td>63</td>
</tr>
<tr>
<td>18G</td>
<td>64</td>
</tr>
<tr>
<td>19</td>
<td>65</td>
</tr>
<tr>
<td>19A</td>
<td>65</td>
</tr>
<tr>
<td>19B</td>
<td>65</td>
</tr>
<tr>
<td>19C</td>
<td>66</td>
</tr>
<tr>
<td>19D</td>
<td>67</td>
</tr>
<tr>
<td>20</td>
<td>67</td>
</tr>
<tr>
<td>20A</td>
<td>69</td>
</tr>
<tr>
<td>21</td>
<td>70</td>
</tr>
<tr>
<td>22</td>
<td>70</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Division 4—Action on completion of investigations</td>
<td>71</td>
</tr>
<tr>
<td>23</td>
<td>71</td>
</tr>
<tr>
<td>23A</td>
<td>76</td>
</tr>
<tr>
<td>24</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Part V—Annual and other reports</td>
<td>79</td>
</tr>
<tr>
<td>25</td>
<td>79</td>
</tr>
<tr>
<td>25AA</td>
<td>79</td>
</tr>
<tr>
<td>25AB</td>
<td>81</td>
</tr>
<tr>
<td>25A</td>
<td>81</td>
</tr>
<tr>
<td>25B</td>
<td>83</td>
</tr>
<tr>
<td>26</td>
<td>85</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Part VA—Confidentiality</td>
<td>86</td>
</tr>
<tr>
<td>Division 1—Confidentiality requirements for Ombudsman officers</td>
<td>86</td>
</tr>
<tr>
<td>26A</td>
<td>86</td>
</tr>
<tr>
<td>26B</td>
<td>87</td>
</tr>
<tr>
<td>Division 2—Confidentiality notices</td>
<td>87</td>
</tr>
<tr>
<td>26C</td>
<td>87</td>
</tr>
</tbody>
</table>

Authorised by the Chief Parliamentary Counsel

iii
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>26D</td>
<td>Extension of confidentiality notice</td>
</tr>
<tr>
<td>26E</td>
<td>Ombudsman to provide Victorian Inspectorate with copies</td>
</tr>
<tr>
<td>26F</td>
<td>Disclosure subject to confidentiality notice</td>
</tr>
<tr>
<td><strong>Division 3—Confidentiality requirements—certain information received from the Ombudsman about relevant protected disclosure complaints</strong></td>
<td>96</td>
</tr>
<tr>
<td>26FA</td>
<td>Offence to disclose certain information received from the Ombudsman about relevant protected disclosure complaints</td>
</tr>
<tr>
<td><strong>Part VB—Oversight of the Ombudsman</strong></td>
<td>100</td>
</tr>
<tr>
<td>26G</td>
<td>Oversight by Victorian Inspectorate</td>
</tr>
<tr>
<td>26H</td>
<td>Oversight by Accountability and Oversight Committee</td>
</tr>
<tr>
<td>26I</td>
<td>Powers and procedures of Accountability and Oversight Committee</td>
</tr>
<tr>
<td><strong>Part VI—Miscellaneous</strong></td>
<td>102</td>
</tr>
<tr>
<td>27</td>
<td>Application to Supreme Court</td>
</tr>
<tr>
<td>28</td>
<td>Letters by persons in custody etc. to be forwarded immediately to the Ombudsman</td>
</tr>
<tr>
<td>29</td>
<td>Protection of the Ombudsman and officers of the Ombudsman</td>
</tr>
<tr>
<td>29A</td>
<td>Exemption from Freedom of Information Act 1982</td>
</tr>
<tr>
<td>29B</td>
<td>Evidence</td>
</tr>
<tr>
<td>30</td>
<td>Penalties</td>
</tr>
<tr>
<td>30A</td>
<td>Supreme Court—limitation of jurisdiction</td>
</tr>
<tr>
<td>31</td>
<td>Rules of Parliament</td>
</tr>
<tr>
<td>32</td>
<td>Administration of Act</td>
</tr>
<tr>
<td><strong>Part VII—Saving and transitional provisions</strong></td>
<td>108</td>
</tr>
<tr>
<td>33</td>
<td>Validity of certain actions taken by Ombudsman</td>
</tr>
<tr>
<td>34</td>
<td>Transitional provision—complaints under the Freedom of Information Act 1982</td>
</tr>
<tr>
<td>35</td>
<td>Transitional provisions—Integrity and Accountability Legislation Amendment Act 2012</td>
</tr>
<tr>
<td><strong>Schedules</strong></td>
<td>113</td>
</tr>
<tr>
<td><strong>Schedule 1—Specified entities</strong></td>
<td>113</td>
</tr>
<tr>
<td><strong>Schedule 2—Exempt persons and bodies</strong></td>
<td>124</td>
</tr>
<tr>
<td><strong>Schedule 3—Persons and bodies to whom or which the Ombudsman may refer complaints</strong></td>
<td>127</td>
</tr>
</tbody>
</table>
# Endnotes

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>General information</td>
<td>129</td>
</tr>
<tr>
<td>Table of Amendments</td>
<td>131</td>
</tr>
<tr>
<td>Amendments Not in Operation</td>
<td>139</td>
</tr>
<tr>
<td>Explanatory details</td>
<td>142</td>
</tr>
</tbody>
</table>
An Act to provide for the Appointment in Victoria of an Ombudsman with Power to investigate Administrative Actions taken by or on behalf of Government Departments and other Authorities, and for other purposes.

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

1 Short title and commencement

(1) This Act may be cited as the Ombudsman Act 1973.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.
2 Definitions

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

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

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

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

(a) a decision and an act;

(b) the refusal or failure to take a decision or to perform an act;

(c) the formulation of a proposal or intention; and

(d) the making of a recommendation (including a recommendation made to a Minister);
Administrative Office has the meaning given by section 4(1) of the Public Administration Act 2004;

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

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

authority means—
(a) a Department;
(b) an Administrative Office;
(ba) Court Services Victoria;
(c) a specified entity—
but does not include an exempt person or body or a Councillor of a Council;

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

cancellation notice means a notice issued by the Ombudsman under section 26C(3), (4), (5) or (6) or section 26D(3) cancelling a confidentiality notice;
Ombudsman Act 1973
No. 8414 of 1973
Part I—Interpretation

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

complainant means a person who makes a complaint;

complaint means a complaint under section 14;

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

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

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

corrupt conduct has the meaning given in section 4 of the Independent Broad-based Anti-corruption Commission Act 2011;
Council has the meaning given in section 3(1) of the Local Government Act 1989;

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

Court Services Victoria means Court Services Victoria established under section 5 of the Court Services Victoria Act 2014;

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

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

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

**Note**

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

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

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

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

**Freedom of Information Commissioner** means the Freedom of Information Commissioner established under the *Freedom of Information Act 1982*;
IBAC means the Independent Broad-based Anti-corruption Commission established under section 12 of the Independent Broad-based Anti-corruption Commission Act 2011;

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

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

legal practitioner means an Australian legal practitioner within the meaning of the Legal Profession Act 2004;
Ombudsman Act 1973
No. 8414 of 1973
Part I—Interpretation

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

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

member of Victoria Police personnel has the meaning given in section 3(1) of the Victoria Police Act 2013;

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

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

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

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

---

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

**police personnel conduct** has the meaning given in section 5 of the **Independent Broad-based Anti-corruption Commission Act 2011**;
police personnel misconduct has the same meaning as it has in section 3(1) of the Independent Broad-based Anti-corruption Commission Act 2011;

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

principal officer means—

(a) in relation to a Department, the Department Head of the Department within the meaning of the Public Administration Act 2004 or the person carrying out the duties of the Department Head;

(b) in relation to an Administrative Office, the Administrative Office Head of the Administrative Office within the meaning of the Public Administration Act 2004 or the person carrying out the duties of the Administrative Office Head;

(ba) in relation to Court Services Victoria, the Chief Executive Officer within the meaning of the Court Services Victoria Act 2014;

(c) in relation to a specified entity, the person (if any) specified in column 2 of Schedule 1 opposite the specified entity;

(d) in relation to a member of the teaching service, the Secretary within the meaning of the Education and Training Reform Act 2006;
(e) in relation to a State funded residential care service, the chief executive officer of the service;

(f) in relation to a person or body prescribed by Rules of Parliament made under this Act as a protected disclosure entity, the person prescribed by the Rules as the principal officer for that person or body;


**protected disclosure entity** means—

(a) a member of Parliament;

(b) a Councillor;

(c) a member of the teaching service within the meaning of the [Education and Training Reform Act 2006](https://www.gov.wa.gov.au/documents/acts/education-and-training-reform-act-2006);

(d) a State funded residential care service within the meaning of the [Health Services Act 1988](https://www.gov.wa.gov.au/documents/acts/health-services-act-1988);

(e) a person or body prescribed by Rules of Parliament made under this Act;

**Public Interest Monitor** has the meaning given in section 4 of the [Public Interest Monitor Act 2011](https://www.gov.wa.gov.au/documents/acts/public-interest-monitor-act-2011);
Part I—Interpretation

**public statutory body** means—

(a) a body, whether corporate or unincorporated, that is established by or under an Act for a public purpose; or

(b) a body whose members, or a majority of whose members, are appointed by the Governor in Council or a Minister; or

(c) a company all the shares or a majority of the shares in which are held by the State or an authority;

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

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

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

**responsible Minister** means—

(a) in relation to a Department, the Minister responsible for the Department;

(b) in relation to an Administrative Office, the Minister responsible for the Administrative Office;
Part I—Interpretation

Ombudsman Act 1973
No. 8414 of 1973

(ba) in relation to Court Services Victoria, the Attorney-General;

c) in relation to a specified entity, the Minister (if any) specified in column 3 of Schedule 1 opposite the specified entity;

d) in relation to a Councillor, the Minister administering Part 4 of the Local Government Act 1989;

e) in relation to a member of the teaching service, the Minister administering Part 2.4 of the Education and Training Reform Act 2006;

(f) in relation to a State funded residential care service, the Minister administering section 6 of the Health Services Act 1988;

(g) in relation to a person or body prescribed by Rules of Parliament made under this Act as a protected disclosure entity, the Minister prescribed by the Rules as the responsible Minister for that person or body;

restricted matter means—

(a) any evidence or information given to, or obtained by, the Ombudsman;

(b) the contents of any document, or a description of any thing, produced by a person, or obtained by the Ombudsman, at a compulsory appearance or a voluntary appearance;

(c) the contents of any document, or a description of any thing, which has been inspected under section 21;
(d) the existence of, or any information about, a confidentiality notice or a witness summons;

(e) the subject matter of an investigation in relation to which—
   (i) a witness summons has been issued; or
   (ii) a person has appeared, or has been requested to appear, at a voluntary appearance;

(f) any information that could enable a person who has given, or may give, evidence, or who has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance, to be identified or located;

(g) the fact that a person has given, or may give, evidence, or has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance;

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

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

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

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

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

**Victorian court** means—
(a) the Supreme Court;
(b) the County Court;
(c) the Magistrates' Court;
(d) the Children's Court;
(e) the Coroners Court;

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

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

**voluntary appearance** means the appearance of a person before an Ombudsman officer in the course of or in relation to the performance of the Ombudsman's functions under this Act or any other Act, other than a compulsory appearance;
witness summons means a summons issued by the Ombudsman under section 17 of the Evidence (Miscellaneous Provisions) Act 1958.

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

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

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

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

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

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

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

S. 2(3) inserted by No. 85/2012 s. 144(2).
Part II—The Ombudsman

3 Appointment of Ombudsman

(1) There shall be appointed a Commissioner for Administrative Investigations, to be called the Ombudsman.

(2) The Ombudsman shall be appointed by the Governor in Council and shall hold office in accordance with this Act.

(3) The Ombudsman shall not be a Member of Parliament of Victoria or of the Commonwealth or any other State.

(4) Subject to this Act, the Ombudsman holds office for a term of 10 years, and is not eligible to be re-appointed.

(5) The Ombudsman ceases to hold office if the Ombudsman—

(a) resigns in writing and the resignation is accepted by the Governor in Council; or

(b) is removed from office upon the presentation of an address of both Houses of the Parliament praying for the Ombudsman's removal from office; or

(c) is suspended from office under section 4 and is not restored to office; or

(d) nominates for election for either House of the Parliament of Victoria or of any other State or Territory.
4 Suspension of Ombudsman

(1) The Governor in Council may at any time when Parliament is not in session suspend the Ombudsman from office on the ground of disability, bankruptcy, neglect of duty or misconduct or on any other ground which in the opinion of the Governor in Council makes the Ombudsman unfit to be the Ombudsman.

(2) The Ombudsman so suspended shall be restored to office unless—

(a) a statement setting out the grounds of suspension is laid before each House of Parliament during the first seven sitting days of that House following the suspension; and

(b) each House of Parliament within 20 sitting days of the statement being so laid passes an address praying for the Ombudsman to be removed from office.

5 Salary, allowances and leave of absence

(1) The Ombudsman shall be paid—

(a) a salary at such rate as is fixed from time to time by the Governor in Council; and

(b) such travelling and other allowances as are fixed from time to time by the Governor in Council.

(2) The rate of salary paid to the Ombudsman shall not be reduced during the Ombudsman's term of office without the Ombudsman's consent in writing.

(3) The Ombudsman shall be entitled to such leave of absence as the Governor in Council from time to time determines.
(4) The salary and allowances payable to the Ombudsman shall be paid out of the Consolidated Fund, which to the necessary extent is appropriated accordingly.

6 Acting Ombudsman

(1) The Governor in Council may appoint an Acting Commissioner of Administrative Investigations, to be called the Acting Ombudsman during the temporary absence or suspension of the Ombudsman or during any vacancy in the office of Ombudsman, and may at any time revoke such appointment.

(2) The Acting Ombudsman shall, while so acting, have all the powers and may exercise any of the functions of the Ombudsman as if the Acting Ombudsman were the Ombudsman.

* * * * *

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

S. 6(2) amended by No. 30/2016 s. 70(2)(d).

S. 6A inserted by No. 14/1988 s. 5, substituted by No. 32/2004 s. 4, amended by No. 56/2004 s. 78(1), repealed by No. 63/2004 s. 7(b).

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

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

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

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

(a) is eligible to be employed in the public service at the termination of their office as the Ombudsman or Acting Ombudsman with a classification and emolument corresponding with or higher than that which the person last held or received in the public service immediately before their

Authorised by the Chief Parliamentary Counsel
21
appointment as the Ombudsman or Acting Ombudsman as if their service as the Ombudsman or Acting Ombudsman had been service in the public service; and

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

9 Superannuation

(1) A person who is the Ombudsman or Acting Ombudsman or an employee of the Ombudsman and who immediately before their appointment as such was an officer within the meaning of the State Superannuation Act 1988 or of any corresponding previous enactment shall, subject to that Act, continue during their term of office as the Ombudsman or Acting Ombudsman or an employee of the Ombudsman to be an officer within the meaning of that Act.

(2) A person who is the Ombudsman and who immediately before appointment as the Ombudsman was not an employee in the public service may elect to be a contributor to a pension scheme determined by the Governor in Council after consideration of a report by the Secretary to the Department of Treasury and Finance.
10 Oath or affirmation

(1) Before the Ombudsman or Acting Ombudsman performs any of the duties of office of Ombudsman, the Ombudsman or Acting Ombudsman must take an oath or make an affirmation that they—

(a) will faithfully and impartially perform the duties of office of Ombudsman; and

(b) will not divulge, except according to law, any information received in the performance of those duties.

(2) Before a member of Ombudsman staff performs any duties as a member of Ombudsman staff, the member must take an oath or make an affirmation that the member—

(a) will faithfully and impartially perform their duties as a member of Ombudsman staff; and

(b) will not divulge, except according to law, any information received in the performance of those duties.

(3) The oath or affirmation is to be administered by—

(a) the Speaker of the Legislative Assembly, in the case of the Ombudsman or Acting Ombudsman;

(b) the Ombudsman or Acting Ombudsman, in the case of a member of Ombudsman staff.
11 Delegation

(1) The Ombudsman or the Acting Ombudsman may, by instrument in writing, delegate all or any of the powers or functions of the Ombudsman (except this power of delegation) under this or any other Act to any person, and may in like manner revoke or vary such delegation.

(2) A person to whom any such powers or functions have been delegated may exercise or perform those powers and functions so long as they are not revoked.

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

12 Restriction on other employment

(1) The Ombudsman or Acting Ombudsman must not, without the consent of the Governor in Council, engage in any paid employment outside the duties of their office as Ombudsman or Acting Ombudsman.
(2) An employee referred to in section 7 must not, without the consent of the Ombudsman, engage in any paid employment outside the duties of their employment in the office of the Ombudsman.
Part III—Functions and jurisdiction of the Ombudsman

13 Principal function of Ombudsman

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

(a) that appears to involve corrupt conduct; or

(b) that is taken under the Freedom of Information Act 1982.

Note

See section 13AA(1)(a) for the Ombudsman's function in relation to corrupt conduct.
(2) The function of the Ombudsman under subsection (1) includes the power to enquire into or investigate whether any administrative action that the Ombudsman may enquire into or investigate under subsection (1) is incompatible with a human right set out in the Charter of Human Rights and Responsibilities Act 2006.

(3) The powers of the Ombudsman in relation to any administrative action taken by or in an authority may be exercised even if the action was taken on behalf of, or in the performance of any function conferred on, a person who or body which is not an authority, but nothing in this Act authorises the Ombudsman to question the merits of any decision made by that person or body.

(4) If any administrative action is taken by a person who or by or in a body which is not an authority (other than an exempt person or body) under any powers or functions conferred on or instructions given by an authority, the administrative action is, for the purposes of this Act, taken to be the administrative action of the authority, and the powers of the Ombudsman in respect of that action may be exercised accordingly.

13AAA Function of Ombudsman to investigate protected disclosure complaints

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

13AA Other functions of Ombudsman

(1) In addition to the principal function in section 13 and the function in section 13AAA, the Ombudsman has the following functions—
(a) to enquire into or investigate any administrative action taken by or in an authority that appears to involve corrupt conduct on a referral from the IBAC under Division 5 of Part 3 of the Independent Broad-based Anti-corruption Commission Act 2011;

(b) to monitor compliance with Part 2A of the Prevention of Cruelty to Animals Act 1986 by officers of the Royal Society for the Prevention of Cruelty to Animals who are approved as general inspectors under section 18(1)(b)(ii) of that Act;

(c) to monitor compliance with the Domestic Animals Act 1994 by persons appointed as authorised officers under section 71A(1) or 72A(1) of that Act;

(d) any other functions conferred by or under this or any other Act.

(2) The function of the Ombudsman under subsection (1)(a) includes the power to enquire into or investigate whether any administrative action referred to in that subsection is incompatible with a human right set out in the Charter of Human Rights and Responsibilities Act 2006.

(3) For the avoidance of doubt, nothing in this Act authorises or requires the Ombudsman to enquire into or investigate anything done or omitted to be done by or in an exempt person or body.
13AB  Ombudsman not to prejudice legal proceedings or investigations

(1) The Ombudsman must not perform the functions or duties or exercise the powers of the Ombudsman in a manner that would prejudice any—

(a) criminal proceedings or criminal investigations; or

(b) investigations by the IBAC or the Victorian Inspectorate.

(2) For the purposes of ensuring compliance with subsection (1), the Ombudsman may consult any of the following—

(a) the Director of Public Prosecutions;

(b) the Chief Commissioner of Police;

(c) the IBAC;

(d) the Victorian Inspectorate.

13AC  Court Services Victoria

(1) Despite anything to the contrary in Schedule 2, Court Services Victoria is not an exempt body.

(2) In performing the functions or duties or exercising the powers of the Ombudsman in relation to Court Services Victoria, the Ombudsman must not—

(a) interfere with the exercise of the jurisdiction of a court or VCAT; or

(b) direct a court or VCAT as to the manner or outcome of the exercise of its judicial function in any particular case or any other judicial or quasi-judicial function.
(3) The Ombudsman or a member of Ombudsman staff must not, pursuant to section 21, enter a court or tribunal hearing room in the course of the hearing of a matter, except with the agreement of the presiding judicial officer.

(4) The Ombudsman or a member of Ombudsman staff must not require a judicial member of the Courts Council or a member of the staff of Court Services Victoria—

(a) to provide any information (including answering any question); or

(b) to produce any document—

to the extent that the information or document concerns the exercise of a judicial or quasi-judicial function by a court, VCAT or a person specified in clause 7 of Schedule 2 or by any person exercising the function on behalf of a court or VCAT.

(5) Despite subsection (4), the Ombudsman or a member of Ombudsman staff may require a member of the staff of Court Services Victoria to provide information or documents in a matter that relates to the exercise of a judicial or quasi-judicial function if the relevant head of the jurisdiction has approved the provision of such information or documents, subject to any conditions agreed between the relevant head of the jurisdiction and the Ombudsman.

(6) In this section—

Courts Council means the Courts Council established under section 10 of the Court Services Victoria Act 2014;

member of the staff of Court Services Victoria has the same meaning as it has in section 3 of the Court Services Victoria Act 2014.
Part IIIA—Enquiries

13A Conducting of enquiries

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

(a) an investigation under this Act should be conducted; or

(b) the matter (other than a protected disclosure complaint) may be resolved informally.

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

(3) The principal officer of an authority or a protected disclosure entity (if any) must assist the Ombudsman in the conduct of an enquiry.

13B Communication of information to complainant

Section 24 applies to—

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

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

as if the enquiry were an investigation under this Act.
14 Making a complaint

(1) The following persons may make a complaint to the Ombudsman about an administrative action taken by or in an authority—

(a) a person or body of persons affected by the administrative action (an aggrieved person); or

(b) a member of Parliament acting on behalf of an aggrieved person; or

(c) if an aggrieved person has died, a person who the Ombudsman considers is suitable to represent the deceased person; or

(d) if the Ombudsman considers that an aggrieved person is unable to act for themselves, a person who the Ombudsman considers is suitable to represent the aggrieved person; or

(e) any other person if, having regard to all the circumstances, the Ombudsman considers it is appropriate to deal with the complaint.

(2) If a complaint to the Ombudsman is not made in writing, the Ombudsman may require the complainant to provide a written statement in the form (if any) specified by the Ombudsman—
(a) confirming that the complainant wants the Ombudsman to consider the complaint; and

(b) specifying the details of the complaint.

(3) The Ombudsman may deal with a complaint even if, on the face of it, the complaint does not refer to an administrative action taken by or in an authority if the Ombudsman considers there is a likelihood that the cause for complaint arose from such an action.

15 How the Ombudsman is to deal with certain complaints

(1) The Ombudsman must not deal with a complaint that involves police personnel conduct, other than to notify the IBAC or the Victorian Inspectorate under Division 2C.

(1A) Subject to subsection (1B), the Ombudsman must not deal with a complaint that the Ombudsman suspects on reasonable grounds involves corrupt conduct until the Ombudsman notifies the IBAC or the Victorian Inspectorate under Division 2C.

(1B) If the IBAC notifies the Ombudsman that it has determined under section 58 of the Independent Broad-based Anti-corruption Commission Act 2011 to investigate a matter involving corrupt conduct or to refer it to another body, the Ombudsman must not continue to deal with a complaint that involves the matter or continue to conduct an investigation in relation to the matter unless—
(a) the IBAC and the Ombudsman agree, to the extent and subject to the conditions agreed; or

(b) where the IBAC refers the matter to another body under section 73 of the Independent Broad-based Anti-corruption Commission Act 2011, to the extent of the referral; or

(c) the IBAC completes or discontinues its investigation into the matter.

(2) The Ombudsman must refuse to deal with a complaint about administrative action that is taken under the Freedom of Information Act 1982 other than, if it could be made the subject of a complaint under Part VIA of that Act, to notify the Freedom of Information Commissioner under Division 2C.

(3) The Ombudsman must refuse to deal with a complaint if dealing with it would be contrary to section 13AB.

(4) The Ombudsman must refuse to deal with a complaint relating to terms and conditions of employment of persons who are or were employed by or in an authority unless the Ombudsman considers that the matter merits investigation in order to avoid injustice.

(5) If the Ombudsman considers that a complainant has or had a right of appeal or referral to, or review by, a tribunal, the Ombudsman must refuse to deal with the complaint unless the Ombudsman considers that in the particular circumstances—

(a) it would not be reasonable to expect or have expected the complainant to exercise that right; or

(b) the matter merits investigation to avoid injustice.
(6) If the Ombudsman considers that a complainant has or had a remedy by taking proceedings in a court, the Ombudsman must refuse to deal with the complaint unless the Ombudsman considers that in the particular circumstances—

(a) it would not be reasonable to expect or have expected the complainant to take those proceedings; or

(b) the matter merits investigation to avoid injustice.

15A Ombudsman may refuse to deal with certain complaints

(1) The Ombudsman may refuse to deal with a complaint if the Ombudsman considers—

(a) the subject-matter of the complaint is trivial; or

(b) the complaint is frivolous or vexatious or is not made in good faith; or

(c) the complaint lacks substance or credibility; or

(d) the subject-matter of the complaint has already been investigated or otherwise dealt with by—

(i) an integrity body within the meaning of the Independent Broad-based Anti-corruption Commission Act 2011; or

(ii) any other person or body (whether or not still in existence) with the power to require the production of documents or the answering of questions.
(2) The Ombudsman may refuse to deal with a complaint if the complainant—

(a) made the complaint more than 12 months after becoming aware of the administrative action; and

(b) fails to give a satisfactory explanation for the delay in making the complaint.

(3) The Ombudsman may refuse to deal with a complaint if the complainant fails to comply with a requirement made under section 14(2).

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

Division 1A—Protected disclosure complaints

15C Ombudsman must investigate protected disclosure complaints
Subject to sections 15D, 15E and 17, the Ombudsman must conduct an investigation under this Act on a protected disclosure complaint about conduct by or in an authority or a protected disclosure entity.

15D Ombudsman must refuse to investigate certain protected disclosure complaints

(1) The Ombudsman must refuse to conduct an investigation on a protected disclosure complaint if conducting the investigation would be contrary to section 13AB.
Ombudsman Act 1973  
No. 8414 of 1973  
Part IV—Investigations

(2) The Ombudsman must refuse to conduct an investigation on a protected disclosure complaint about conduct by or in an authority or a protected disclosure entity unless the Ombudsman is reasonably satisfied that the protected disclosure complaint shows or tends to show that—

(a) the authority or protected disclosure entity or a member, officer or employee of the authority or protected disclosure entity has engaged, is engaging or proposes to engage in improper conduct; or

(b) the authority or protected disclosure entity or a member, officer or employee of the authority or protected disclosure entity has taken, is taking or proposes to take detrimental action against a person in contravention of section 45 of the Protected Disclosure Act 2012.

(3) In this section, *improper conduct* has the meaning given in section 4 of the Protected Disclosure Act 2012.

15E Ombudsman may refuse to investigate certain protected disclosure complaints

(1) The Ombudsman may refuse to conduct an investigation on a protected disclosure complaint if the Ombudsman considers—

(a) the subject-matter of the protected disclosure complaint is trivial; or

(b) the protected disclosure complaint is frivolous or vexatious; or

(c) the protected disclosure complaint lacks substance or credibility; or
(ca) the conduct which is the subject of the protected disclosure complaint does not amount to improper conduct; or

(cb) the conduct which is the subject of the protected disclosure complaint does not amount to detrimental action against a person in contravention of section 45 of the Protected Disclosure Act 2012; or

(d) the subject-matter of the protected disclosure complaint has already been investigated or otherwise dealt with by—

   (i) an integrity body within the meaning of the Independent Broad-based Anti-corruption Commission Act 2011; or

   (ii) any other person or body (whether or not still in existence) with the power to require the production of documents or the answering of questions.

(2) The Ombudsman may refuse to conduct an investigation on a protected disclosure complaint if the person who made the protected disclosure complaint—

   (a) made the disclosure that was determined to be a protected disclosure complaint more than 12 months after becoming aware of the disclosed matter; and

   (b) fails to give a satisfactory explanation for the delay in making the disclosure.

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

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

(a) the refusal to conduct the investigation; and

(b) the reason for that refusal.

**Division 2—Parliamentary complaints**

**16 Investigations referred by Parliament**

(1) At any time—

(a) the Legislative Council or a committee of the Legislative Council;

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

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

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

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

**Note**

Section 25AB provides for the manner of reporting.
Division 2A—Own motion investigations

16A Ombudsman may conduct own motion investigation

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

(2) Subject to subsection (2A), the Ombudsman must not conduct an own motion investigation into any administrative action that the Ombudsman suspects on reasonable grounds involves corrupt conduct until the Ombudsman notifies the IBAC or the Victorian Inspectorate under Division 2C.

Note
See also section 16D.

(2A) If the IBAC notifies the Ombudsman that it has determined under section 58 of the Independent Broad-based Anti-corruption Commission Act 2011 to investigate a matter or to refer it to another body, the Ombudsman must not conduct, or continue to conduct, an own motion investigation into any administrative action that involves the matter unless—

(a) the IBAC and the Ombudsman agree, to the extent and subject to the conditions agreed; or

(b) where the IBAC refers the matter to another body under section 73 of the Independent Broad-based Anti-corruption Commission Act 2011, to the extent of the referral; or
(c) the IBAC completes or discontinues its investigation into the matter.

(3) The Ombudsman must not conduct an own motion investigation into any administrative action that is taken under the Freedom of Information Act 1982.

(4) The Ombudsman must not conduct an own motion investigation into a matter relating to terms and conditions of employment of persons who are or were employed by or in an authority unless the Ombudsman considers that the matter merits investigation in order to avoid injustice.

(5) If the Ombudsman considers that a person aggrieved by any administrative action taken by or in an authority has or had a right of appeal or referral to, or review by, a tribunal, the Ombudsman must not conduct an own motion investigation into the matter unless the Ombudsman considers that in the particular circumstances—
   (a) it would not be reasonable to expect or have expected the person to exercise that right; or
   (b) the matter merits investigation to avoid injustice.

(6) If the Ombudsman considers that a person aggrieved by any administrative action taken by or in an authority has or had a remedy by taking proceedings in a court, the Ombudsman must not conduct an own motion investigation into the matter unless the Ombudsman considers that in the particular circumstances—
   (a) it would not be reasonable to expect or have expected the person to take those proceedings; or
   (b) the matter merits investigation to avoid injustice.
Division 2B—Referred complaints and matters

16B What are referred complaints and referred matters?

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

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

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

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

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

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

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

(1) The Ombudsman may deal with a referred complaint if it could be made the subject of a complaint under section 14.

(2) The referred complaint is to be dealt with as if it were a complaint under section 14.

(3) Section 15(1) does not apply to a referred complaint that is a complaint within the meaning of the Independent Broad-based Anti-corruption Commission Act 2011 referred to the Ombudsman by the IBAC under section 73 of that Act.

16D Dealing with referred matters

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

Note

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

(2) The referred matter is to be dealt with as if it were an own motion investigation.

(3) Section 16A(2) does not apply to a referred matter that is a notification within the meaning of the Independent Broad-based Anti-corruption Commission Act 2011 referred to the Ombudsman by the IBAC under section 73 of that Act.
Division 2C—Mandatory notifications by the Ombudsman

16E Notification to IBAC

(1) The Ombudsman must notify the IBAC of the following—

(a) a complaint or referred matter that appears to involve corrupt conduct or police personnel conduct; or

(b) a matter that appears to involve corrupt conduct or police personnel conduct of which the Ombudsman becomes aware in the course of dealing with a complaint, conducting an own motion investigation or performing any other functions under this Act.

(2) If the Ombudsman notifies the IBAC of a complaint under subsection (1), the Ombudsman must inform the complainant in writing.

(3) This section does not apply to anything referred to the Ombudsman by the IBAC under section 73 of the Independent Broad-based Anti-corruption Commission Act 2011.

(4) If the Ombudsman considers at any time that anything referred to the Ombudsman by the IBAC under section 73 of the Independent Broad-based Anti-corruption Commission Act 2011 appears to involve conduct that is corrupt conduct, the Ombudsman must inform the IBAC.

(5) This section does not apply to corrupt conduct of the IBAC or IBAC personnel.
16F Notification to Victorian Inspectorate

(1) The Ombudsman must notify the Victorian Inspectorate of any of the following—

(a) a complaint or referred matter that appears to involve misconduct of the IBAC or IBAC personnel;

(b) a complaint or referred matter that appears to involve misconduct (other than corrupt conduct) of an Ombudsman officer, a VAGO officer, the Chief Examiner or an Examiner.

(2) The Ombudsman must notify the Victorian Inspectorate of any matter relating to misconduct referred to in subsection (1)(a) or (b) of which the Ombudsman becomes aware in the course of dealing with a complaint, conducting an own motion investigation or an investigation on a relevant protected disclosure complaint or performing any other functions under this Act, if the Ombudsman considers that the matter is relevant to the performance of the functions of the Victorian Inspectorate.

(3) If the Ombudsman notifies the Victorian Inspectorate of a complaint under this section, the Ombudsman must inform the complainant in writing.

16G Notification to Freedom of Information Commissioner

(1) The Ombudsman must notify the Freedom of Information Commissioner of a complaint if the complaint could be made the subject of a complaint under Part VIA of the Freedom of Information Act 1982.

(2) If the Ombudsman notifies the Freedom of Information Commissioner of a complaint under this section, the Ombudsman must inform the complainant in writing.
Division 2D—Referrals by the Ombudsman

16H Application of Division

This Division does not apply to—

(a) a complaint that appears to involve corrupt conduct or police personnel conduct; or

(b) a complaint that appears to involve conduct of—

(i) the IBAC or IBAC personnel; or

(ii) an Ombudsman officer; or

(iii) a VAGO officer; or

(iv) the Chief Examiner or an Examiner; or

(c) a complaint about administrative action that is taken under the Freedom of Information Act 1982; or

(d) a complaint that is a referred complaint within the meaning of section 16B(1)(c).

16I Ombudsman may refer complaints

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

(a) the subject matter of the complaint is relevant to the performance of the duties and functions or the exercise of powers of the person or body; and

(b) it would be more appropriate for the complaint to be dealt with by the person or body rather than by the Ombudsman.
16J Notice of referral

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

(a) must inform the complainant in writing; and

(b) may inform the following in writing—

(i) the principal officer (if any) of the authority to which the complaint relates; and

(ii) the responsible Minister for the authority to which the complaint relates; and

(iii) if the authority to which the complaint relates is a member of staff of a Council, the Mayor of the Council.

16K Consultation prior to referral

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

Division 2E—Information sharing

16L Disclosure of information by the Ombudsman

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

(a) the information is relevant to the performance of the duties and functions or the exercise of the powers of the person or body; and
(b) it is appropriate for the information to be brought to the attention of the person or body, having regard to the nature of the information.

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

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

(b) the information—

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

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

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

(a) the IBAC;

(b) the Victorian Inspectorate;

(c) the Auditor-General;

(d) Victoria Police;

(e) the Director of Public Prosecutions;

(f) the Commission for Children and Young People established under section 6 of the Commission for Children and Young People Act 2012;

S. 16L(1A) inserted by No. 85/2012 s. 15.

S. 16L(2)(d) substituted by No. 30/2016 s. 65(1).

S. 16L(2)(f) substituted by No. 30/2016 s. 65(2).
(g) the Chief Municipal Inspector appointed under section 223A of the Local Government Act 1989;

(h) a municipal monitor appointed under section 223CA of the Local Government Act 1989;

(i) the Victorian WorkCover Authority within the meaning of the Workplace Injury Rehabilitation and Compensation Act 2013;

(j) the Environment Protection Authority established under section 5 of the Environment Protection Act 1970;

(k) the Racing Integrity Commissioner established under section 37A of the Racing Act 1958;

(l) the Australian Federal Police constituted under section 6 of the Australian Federal Police Act 1979 of the Commonwealth;

(m) the police force or police service (however described) of another State or a Territory;

(n) a responsible Minister of the Crown;

(o) any authority or its principal officer;
(p) a person or body prescribed by Rules of Parliament made under this Act.

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

(4) If—

(a) a House of the Parliament has by resolution referred a report made by the Ombudsman to a Parliamentary Committee of that House to determine whether there has been a breach of parliamentary privilege or contempt of Parliament; and

(b) the Parliamentary Committee requests the Ombudsman to provide or disclose any information received or obtained in the course of preparing the report which the Parliamentary Committee considers may be necessary to determine whether there has been a breach of parliamentary privilege or contempt of Parliament—

the Ombudsman may at his or her discretion comply with the request.

(5) The Ombudsman must not provide or disclose information under subsection (4) that is likely to lead to the identification of a person who has made an assessable disclosure.

16M Disclosure of information for specified purposes

(1) Subject to subsection (2), the Ombudsman may provide or disclose information received or obtained in the course of the performance of duties and functions or the exercise of powers under this Act—
Ombudsman Act 1973  
No. 8414 of 1973  
Part IV—Investigations

(a) to the public, being information which relates to the commencement or progress of an own motion investigation and the Ombudsman is satisfied that the information does not include any information that—

(i) is likely to lead to the identification of a person; or

(ii) is adverse to an authority unless the information is already in the public domain or the authority has consented to the information being provided or disclosed; or

(b) to a person, body or authority that the Ombudsman considers appropriate where the Ombudsman considers that the provision or disclosure of the information is necessary to prevent or lessen the risk of harm to a person's health, safety or welfare; or

(c) to an authority where the Ombudsman considers that the provision or disclosure of the information is necessary to assist the authority to improve its administrative practices and procedures and the Ombudsman is satisfied that the information does not include any information that is likely to lead to the identification of any person.

(2) The Ombudsman must not provide or disclose any information under this section that includes—

(a) any information that the Ombudsman considers would prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or
(b) any information, or information in any document, referred to in section 19, 19A or 19B; or

(c) a finding or an opinion that a specified person is guilty of or has committed, is committing or is about to commit an offence; or

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

(e) any information that—

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

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

(3) The operation of this section is not limited by sections 16L and 26A.

Division 3—Conduct of investigations

17 Procedure relating to investigations

(1) Before conducting an investigation under this Act, the Ombudsman must inform the following in writing of the Ombudsman's intention to conduct the investigation—

(a) the complainant or the person who made the relevant protected disclosure complaint; and
Part IV—Investigations

(b) the principal officer (if any) of the authority or protected disclosure entity to which the investigation relates; and

c) the responsible Minister (if any) for the authority or protected disclosure entity to which the investigation relates; and

d) if the investigation relates to a member of staff of a Council or a Councillor, the Mayor of the Council.

(1A) Information given under subsection (1)(a) to a person who made a relevant protected disclosure complaint must include a written statement advising the recipient that it is an offence under section 26FA to disclose the Ombudsman's intention to conduct an investigation.

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

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

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

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

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

S. 17(1)(b) amended by No. 85/2012 s. 153(1)(b).
S. 17(1)(c) substituted by No. 85/2012 s. 153(1)(c).
S. 17(1)(d) amended by No. 85/2012 s. 153(1)(d).
S. 17(1A) inserted by No. 85/2012 s. 153(2).
S. 17(1B) inserted by No. 85/2012 s. 153(2).
S. 17(3) amended by Nos 35/1996 s. 453(Sch. 1 item 62.2), 18/2005 s. 19(Sch. 1 item 73.2), 82/2012 s. 232(2), 30/2016 s. 70(2)(t).
(4) If at any time during an investigation it appears to the Ombudsman that there may be grounds for making a report adverse to an authority or a protected disclosure entity, the Ombudsman must, before making the report, give the principal officer (if any) of the authority or protected disclosure entity the opportunity to comment on the subject-matter of the investigation.

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

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

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

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

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

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

(b) send a copy of the report to the responsible Minister and, if the authority or protected disclosure entity is a member of staff of a Council or a Councillor, to the Mayor of the Council.
(6A) The Ombudsman must not disclose any information under subsection (4), (4A), (5), (5A) or (6) that—

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

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

(6B) The Ombudsman may at any time during an investigation discontinue the investigation if in all the circumstances the Ombudsman considers that—

(a) a ground specified in section 15A for refusing to deal with the complaint or section 15E for refusing to conduct an investigation would now apply; or

(b) the matter has been sufficiently investigated and further investigation is not warranted.

(6C) The Ombudsman must at any time during an investigation discontinue the investigation if in all the circumstances the Ombudsman considers that a ground specified in section 15 for refusing to deal with the complaint or section 15D for refusing to conduct an investigation would now apply.

(6D) If the Ombudsman discontinues an investigation in accordance with subsection (6B)(a) or (6C)—

(a) the Ombudsman must, within a reasonable time of discontinuing the investigation, inform any person informed of the investigation under subsection (1) of—

(i) the discontinuance of the investigation; and

(ii) the reason for that discontinuance; and
(b) sections 23, 23A and 24(1) cease to apply in relation to the investigation.

(6E) If the Ombudsman discontinues an investigation in accordance with subsection (6B)(b)—

(a) sections 23, 23A and 24(1) apply as if the investigation had been completed; and

(b) the Ombudsman must provide the reason for the discontinuance in any report or notification given under those sections.

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

18 Investigation powers and privileges

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

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

(a) must be in the form (if any) prescribed by Rules of Parliament made under this Act; and

(b) if the witness summons requires the person to whom it is directed to give evidence, must state the nature of the matters about which the person is to give evidence, except to the extent to which the Ombudsman forms the
opinion on reasonable grounds that this may—

(i) prejudice the conduct of the investigation to which the witness summons relates; or

(ii) be contrary to the public interest.

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

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

(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the service of the Crown or an authority or a protected disclosure entity, where imposed by any enactment or any rule of law, shall apply to the disclosure of information for the purposes of an investigation under this Act.

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

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

(5) Subject to subsections (3), (4) and (4A) a person shall not be compelled for the purposes of an investigation under this Act to produce any document or give any evidence which the person could not be compelled to produce or give in proceedings before a court.
18A Ombudsman to report to Victorian Inspectorate on issue of witness summons

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

(a) the name of the person summoned;

(b) the reasons why the summons was issued.

18B Witness summons directed to person under 16 years

(1) A witness summons directed to a person under the age of 16 years at the date of issue of the witness summons has no effect.

(2) A person who claims to be under the age of 16 years at the date of issue of a witness summons directed to them must provide proof of age to the Ombudsman in accordance with Rules of Parliament made under this Act.

18C Legal advice and representation

(1) A person may seek legal advice from, and be represented by, a legal practitioner in relation to—

(a) an enquiry or investigation conducted by the Ombudsman under this Act; and

(b) the person's rights, liabilities, obligations and privileges under this Act or the Protected Disclosure Act 2012.

(2) Without limiting subsection (1) but subject to subsection (3), a person may seek legal advice, and be represented by, a legal practitioner in relation to—

(a) the issue of a witness summons directed to the person;

(b) a compulsory appearance by the person;
(c) a proposed report, or draft or part of a proposed report, under this Act received by the person.

(3) The Ombudsman may direct a person in writing not to seek legal advice or representation from a specified legal practitioner in relation to any or all of the matters referred to in subsection (2) if the Ombudsman considers on reasonable grounds that the enquiry or investigation to which the matter relates may be prejudiced because the legal practitioner is—

(a) appearing at a compulsory appearance; or

(b) representing another person who is appearing at a compulsory appearance; or

(c) involved, or suspected of being involved, in a matter—

(i) that is the subject of an enquiry or investigation by the Ombudsman under this Act; or

(ii) that is being investigated by the IBAC or the Victorian Inspectorate; or

(d) representing a person involved, or suspected of being involved, in a matter—

(i) that is the subject of an enquiry or investigation by the Ombudsman under this Act; or

(ii) that is being investigated by the IBAC or the Victorian Inspectorate.

(4) A direction under subsection (3)—

(a) may be given to a person at any time; and

(b) takes effect at the time it is given to the person.
(5) If the Ombudsman gives a direction to a person under subsection (3) in relation to the issue of a witness summons or a compulsory appearance, the Ombudsman must allow the person at least 3 days after the day it is given to the person to obtain representation by another legal practitioner before the person is required to comply with the witness summons or appear at the compulsory appearance.

(6) Within 24 hours after giving a direction under subsection (3), the Ombudsman must inform the Victorian Inspectorate in writing of the direction and the reasons for giving it.

18D Advance notice for voluntary appearances

(1) Within a reasonable time before a voluntary appearance, the Ombudsman must advise the person who is to appear of the nature of the matters in respect of which the person is to be asked questions, except to the extent to which the Ombudsman forms the opinion on reasonable grounds that this may prejudice the conduct of the investigation to which the appearance relates or may be contrary to the public interest.

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

18E Further provisions relating to appearances

(1) This section applies to a compulsory appearance and a voluntary appearance.

(2) Before the person appearing is asked any questions or required to produce any document, the presiding officer must—

(a) confirm the age of the person if the presiding officer considers that the person may be under the age of 18 years; and
(b) release the person from the appearance if the person is under the age of 16 years; and

c) give the person a copy of the statement (if any) prescribed for the purposes of this subsection by Rules of Parliament made under this Act; and

(d) inform a legal practitioner who is representing the person of—

(i) any non-disclosure requirements that apply under this Act; and

(ii) in the case of an investigation on a protected disclosure complaint, the confidentiality requirements under Part 7 of the Protected Disclosure Act 2012; and

(e) take any other actions prescribed for the purposes of this subsection by Rules of Parliament made under this Act.

(2A) In an investigation on a protected disclosure complaint, before the person appearing is asked any questions or required to produce any document, the presiding officer must—

(a) advise the person that the person may be subject to further confidentiality obligations under Part 7 of the Protected Disclosure Act 2012; and

(b) advise the person of the nature of those requirements.

(3) At any time during the appearance, if the presiding officer becomes aware that the person appearing is under the age of 16 years, the presiding officer must immediately release the person from the appearance.
(4) If the person appearing does not have knowledge of the English language that is sufficient to enable the person to understand questions asked or to answer those questions, before the questioning commences the presiding officer must provide for a competent interpreter to be present.

(5) If the person appearing is under the age of 18 years, the person must be accompanied by a parent or guardian or an independent person.

(6) The presiding officer must direct that an independent person be present during the appearance if—

(a) the presiding officer believes the person appearing has a mental impairment; or

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

18F Audio or video recording of compulsory appearances

(1) This section applies to a compulsory appearance.

(2) The presiding officer must ensure that the appearance is audio or video recorded.

(3) Subject to subsection (4), evidence of anything said by the person appearing during the appearance is inadmissible as evidence against any person in any proceeding before a court or tribunal unless—

(a) the appearance was audio or video recorded; and

(b) the audio or video recording is available to be tendered in evidence.
(4) A court may admit evidence of anything said by the person appearing during the appearance that is otherwise inadmissible because of subsection (3) if the court is satisfied that there are exceptional circumstances that justify the admission of the evidence.

(5) Unless the Ombudsman considers on reasonable grounds that doing so may prejudice an investigation under this Act, the Ombudsman must provide the person appearing with a copy of—

(a) the audio or video recording; and

(b) any transcript created.

(6) If the Ombudsman determines not to provide the person with a copy of the audio or video recording and any transcript in accordance with subsection (5), the Ombudsman must allow the person to listen to or view the recording of the person's evidence at Ombudsman premises at any reasonable time.

(7) As soon as possible after the appearance, the Ombudsman must provide the Victorian Inspectorate with a copy of the audio or video recording and any transcript of the appearance.

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

(1) This section applies to a compulsory appearance.

(2) A legal practitioner representing the person appearing or assisting the presiding officer at the appearance has the same protection and immunity as a legal practitioner has in representing a party in a proceeding in the Supreme Court.

(3) The person appearing has the same protection and immunity as a witness has in a proceeding in the Supreme Court.
19 Deliberations of Ministers and Parliamentary committees not to be disclosed

(1) A person shall not be required or authorized by virtue of this Act—

(a) to furnish any information or answer any question; or

(b) to produce or inspect so much of any document—

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

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

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

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

(a) furnish any information that is Cabinet information; or

(b) answer any question that relates to Cabinet information; or

(c) produce or inspect any document that is Cabinet information.

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

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

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

19C Conclusive certificates

(1) The Secretary to the Department of Premier and Cabinet may issue a certificate certifying that—

(a) any information or question or document or part of a document relates to deliberations of Ministers or of a committee referred to in section 19; or
(b) any information or document or part of a document—
    (i) is Cabinet information; or
    (ii) would, if it existed, be Cabinet information; or
(c) any question relates to Cabinet information; or
(d) any information or question or document or part of a document relates to deliberations in private of a committee referred to in section 19B.

(2) A certificate issued under this section is conclusive of the facts certified.
19D Disclosure of information subject to legal professional privilege or client legal privilege— relevant protected disclosure complaints

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

20 Disclosing or taking advantage of information— tranistional provision

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

(a) shall not disclose that information except—

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

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

(iii) for the purposes of any communication authorized under section 20A, 20B, 20C or 20D of this Act; and
(b) shall not take advantage of any knowledge gained from that information to benefit the person or any other person.

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

* * * * *

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

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

Note

Part VA applies to information acquired on or after the commencement of Division 1 of Part 7 of the Integrity and Accountability Legislation Amendment Act 2012.
20A Communication of information to Commonwealth and State Ombudsmen

The Ombudsman or the Acting Ombudsman may communicate—

(a) to the Commonwealth Ombudsman or a Deputy Commonwealth Ombudsman appointed under any law of the Commonwealth relating to an Ombudsman;

or

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

* * * * *

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

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

S. 20C inserted by No. 2/2001 s. 114, repealed by No. 82/2012 s. 236.
21 Entry of premises

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

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

22 Obstruction

(1) A person who—

(a) without lawful excuse (proof of which shall lie upon that person) wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of powers under this Act;

(b) without lawful excuse (proof of which shall lie upon that person) refuses to or wilfully fails to comply with any lawful requirement
of the Ombudsman or any other person under this Act; or

(c) wilfully makes a statement the person knows to be false or to be misleading in a material particular or misleads or attempts to mislead the Ombudsman or any other person in the exercise of powers under this Act—shall be guilty of an offence against this Act.

(2) Proceedings may only be instituted for an offence under subsection (1)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

* * * * *

Division 4—Action on completion of investigations

23 Procedure on completion of investigation

(1) Where as a result of an investigation conducted under this Act (other than an investigation conducted under Division 1A or 2) the Ombudsman is of the opinion that the administrative action to which the investigation relates—
(a) appears to have been taken contrary to law;
(b) was unreasonable unjust oppressive or improperly discriminatory;
(c) was in accordance with a rule of law or a provision of an enactment or practice that is or may be unreasonable unjust oppressive or improperly discriminatory;
(d) was taken in the exercise of a power or discretion, and was so taken for an improper purpose or on irrelevant grounds, or on the taking into account of irrelevant considerations;
(e) was a decision that was made in the exercise of a power or discretion and the reasons for the decision were not, but should have been, given;
(f) was based wholly or partly on a mistake of law or fact; or
(g) was wrong—

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

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

(a) that the subject-matter of the investigation should be referred to the appropriate authority for further consideration;
(b) that action could be, and should be, taken to rectify or mitigate or alter the effects of the action to which the investigation relates;
(c) that any practice in accordance with which the action was taken should be varied;
(d) that any law in accordance with which or on the basis of which the action was taken should be reconsidered;

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

(f) that any other steps should be taken—

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

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

(a) must report the findings of the investigation—

(i) to the principal officer (if any) of the appropriate authority or protected disclosure entity; or

(ii) if there is no principal officer, to the responsible Minister for the authority or protected disclosure entity; or

(iii) if the protected disclosure complaint is about a Councillor, to the Mayor of the appropriate Council; and

(b) may make recommendations as to the action to be taken as a result of the investigation.
(3) If the Ombudsman makes a report or recommendations under subsection (2) or (2A), the Ombudsman—

(a) must send a copy—

(i) to the responsible Minister for the authority or protected disclosure entity (unless the Ombudsman has made the report or recommendations to the responsible Minister under subsection (2)); and

(ii) if the authority is a member of staff of a Council, to the Mayor of the Council; and

(b) may send a copy to the Premier.

(4) Where, under subsection (2) or (2A), the Ombudsman makes recommendations to the principal officer of, or responsible Minister for, an authority or a protected disclosure entity, or the Mayor of the appropriate Council, the Ombudsman may request the principal officer or responsible Minister or Mayor to notify the Ombudsman within a specified time of the steps that have been or are proposed to be taken to give effect to the recommendations or, if no such steps have been or are proposed to be taken, the reasons therefor.
(5) Where it appears to the Ombudsman that no steps that seem to the Ombudsman to be appropriate have been taken within a reasonable time of the making of any report or recommendations under subsection (2) or (2A) the Ombudsman may, after considering the comments (if any) made by or on behalf of the principal officer or responsible Minister or Mayor to whom the report or recommendations were made, send—

(a) to the Governor in Council; and

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

(c) where the report relates to a relevant protected disclosure complaint about a Councillor or a member of staff of a Council, to the Mayor of the Council—a copy of the report and the recommendations together with a copy of any such comments.

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

(6A) The Ombudsman must not include in a recommendation under subsection (2) or (2A) any information that—
23A Report on investigation—relevant protected disclosure complaints about members of Parliament

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

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

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

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

(1) If the Ombudsman conducts an investigation on a complaint or a relevant protected disclosure complaint, or takes any other action on a complaint, the Ombudsman must inform the complainant or person who made the relevant protected disclosure complaint of the following—
(a) the result of the investigation or other action;

(b) if the Ombudsman has made any recommendations under section 23(2) or (2A) and it appears that appropriate steps have not been taken within a reasonable time of making those recommendations—

(i) the recommendations; and

(ii) any comments on the recommendations that the Ombudsman thinks fit.

(2) The Ombudsman may disclose to a complainant or person who made a relevant protected disclosure complaint any information that the Ombudsman thinks proper, in addition to any information disclosed under subsection (1).

(3) The Ombudsman must not disclose any information under this section if the Ombudsman considers that the disclosure of the information would—

(a) not be in the public interest or in the interests of justice; or

(b) put a person's safety at risk; or

(c) cause unreasonable damage to a person's reputation; or

(d) prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or

(e) otherwise contravene any applicable statutory secrecy obligations or involve the unreasonable disclosure of information relating to the personal affairs of any person.
(4) Information disclosed under this section to a person who made a relevant protected disclosure complaint must include a written statement advising the recipient that it is an offence under section 26FA to disclose the information.
Part V—Annual and other reports

25 Annual and other reports to Parliament

(1) The Ombudsman must make a report to Parliament on the performance of the Ombudsman's functions during each financial year.

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

(2) The Ombudsman may at any time make a report to Parliament on any matter arising in connection with the performance of the Ombudsman's functions.

(3) Nothing in this section limits the Ombudsman's right to make a report to Parliament under any other provision of this Act.

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

(1) The Ombudsman must cause a report under section 23(6) or 25 to be transmitted to each House of the Parliament—

(a) in the case of a report under section 25(1)—as soon as practicable after the end of the financial year to which it relates;

(b) in the case of a report under subsection 23(6) or 25(2)—as soon as practicable after it is completed.

(2) The clerk of each House of the Parliament must cause the report to be laid before the House on the day on which it is received or on the next sitting day of the House.
(3) If the Ombudsman proposes to transmit a report to Parliament when Parliament is in recess, the Ombudsman must—

(a) give one business day's notice of intention to do so to the clerk of each House of the Parliament; and

(b) give the report to the clerk of each House on the day indicated in the notice; and

(c) publish the report on the Ombudsman's Internet website as soon as practicable after giving it to the clerks.

(4) The clerk of each House must—

(a) notify each member of the House of the receipt of a notice under subsection (3)(a) on the same day that the clerk receives that notice; and

(b) give a copy of a report to each member of the House as soon as practicable after the report is received under subsection (3)(b); and

(c) cause the report to be laid before the House on the next sitting day of the House.

(5) A report that is given to the clerks under subsection (3)(b) is taken to have been published by order, or under the authority, of the Houses of the Parliament.

(6) The publication of a report by the Ombudsman under subsection (3)(c) is absolutely privileged and the provisions of sections 73 and 74 of the Constitution Act 1975 and any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the report as if it were a report to which those sections applied and
had been published by the Government Printer under the authority of the Parliament.

(7) For the purposes of this section, Parliament is in recess when neither House is sitting.

25AB  Transmission of section 16 reports

The Ombudsman must send a report under section 16 to—

(a) the President of the Legislative Council, if the matter was referred by the Legislative Council or a committee of the Legislative Council; or

(b) the Speaker of the Legislative Assembly, if the matter was referred by the Legislative Assembly or a committee of the Legislative Assembly; or

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

25A  Content of reports

(1) The Ombudsman must not include in a report under this Act—

(a) any information that the Ombudsman considers would prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or

(b) any information, or information in any document, referred to in section 19, 19A or 19B; or

S. 25AA(7) substituted by No. 30/2016 s. 68.
S. 25AB inserted by No. 82/2012 s. 242.
S. 25A inserted by No. 102/1998 s. 37, substituted by No. 82/2012 s. 243.
S. 25A(1)(b) amended by No. 85/2012 s. 164(1).
(c) a finding or an opinion that a specified person is guilty of or has committed, is committing or is about to commit an offence; or

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

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

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

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

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

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

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

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

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

S. 25A(1A) inserted by No. 85/2012 s. 164(2).
25B Persons who receive proposed or draft reports or information in them

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

(a) the disclosure is permitted under subsection (3); and

(b) the advice required by subsection (7) is given at the same time the disclosure is made.

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

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

(a) for a report that is to be laid before a House of the Parliament, the time when the report is so laid; or

(b) for any other report, the time when the report is made by the Ombudsman.

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

(a) is made in accordance with a direction or authorisation given by the Ombudsman; or

(b) is made by an officer of an authority or a protected disclosure entity, the responsible Minister for an authority or a protected disclosure entity or a member of staff of the responsible Minister to other officers of the authority or protected disclosure entity, the responsible Minister or other members of staff of the responsible Minister for the purposes of enabling the authority or
protected disclosure entity or the responsible Minister to respond to the proposed report or draft or part of the proposed report; or

(c) is made by a member of staff of a Council to the Mayor of the Council or by the Mayor to a member of staff of the Council for the purposes of enabling the Council to respond to the proposed report or draft or part of the proposed report; or

(d) subject to any direction given under section 18C(3), is made for the purposes of obtaining legal advice or representation in relation to the proposed report or draft or part of the proposed report; or

(e) is otherwise authorised or required to be made by or under this Act.

(4) Despite subsection (1), a disclosure is permitted if the disclosure is made for the purposes of making a complaint about the conduct of an Ombudsman officer—

(a) to the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

(b) to the Victorian Inspectorate under the Victorian Inspectorate Act 2011.

(5) Despite subsection (1), a disclosure is permitted if the disclosure is made for the purposes of complying with—

(a) a witness summons served on a person by the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

(b) a witness summons served on a person by the Victorian Inspectorate under the Victorian Inspectorate Act 2011.
(6) Despite subsection (1), a disclosure is permitted if the disclosure is made after the information is laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with the Act.

(7) A person who makes a disclosure of information permitted by subsection (3) must advise any person to whom the disclosure is made that this section applies in relation to the subsequent disclosure of that information by the person to whom the disclosure is made.

(8) Proceedings may only be instituted for an offence under subsection (1)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

26 Rules of Parliament

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

Division 1—Confidentiality requirements for Ombudsman officers

26A Unauthorised disclosure

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

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

(b) for the purposes of—

(i) proceedings for an offence; or

(ii) a disciplinary process or action—

instituted as a result of an investigation conducted by the Ombudsman; or

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

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

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

Penalty: 120 penalty units or imprisonment for 12 months or both.
Note
The person may be subject to further confidentiality obligations under Part 7 of the Protected Disclosure Act 2012.

(2) Proceedings may only be instituted for an offence under subsection (1)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

(3) This section does not apply to the provision or disclosure of information by the Ombudsman officer in accordance with section 16I, 16J, 16K, 16L, 16M or 17.

26B Taking advantage of information

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

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

(2) Proceedings may only be instituted for an offence under subsection (1)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

Division 2—Confidentiality notices

26C Confidentiality notice

(1) During an investigation—

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

(ii) to prejudice the safety or reputation of a person; or

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

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

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

(2) A confidentiality notice must—

(a) be in the form (if any) prescribed by Rules of Parliament made under this Act;

(b) specify the restricted matter or restricted matters in respect of which the confidentiality notice is issued;

(c) include a copy of the provisions of subsections (3) to (7) and sections 26D and 26F and an explanation of the effect of those provisions;
(ca) include a statement—

(i) advising the person to whom the confidentiality notice is issued that additional obligations under the Protected Disclosure Act 2012 relating to confidentiality may apply to the person; and

(ii) directing the person to the provisions of that Act which impose those obligations;

(d) if a restricted matter specified in the confidentiality notice is the fact that the person has given, or may give, evidence, or has produced, or may produce, any document or thing, at a compulsory appearance or a voluntary appearance, specify that the Ombudsman authorises the person to whom the confidentiality notice is issued to disclose the restricted matter to—

(i) the person's spouse or domestic partner; and

(ii) the principal officer (if any) of the authority or protected disclosure entity to which the investigation relates; and

(iii) the person's employer or manager or both, for the purpose of enabling the person to take the appropriate leave from their employment in order to appear—

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

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

(a) a notice cancelling the previous confidentiality notice; and

(b) a new confidentiality notice in respect of that investigation under subsection (1).

(4) If at any time the Ombudsman considers on reasonable grounds that disclosure of a particular restricted matter specified in a confidentiality notice in respect of a particular investigation would no longer be likely to have the effect specified in subsection (1)(a) or (b), the Ombudsman must issue to the person to whom the confidentiality notice was issued—

(a) a notice cancelling the previous confidentiality notice; and

(b) a new confidentiality notice in respect of that investigation under subsection (1).

(5) If at any time the Ombudsman considers on reasonable grounds that disclosure of the restricted matter or restricted matters specified in a confidentiality notice in respect of a particular investigation would no longer be likely to have the effect specified in subsection (1)(a) or (b), the Ombudsman must issue to the person to whom the confidentiality notice was issued a notice cancelling the confidentiality notice.

(6) At the conclusion of an investigation in respect of which a confidentiality notice was issued, the Ombudsman must issue to the person to whom the confidentiality notice was issued a notice cancelling the confidentiality notice, unless—
(a) the Ombudsman has applied for an order under section 26D extending the confidentiality notice and the application has not been determined; or

(b) the Supreme Court has made an order under section 26D extending the confidentiality notice; or

(c) the confidentiality notice has already been cancelled under subsection (3), (4) or (5) or section 26D(3).

(7) A confidentiality notice in respect of a particular investigation ceases to have effect on whichever of the following occurs first—

(a) the date on which the Ombudsman issues a notice cancelling the confidentiality notice under subsection (3), (4), (5) or (6) or section 26D(3);

(b) the date specified in an order under section 26D extending the confidentiality notice.

(8) A confidentiality notice under subsection (1) or a notice cancelling a confidentiality notice under subsection (3), (4), (5) or (6) may be issued to a person by serving a copy on the person in the same manner that a witness summons can be served.

26D Extension of confidentiality notice

(1) If, before the conclusion of an investigation in respect of which a confidentiality notice has been issued, the Ombudsman considers on reasonable grounds that it is necessary to extend the confidentiality notice for a period following the investigation, the Ombudsman may apply to the Supreme Court for an order extending the confidentiality notice.
(2) On an application under subsection (1), the Supreme Court may, by order, extend a confidentiality notice to a date specified in the order, if the Supreme Court is satisfied that disclosure of the restricted matter or restricted matters specified in the confidentiality notice before that date would be likely to have the effect specified in section 26C(1)(a) or (b).

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

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

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

26E Ombudsman to provide Victorian Inspectorate with copies

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

(a) each confidentiality notice issued by the Ombudsman;

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

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

26F Disclosure subject to confidentiality notice

(1) Subject to subsections (2), (3), (4) and (5), a person who—

(a) is duly served with a confidentiality notice and, if applicable, a copy of any order extending the confidentiality notice; or

(b) receives a copy of a confidentiality notice under subsection (6) or (7) and, if applicable, a copy of any order extending the confidentiality notice—

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

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

(2) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made in any of the following circumstances—

(a) in accordance with a direction or authorisation given by the Ombudsman;

(b) to any person where necessary for the purposes of obtaining any information, document or other thing to comply with a witness summons or a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice, including if the person—
(i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons or confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice, to an interpreter;

(ii) is a person under the age of 18 years, to a parent, guardian or independent person;

(iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice without assistance, to an independent person;

(c) subject to any direction given under section 18C(3), for the purposes of obtaining legal advice or representation in relation to—

(i) an enquiry or investigation conducted by the Ombudsman under this Act; or

(ii) the person's rights, liabilities, obligations and privileges under this Act or the Protected Disclosure Act 2012;

(d) by a legal practitioner who receives a disclosure in the circumstances specified in paragraph (c), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from their professional relationship with their client;

(e) as is otherwise authorised or required to be made by or under this Act.
(3) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made for the purposes of making—

(a) a complaint to the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

(b) a complaint to the Victorian Inspectorate under the Victorian Inspectorate Act 2011.

(4) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made for the purposes of complying with—

(a) a witness summons served on a person by the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

(b) a witness summons served on a person by the Victorian Inspectorate under the Victorian Inspectorate Act 2011.

(5) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure made is of information that has been laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with this Act.

(6) A person who makes a disclosure of information permitted by subsection (2) must, when making the disclosure, provide the person to whom the disclosure is made with a copy of the confidentiality notice and of any order extending the confidentiality notice, unless the person has a reasonable excuse for not doing so.

Penalty: 120 penalty units or imprisonment for 12 months or both.
(7) If in respect of a particular investigation a person who makes a disclosure of information permitted by subsection (2) receives a new confidentiality notice, a notice cancelling the confidentiality notice or an order extending the confidentiality notice, the person must as soon as reasonably practicable provide a copy of the new confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice to each person to whom the disclosure has been made, unless the person has a reasonable excuse for not doing so.

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

(8) Proceedings may only be instituted for an offence under subsection (1), (6) or (7)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

Note

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons or confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice or this section, to an interpreter;

(ii) is a person under the age of 18 years, to a parent, guardian or independent person;

(iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, confidentiality notice, notice cancelling the confidentiality notice or order extending the confidentiality notice or this section without assistance, to an independent person;

(b) disclosure for the purposes of obtaining legal advice or representation in relation to—

(i) an investigation conducted by the Ombudsman under this Act; or

(ii) the person's rights, liabilities, obligations and privileges under this Act or the Protected Disclosure Act 2012;

(c) disclosure by a legal practitioner who receives a disclosure in the circumstances specified in paragraph (b), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from their professional relationship with their client;
(d) disclosure for the purpose of making—

   (i) a complaint to the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

   (ii) a complaint to the Victorian Inspectorate under the Victorian Inspectorate Act 2011;

(e) disclosure for the purpose of complying with—

   (i) a witness summons served on a person by the IBAC under the Independent Broad-based Anti-corruption Commission Act 2011; or

   (ii) a witness summons served on a person by the Victorian Inspectorate under the Victorian Inspectorate Act 2011;

(f) disclosure of information that has been laid before a House of the Parliament in a report by the Ombudsman or has otherwise been made public in accordance with this Act;

(g) disclosure to a person's spouse or domestic partner;

(h) disclosure to a person's employer or manager or both;

(i) disclosure as is otherwise authorised or required to be made by or under this Act.

(6) Proceedings may only be instituted for an offence against subsection (1), (2), (3) or (4)—

   (a) by the Ombudsman; or

   (b) by or with the consent of the Director of Public Prosecutions.
Part VB—Oversight of the Ombudsman

26G Oversight by Victorian Inspectorate

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

26H Oversight by Accountability and Oversight Committee

(1) The functions of the Accountability and Oversight Committee under this Act are—

(a) to monitor and review the performance of the duties and functions of the Ombudsman;

(b) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Ombudsman that requires the attention of the Parliament;

(c) to examine any reports by the Ombudsman that are laid before a House of the Parliament.

(2) Despite anything to the contrary in subsection (1), the Accountability and Oversight Committee cannot—

(a) investigate a matter relating to particular conduct the subject of any particular complaint, protected disclosure complaint, referred complaint or referred matter;

(b) review any decision to investigate, not to investigate or to discontinue an investigation of, a particular complaint, protected disclosure complaint, referred complaint or referred matter;
Ombudsman Act 1973
No. 8414 of 1973
Part VB—Oversight of the Ombudsman

(c) review any findings, recommendations, determinations or other decisions of the Ombudsman in relation to a particular complaint, protected disclosure complaint, referred complaint or referred matter or an investigation conducted by the Ombudsman;

(d) disclose any information relating to the performance of a function or duty or the exercise of a power by the Ombudsman which may—

(i) prejudice any criminal proceedings or criminal investigations, or investigations by the Ombudsman, the IBAC or the Victorian Inspectorate; or

(ii) contravene any secrecy or confidentiality provision in any relevant Act.

26I Powers and procedures of Accountability and Oversight Committee

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

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

* * * * *

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

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

(1) Notwithstanding any provision to the contrary in any enactment where a letter written by a person in custody on a charge or after conviction of an offence or by a patient in a designated mental health service within the meaning of the Mental Health Act 2014 or residential service, residential institution or residential treatment facility within the meaning of the Disability Act 2006 is addressed to the Ombudsman it shall immediately be forwarded unopened to the Ombudsman by the person in charge.
(1A) Despite anything to the contrary in any Act (other than subsection (3)), if a letter written by the Ombudsman is addressed to a person in custody on a charge or after conviction of an offence or to a patient in a designated mental health service within the meaning of the Mental Health Act 2014 or residential service, residential institution or residential treatment facility within the meaning of the Disability Act 2006, it must immediately be forwarded unopened to the person to whom it is addressed by the person for the time being in charge.

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

(2A) Proceedings may only be instituted for an offence under subsection (2)—

(a) by the Ombudsman; or

(b) by or with the consent of the Director of Public Prosecutions.

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

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

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

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

(5) In this section, person in charge means the person who is for the time being in charge of the place, service or institution where the writer of the letter, or the person to whom the letter is addressed (as the case requires) is detained or is a patient.

29 Protection of the Ombudsman and officers of the Ombudsman

(1) Neither the Ombudsman nor any of the Ombudsman's officers shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which the Ombudsman or the officer would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act, unless the act was done in bad faith.

(2) No civil or criminal proceedings shall be brought against the Ombudsman or any of the Ombudsman's officers in respect of any act referred to in subsection (1) without the leave of the Supreme Court, and the Supreme Court shall not give leave unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith.

(3) Despite subsections (1) and (2)—

(a) no order shall be made—

(i) restraining the Ombudsman from carrying out, or compelling the Ombudsman to carry out, an
Ombudsman Act 1973
No. 8414 of 1973
Part VI—Miscellaneous

enquiry to determine whether an investigation should be conducted; or

(ii) restraining the Ombudsman from carrying out, or compelling the Ombudsman to carry out, any investigation; or

(iii) restraining the Ombudsman from making, or compelling the Ombudsman to make a report; or

(iv) restraining the Ombudsman from making, or compelling the Ombudsman to make a recommendation; and

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

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

29A Exemption from Freedom of Information Act 1982

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

(a) a complaint, a referred complaint, a referred matter or a matter referred to the Ombudsman under section 16; or

(b) an enquiry or investigation conducted under this Act; or
(c) a recommendation made by the Ombudsman under this Act; or

(d) a report made under this Act or a draft of a report.

(2) In this section—

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

29B Evidence

Information obtained or received by a party from the Ombudsman in the course of or as a result of the performance of the Ombudsman's functions under this Act is not admissible in evidence (if given by that party) in any legal proceedings other than proceedings in relation to—

(a) an offence against this Act; or

(b) an offence against section 19 of the Evidence (Miscellaneous Provisions) Act 1958; or

(c) an offence against section 45, section 72 or section 73 of the Protected Disclosure Act 2012; or

(d) an action for damages brought under section 47 of the Protected Disclosure Act 2012; or

(e) an application for an injunction or order under section 50 of the Protected Disclosure Act 2012.

30 Penalties

Unless another penalty is specified in the provision creating the offence, a person who is guilty of an offence against this Act shall be liable to a penalty not exceeding $1000 or imprisonment for 12 months or to both such penalty and imprisonment.
30A **Supreme Court—limitation of jurisdiction**

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

31 **Rules of Parliament**

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

(2) Subject to this Act the functions of the Ombudsman shall be exercised in accordance with the Rules of Parliament made under this Act.

(3) The Rules of Parliament referred to in this section are Rules that have been agreed upon by both Houses of Parliament in accordance with the Rules and Orders thereof.


32 **Administration of Act**

Except as otherwise expressly provided in this Act the expenses incurred in the administration of this Act shall be defrayed out of the moneys to be provided by Parliament for that purpose.
Part VII—Saving and transitional provisions

33 Validity of certain actions taken by Ombudsman

(1) Without limiting the effect of section 13(3AA), the following actions are taken to be and always to have been valid to the extent (if any) that they were not authorised because of the effect of section 13(3)(aa) as in force before the commencement day—

(a) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity before the commencement day;

(b) any act or action taken or decision made by, or on behalf of, the Ombudsman concerning—

(i) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity before the commencement day; or

(ii) any complaint received by the Ombudsman concerning the Director, Police Integrity or the Office of Police Integrity before the commencement day.

(2) Without limiting the effect of section 13(3AA), any enquiry into or investigation by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity may relate to
conduct that occurred before the commencement day.

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

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

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

35 Transitional provisions—Integrity and Accountability Legislation Amendment Act 2012

(1) Subject to this section, this Act, as in force immediately before the commencement day, continues to apply on and after the commencement day to—

(a) a complaint made before the commencement day under section 14;

(b) an investigation begun before the commencement day under section 14(1) on the Ombudsman's own motion;

(c) a matter referred to the Ombudsman before the commencement day under section 16 for investigation and report;

(d) a review begun before the commencement day under section 13(2AB).

(2) Section 18, as amended by section 233 of the amending Act, applies to a witness summons issued on or after the commencement day,
including a witness summons issued in relation to a complaint, investigation, matter or review referred to in subsection (1).

(3) Sections 18A and 18B apply in relation to a witness summons issued on or after the commencement day, including a witness summons issued in relation to a complaint, investigation, matter or review referred to in subsection (1).

(4) A summons issued by the Ombudsman under section 17 of the Evidence (Miscellaneous Provisions) Act 1958 to a person who is under the age of 16 years that was in force immediately before the commencement day ceases to have any force or effect on and from that day.

(5) Section 18C applies on and after the commencement day including in relation to a complaint, investigation, matter or review referred to in subsection (1). However, section 18C(3) applies only in relation to—

(a) a witness summons issued on or after the commencement day; or

(b) a compulsory appearance on or after that day; or

(c) a proposed report, or draft or part of a proposed report, under this Act received by a person on or after that day.

(6) Sections 18D, 18E, 18F and 18G apply to a compulsory appearance or voluntary appearance (as the case requires) on or after the commencement day, including a compulsory or voluntary appearance in relation to a complaint, investigation, matter or review referred to in subsection (1).
(7) Section 24, as amended by section 240 of the amending Act, applies on and after the commencement day including in relation to a complaint referred to in subsection (1)(a).

(8) Section 25A applies to a report made on or after the commencement day, including a report made in relation to a complaint, investigation, matter or review referred to in subsection (1).

(9) Section 25B applies to a person who receives a proposed report, or a draft or part of a proposed report or information contained in a proposed report or draft or part of a proposed report, on or after the commencement day, including a proposed report, or a draft or part of a proposed report or information contained in a proposed report or draft or part of a proposed report, in relation to a complaint, investigation, matter or review referred to in subsection (1).

(10) Part VA, as inserted by section 244 of the amending Act, applies to information acquired on or after the commencement day, including information acquired on or after the commencement day in relation to a complaint, investigation, matter or review referred to in subsection (1).

(11) Section 20(5), as inserted by section 235(3) of the amending Act, applies on and after the commencement day in relation to a complaint, investigation, matter or review referred to in subsection (1).

(12) For a complaint, investigation or matter referred to in subsection (1) that involves administrative action taken by the Director, Police Integrity or by or in the Office of Police Integrity, this Act applies on or after the commencement day as if—
(a) a reference to the relevant authority were a reference to the IBAC; and

(b) a reference to the principal officer were a reference to the Commissioner within the meaning of the Independent Broad-based Anti-corruption Commission Act 2011; and

(c) a reference to the responsible Minister were a reference to the Minister administering the Independent Broad-based Anti-corruption Commission Act 2011.

(13) The Ombudsman must give the IBAC any document, information or other thing in the Ombudsman’s possession that is reasonably required by the IBAC for the performance of functions under Part 8 of the Independent Broad-based Anti-corruption Commission Act 2011.

(14) The Ombudsman may make and retain a copy of any document, information or other thing given to the IBAC under subsection (13) if it is necessary to do so for the performance of the Ombudsman’s functions or duties or the exercise of the Ombudsman’s powers under this or any other Act.

(15) In this section—

amending Act means the Integrity and Accountability Legislation Amendment Act 2012;

commencement day means the day on which Division 1 of Part 7 of the amending Act comes into operation.
## Schedules

### Schedule 1—Specified entities

Section 2(1)

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Office of the Commissioner for Environmental Sustainability</td>
<td>Commissioner for Environment Sustainability</td>
<td>Minister administering the Commissioner for Environmental Sustainability Act 2003</td>
</tr>
<tr>
<td>2</td>
<td>Office of the Essential Services Commission</td>
<td>The Chairperson within the meaning of the Essential Services Commission Act 2001</td>
<td>Minister administering the Essential Services Commission Act 2001</td>
</tr>
<tr>
<td>4</td>
<td>Office of the Victorian Legal Services Commissioner</td>
<td>Victorian Legal Services Commissioner</td>
<td>Minister administering the Legal Profession Uniform Law Application Act 2014</td>
</tr>
</tbody>
</table>
**Schedule 1—Specified entities**

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Office of the Commissioner for Privacy and Data Protection</td>
<td>Commissioner for Privacy and Data Protection</td>
<td>Minister administering the Privacy and Data Protection Act 2014</td>
</tr>
<tr>
<td>6</td>
<td>Office of Public Prosecutions</td>
<td>Solicitor for Public Prosecutions</td>
<td>Minister administering the Public Prosecutions Act 1994</td>
</tr>
<tr>
<td>7</td>
<td>Office of the Road Safety Camera Commissioner</td>
<td>Road Safety Camera Commissioner</td>
<td>Minister administering the Road Safety Camera Commissioner Act 2011</td>
</tr>
<tr>
<td>8</td>
<td>Office of the Taxi Services Commission</td>
<td>Chairperson of the Commission</td>
<td>Minister administering Division 3 of Part 5 of the Transport Integration Act 2010</td>
</tr>
<tr>
<td>9</td>
<td>Victorian Commission for Gambling and Liquor Regulation</td>
<td>Chairperson of the Commission</td>
<td>Minister administering the Victorian Commission for Gambling and Liquor Regulation Act 2011</td>
</tr>
</tbody>
</table>
### Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Victorian Multicultural Commission</td>
<td>Chairperson of the Commission</td>
<td>Minister administering the Multicultural Victoria Act 2011</td>
</tr>
<tr>
<td>12</td>
<td>State Trustees</td>
<td>The Chair of State Trustees</td>
<td>Minister administering the State Trustees (State Owned Company) Act 1994</td>
</tr>
<tr>
<td>13</td>
<td>A public statutory body that is not specified elsewhere in this Schedule</td>
<td>The chairperson or presiding member of the body</td>
<td>For a body established by or under an Act, the Minister administering the provision of the Act under which the body is constituted or established. In any other case, the Minister who is responsible for the body.</td>
</tr>
<tr>
<td>14</td>
<td>The holder of an office established by or under an Act to which the right to appoint is vested in the Governor in Council or a Minister</td>
<td>There is no principal officer</td>
<td>The Minister administering the provision of the Act by or under which the office is established.</td>
</tr>
<tr>
<td>15</td>
<td>A member of staff of a Council</td>
<td>The Chief Executive Officer of the Council</td>
<td>Minister administering Part 4 of the Local Government Act 1989</td>
</tr>
</tbody>
</table>
## Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>A person in the person's capacity as a delegate of the Victorian WorkCover Authority administering claims under the <strong>Workers Compensation Act 1958</strong></td>
<td>The delegate or, if the delegate is a body corporate, the senior executive officer of the delegate (by whatever title known)</td>
<td>Minister administering Part 11 of the <strong>Workplace Injury Rehabilitation and Compensation Act 2013</strong></td>
</tr>
<tr>
<td>17</td>
<td>A person in the person's capacity as an authorised agent of the Victorian WorkCover Authority under the <strong>Workplace Injury Rehabilitation and Compensation Act 2013</strong></td>
<td>The authorised agent or, if the authorised agent is a body corporate, the senior executive officer of the authorised agent (by whatever title known)</td>
<td>Minister administering Part 11 of the <strong>Workplace Injury Rehabilitation and Compensation Act 2013</strong></td>
</tr>
<tr>
<td>18</td>
<td>A body corporate in its capacity as a self-insurer under the <strong>Workplace Injury Rehabilitation and Compensation Act 2013</strong></td>
<td>The senior executive officer of the self-insurer (by whatever title known)</td>
<td>Minister administering Part 8 of the <strong>Workplace Injury Rehabilitation and Compensation Act 2013</strong></td>
</tr>
<tr>
<td>19</td>
<td>A registered community service within the meaning of section 3(1) of the <strong>Children, Youth and Families Act 2005</strong> in its capacity as carrying out any duty or function or exercising any power under that Act</td>
<td>The person in charge of the registered community service</td>
<td>Minister administering Chapter 2 of the <strong>Children, Youth and Families Act 2005</strong></td>
</tr>
</tbody>
</table>
## Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>A person authorised under section 18 or 19 of the <em>Children, Youth and Families Act 2005</em> in the person's capacity as carrying out any duty or function or exercising any power under that Act</td>
<td>The Secretary within the meaning of section 3(1) of the <em>Children, Youth and Families Act 2005</em></td>
<td>Minister administering Chapter 2 of the <em>Children, Youth and Families Act 2005</em></td>
</tr>
<tr>
<td>21</td>
<td>A person in the person's capacity as an authorised assessor under Division 5 of Part 3.3 of the <em>Children, Youth and Families Act 2005</em></td>
<td>The Secretary within the meaning of section 3(1) of the <em>Children, Youth and Families Act 2005</em></td>
<td>Minister administering Division 5 of Part 3.3 of the <em>Children, Youth and Families Act 2005</em></td>
</tr>
<tr>
<td>22</td>
<td>A person in the person's capacity as an authorised investigator under Division 4 of Part 3.4 of the <em>Children, Youth and Families Act 2005</em></td>
<td>The Secretary within the meaning of section 3(1) of the <em>Children, Youth and Families Act 2005</em></td>
<td>Minister administering Division 4 of Part 3.4 of the <em>Children, Youth and Families Act 2005</em></td>
</tr>
<tr>
<td>23</td>
<td>A contractor within the meaning of section 3(1) of the <em>Corrections Act 1986</em> in its capacity as a provider of services under that Act</td>
<td>The holder of the office specified in the agreement under section 8B(1), 9(1) or 9AA of the <em>Corrections Act 1986</em> for the purposes of the application of this Act to the contractor</td>
<td>Minister administering Part 2A of the <em>Corrections Act 1986</em></td>
</tr>
</tbody>
</table>
Ombudsman Act 1973  
No. 8414 of 1973  
Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>A sub-contractor within the meaning of section 3(1) of the <strong>Corrections Act 1986</strong> in its capacity as a manager of a prison or police gaol under a sub-contract agreement</td>
<td>The holder of the office specified in the sub-contract agreement for the purposes of the application of this Act to the sub-contractor</td>
<td>Minister administering Part 2A of the <strong>Corrections Act 1986</strong></td>
</tr>
<tr>
<td>25</td>
<td>A contractor within the meaning of section 2(1) of the <strong>Court Security Act 1980</strong> in its capacity as a provider of court security services under that Act</td>
<td>The holder of the office specified in the agreement under section 2C of the <strong>Court Security Act 1980</strong> for the purposes of the application of this Act to the contractor</td>
<td>Minister administering section 2C of the <strong>Court Security Act 1980</strong></td>
</tr>
<tr>
<td>26</td>
<td>A person appointed as an authorised officer under section 71A(1) of the <strong>Domestic Animals Act 1994</strong></td>
<td>There is no principal officer</td>
<td>Minister administering the <strong>Domestic Animals Act 1994</strong></td>
</tr>
<tr>
<td>27</td>
<td>A person appointed as an authorised officer under section 72A(1) of the <strong>Domestic Animals Act 1994</strong></td>
<td>The Mayor of the relevant Council</td>
<td>Minister administering the <strong>Domestic Animals Act 1994</strong></td>
</tr>
</tbody>
</table>
## Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>A contractor or sub-contractor within the meaning of section 69A of the <strong>Health Services Act 1988</strong> in its capacity as a provider of health services to public hospital patients at the hospital in accordance with an agreement under section 69B(1) of that Act or a sub-contract agreement</td>
<td>The holder of the office specified in the agreement under section 69B(1) of the <strong>Health Services Act 1988</strong> or the sub-contract agreement for the purposes of the application of this Act to the contractor or sub-contractor</td>
<td>Minister administering Part 3A of the <strong>Health Services Act 1988</strong></td>
</tr>
<tr>
<td>29</td>
<td>A contractor within the meaning of section 124A of the <strong>Magistrates’ Court Act 1989</strong> in its capacity as a provider of services under an agreement under section 124B(1) of that Act</td>
<td>The holder of the office specified in the agreement under section 124B(1) of the <strong>Magistrates’ Court Act 1989</strong> for the purposes of the application of this Act to the contractor</td>
<td>Minister administering Part 6A of the <strong>Magistrates’ Court Act 1989</strong></td>
</tr>
<tr>
<td>30</td>
<td>A sub-contractor within the meaning of section 124A of the <strong>Magistrates’ Court Act 1989</strong> in its capacity as a provider of services under a sub-contract agreement under that Act</td>
<td>The holder of the office specified in the sub-contract agreement for the purposes of the application of this Act to the contractor</td>
<td>Minister administering Part 6A of the <strong>Magistrates’ Court Act 1989</strong></td>
</tr>
<tr>
<td>Item</td>
<td>Specified entity</td>
<td>Principal officer</td>
<td>Responsible Minister</td>
</tr>
<tr>
<td>------</td>
<td>------------------</td>
<td>-------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>31</td>
<td>An approved inspection service within the meaning of section 3(1) of the Plant Biosecurity Act 2010 in its capacity as a provider of services under an agreement under section 66 of that Act</td>
<td>The holder of the office specified in the agreement under section 66 of the Plant Biosecurity Act 2010 for the purposes of the application of this Act to the approved inspection service</td>
<td>Minister administering Division 2 of Part 7 of the Plant Biosecurity Act 2010</td>
</tr>
</tbody>
</table>
## Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>33</td>
<td>A person in the person's capacity as an authorised officer within the meaning of section 3(1) of the <strong>Public Health and Wellbeing Act 2008</strong></td>
<td>For a person appointed by a Council under section 29 of the <strong>Public Health and Wellbeing Act 2008</strong>, the Chief Executive Officer of the Council For a person appointed under section 30 of the <strong>Public Health and Wellbeing Act 2008</strong>, the Secretary within the meaning of section 3(1) of that Act For a person appointed by a Council under section 224(1) of the <strong>Local Government Act 1989</strong>, the Chief Executive Officer of the Council</td>
<td>Minister administering Part 9 of the <strong>Public Health and Wellbeing Act 2008</strong></td>
</tr>
<tr>
<td>33A</td>
<td>A person in the person's capacity as a taxi compliance officer within the meaning of section 228RA of the <strong>Transport (Compliance and Miscellaneous) Act 1983</strong></td>
<td>A Commissioner within the meaning of section 115I of the <strong>Transport Integration Act 2010</strong></td>
<td>Minister administering Division 4ABA of Part VII of the <strong>Transport (Compliance and Miscellaneous) Act 1983</strong></td>
</tr>
</tbody>
</table>
### Schedule 1—Specified entities

<table>
<thead>
<tr>
<th>Item</th>
<th>Specified entity</th>
<th>Principal officer</th>
<th>Responsible Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>34</td>
<td>A person in the person's capacity as an authorised officer within the meaning of section 208 of the Transport (Compliance and Miscellaneous) Act 1983</td>
<td>For a person appointed under section 221A of the Transport (Compliance and Miscellaneous) Act 1983, the Secretary within the meaning of section 2(1) of that Act</td>
<td>Minister administering Division 4AA of Part VII of the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For a person appointed under section 221AB of the Transport (Compliance and Miscellaneous) Act 1983, the senior executive officer of the person or body by whom the person is employed or engaged</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Specified entity</td>
<td>Principal officer</td>
<td>Responsible Minister</td>
</tr>
<tr>
<td>------</td>
<td>------------------</td>
<td>-------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>35</td>
<td>A person in the person's capacity as a transport safety officer within the meaning of section 2(1) of the Transport (Compliance and Miscellaneous) Act 1983 (other than a person employed by a public statutory body)</td>
<td>For a person appointed under section 228T of the Transport (Compliance and Miscellaneous) Act 1983 who is employed by or in an authority, the principal officer of the authority For any other person, the senior executive officer (by whatever title he or she is known) of the person's employer</td>
<td>Minister administering Division 4B of Part VII of the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>36</td>
<td>The Victorian Auditor-General's Office</td>
<td>The Auditor-General</td>
<td>Minister administering the Audit Act 1994</td>
</tr>
<tr>
<td>37</td>
<td>A person or body prescribed by Rules of Parliament made under this Act for the purposes of this Schedule</td>
<td>The person prescribed by Rules of Parliament made under this Act as the principal officer of the prescribed person or body</td>
<td>The Minister prescribed by Rules of Parliament made under this Act as the responsible Minister for the prescribed person or body</td>
</tr>
</tbody>
</table>
Schedule 2—Exempt persons and bodies

Section 2(1)

1 Victoria Police and members of Victoria Police personnel

2 The Office of the Governor, the Official Secretary within the meaning of the Public Administration Act 2004 and employees in the Office of the Governor

3 The IBAC and IBAC Officers

4 The Victorian Inspectorate and Victorian Inspectorate Officers

5 A Public Interest Monitor

6 The Chief Examiner and an Examiner appointed under Part 3 of the Major Crime (Investigative Powers) Act 2004

7 A Victorian court or VCAT and any of the following—
   (a) a Judge of the Supreme Court;
   (b) an Associate Judge of the Supreme Court;
   (c) a reserve Judge within the meaning of the Constitution Act 1975;
   (ca) a reserve Associate Judge within the meaning of the Supreme Court Act 1986;
   (d) a Judge or a reserve Judge of the Supreme Court who is appointed or assigned to VCAT;
   (e) a judge of the County Court;
   (f) an associate judge of the County Court;
   (g) a reserve judge within the meaning of the County Court Act 1958;
   (ga) a reserve associate judge within the meaning of the County Court Act 1958;
   (h) a judge or a reserve judge of the County Court who is appointed or assigned to VCAT;
   (i) a magistrate of the Magistrates' Court;
Schedule 2—Exempt persons and bodies

(j) a reserve magistrate within the meaning of the Magistrates' Court Act 1989;

(k) a magistrate or a reserve magistrate who is appointed or assigned to the Coroners Court, the Children's Court or VCAT;

(l) a coroner;

(la) a reserve coroner within the meaning of the Coroners Act 2008;

(m) a judicial registrar of the Supreme Court, the County Court, the Magistrates' Court, the Children's Court or the Coroners Court;

(ma) any other member of the staff of a registrar or office of a court, to the extent that their functions relate to a judicial or quasi-judicial function of the court;

(n) a judicial employee employed under Division 3 of Part 6 of the Public Administration Act 2004;

(o) any other member of VCAT.

8 A board, tribunal (other than VCAT), commission or other body presided over by a judge, magistrate or Australian lawyer presiding as such by virtue of a statutory requirement and appointment

9 A Royal Commission, whether established under the Inquiries Act 2014 or under the prerogative of the Crown, and Royal Commission officers within the meaning of that Act

10 A Board of Inquiry established under the Inquiries Act 2014 and Board of Inquiry officers within the meaning of that Act

10A A Formal Review established under the Inquiries Act 2014 and Formal Review officers within the meaning of that Act
11 A person acting as legal adviser to the Crown or an authority or a protected disclosure entity, or as counsel for the Crown or an authority or a protected disclosure entity in any proceedings, including Crown Prosecutors and Associate Crown Prosecutors

12 The Solicitor-General appointed under the Attorney-General and Solicitor-General Act 1972

13 The Director of Public Prosecutions

14 A person in the capacity of trustee under the Trustee Act 1958 (but not including State Trustees)

15 The Victorian Electoral Commission

16 The Auditor-General

17 The Electoral Boundaries Commission

18 A Department of the Parliament
Schedule 3—Persons and bodies to whom or which the Ombudsman may refer complaints

Section 16I

1 The Auditor-General
2 The Chief Commissioner of Police
3 The Commissioner for Environmental Sustainability
4 The Commissioner for Privacy and Data Protection
5 The Director of Public Prosecutions
6 The Electoral Boundaries Commission
7 The Inspector-General for Emergency Management
8 The Environment Protection Authority
9 The Health Services Commissioner
10 The IBAC
10A The Mental Health Complaints Commissioner

12 The Racing Integrity Commissioner
13 The Road Safety Camera Commissioner
14 The Taxi Services Commission
15 The Victorian Electoral Commission
16 The Victorian Equal Opportunity and Human Rights Commission
17 The Victorian Inspectorate
18 The Victorian WorkCover Authority
19 A coroner
20 A Royal Commission, whether established under the Inquiries Act 2014 or under the prerogative of the Crown
21 A Board of Inquiry established under the Inquiries Act 2014
21A A Formal Review established under the Inquiries Act 2014

22 An inspector of municipal administration appointed under the Local Government Act 1989

23 A person or body prescribed for the purposes of this Schedule by Rules of Parliament made under this Act
Endnotes

1 General information


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

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

• Headings

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

• Examples, diagrams or notes

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).
Ombudsman Act 1973  
No. 8414 of 1973  
Endnotes

- **Punctuation**
  All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**
  All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**
  A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**
  Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).
2 Table of Amendments

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

<table>
<thead>
<tr>
<th>Act Title</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ombudsman (Exemption) Act 1974, No. 8651/1974</td>
<td>17.12.74</td>
<td>17.12.74</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Statute Law Revision Act 1977, No. 9059/1977</td>
<td>29.11.77</td>
<td>29.11.77; subject to s. 2(2)</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Ombudsman (Co-operation) Act 1979, No. 9256/1979</td>
<td>26.6.79</td>
<td>26.6.79</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Mental Health Act 1986, No. 59/1986</td>
<td>3.6.86</td>
<td>S. 143(2)(Sch. 7) on 1.10.87: Government Gazette 30.9.87 p. 2585</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td>Deputy Ombudsman (Police Complaints) Act 1988, No. 14/1988</td>
<td>11.5.88</td>
<td>11.5.88: Government Gazette 11.5.88 p. 1150</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>State Superannuation Act 1988, No. 50/1988</td>
<td>24.5.88</td>
<td>S. 93(2) (Sch. 2 item 42) on 1.7.88: Government Gazette 1.6.88 p. 1487</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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


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

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

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


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


Assent Date: 2.7.96
Commencement Date: S. 33(1) on 16.11.93: s. 2(2); rest of Act on 2.7.96: s. 2(1)
Current State: All of Act in operation
<table>
<thead>
<tr>
<th>Act</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Practice Act 1996, No. 35/1996</strong></td>
<td>6.11.96</td>
<td>S. 453(Sch. 1 item 62) on 1.1.97 s. 2(3)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Audit (Amendment) Act 1997, No. 93/1997</strong></td>
<td>16.12.97</td>
<td>S. 26(2) on 16.12.97; s. 2(1); s. 26(1) on 1.7.98; s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>State Trustees (Amendment) Act 1998, No. 15/1998</strong></td>
<td>28.4.98</td>
<td>S. 10 on 1.7.98: Government Gazette 18.6.98 p. 1511</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998</strong></td>
<td>26.5.98</td>
<td>S. 7(Sch. 1) on 1.7.98; s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Melbourne City Link (Amendment) Act 1998, No. 102/1998</strong></td>
<td>1.12.98</td>
<td>Ss 34–37 on 1.12.98: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Police Regulation (Amendment) Act 1999, No. 61/1999</strong></td>
<td>21.12.99</td>
<td>S. 20(Sch. item 2) on 2.4.00: Government Gazette 30.3.00 p. 569</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Statute Law Revision Act 2000, No. 74/2000</strong></td>
<td>21.11.00</td>
<td>S. 3(Sch. 1 item 92) on 22.11.00: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Information Privacy Act 2000, No. 98/2000</strong></td>
<td>12.12.00</td>
<td>Ss 79, 80 on 1.9.01: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Health Records Act 2001, No. 2/2001</strong></td>
<td>10.4.01</td>
<td>Ss 113, 114 on 1.7.02: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
</tbody>
</table>

Authorised by the Chief Parliamentary Counsel
Whistleblowers Protection Act 2001, No. 36/2001

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


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


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


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

Sex Offenders Registration Act 2004, No. 56/2004

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


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


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


Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 144) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the Ombudsman Act 1973
Legal Profession (Consequential Amendments) Act 2005, No. 18/2005
Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 73) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the Ombudsman Act 1973

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

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

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

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

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

Police Integrity Act 2008, No. 34/2008
Assent Date: 1.7.08
Commencement Date: S. 143(Sch. 2 item 9) on 5.12.08: Special Gazette (No. 340) 4.12.08 p. 1
Current State: This information relates only to the provision/s amending the Ombudsman Act 1973

Public Administration Amendment Act 2009, No. 27/2009
Assent Date: 17.6.09
Commencement Date: Ss 16, 17 on 18.6.09: s. 2(1)
Current State: This information relates only to the provision/s amending the Ombudsman Act 1973

- **Assent Date:** 24.11.09
- **Commencement Date:** S. 54(Sch. Pt 2 item 37) on 1.1.10: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Statute Law Revision Act 2011, No. 29/2011

- **Assent Date:** 21.6.11
- **Commencement Date:** S. 3(Sch. 1 item 64) on 22.6.11: s. 2(1)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**


- **Assent Date:** 29.11.11
- **Commencement Date:** S. 42 on 1.7.12: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Victorian Inspectorate Act 2011, No. 70/2011

- **Assent Date:** 29.11.11
- **Commencement Date:** S. 46 on 1.7.12: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Public Interest Monitor Act 2011, No. 72/2011

- **Assent Date:** 6.12.11
- **Commencement Date:** S. 52 on 18.9.12: Special Gazette (No. 316) 18.9.12 p. 1
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Freedom of Information Amendment (Freedom of Information Commissioner) Act 2012, No. 6/2012

- **Assent Date:** 6.3.12
- **Commencement Date:** Ss 43–47 on 1.12.12: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Statute Law Revision Act 2012, No. 43/2012

- **Assent Date:** 27.6.12
- **Commencement Date:** S. 3(Sch. item 36) on 28.6.12: s. 2(1)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

## Evidence Amendment (Journalist Privilege) Act 2012, No. 52/2012

- **Assent Date:** 18.9.12
- **Commencement Date:** S. 21 on 1.1.13: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

---

Authorised by the Chief Parliamentary Counsel
<table>
<thead>
<tr>
<th>Act</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012</strong></td>
<td>18.12.12</td>
<td>Ss 224–251 on 10.2.13: Special Gazette (No. 32)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Protected Disclosure Act 2012, No. 85/2012</strong></td>
<td>18.12.12</td>
<td>Ss 144–173 on 10.2.13: Special Gazette (No. 32)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Courts Legislation Amendment (Reserve Judicial Officers) Act 2013, No. 5/2013</strong></td>
<td>26.2.13</td>
<td>S. 63 on 17.4.13: Special Gazette (No. 141) 16.4.13 p. 1</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Courts Legislation Amendment (Judicial Officers) Act 2013, No. 63/2013</strong></td>
<td>6.11.13</td>
<td>Ss 93, 94 on 1.2.14: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Workplace Injury Rehabilitation and Compensation Act 2013, No. 67/2013</strong></td>
<td>12.11.13</td>
<td>S. 649(Sch. 9 item 26) on 1.7.14: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Emergency Management Act 2013, No. 73/2013</strong></td>
<td>3.12.13</td>
<td>S. 97 on 1.7.14: Special Gazette (No. 148) 13.5.14 p. 1</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Court Services Victoria Act 2014, No. 1/2014</strong></td>
<td>11.2.14</td>
<td>Ss 69–71 on 1.7.14: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
<tr>
<td><strong>Legal Profession Uniform Law Application Act 2014, No. 17/2014</strong></td>
<td>25.3.14</td>
<td>S. 160(Sch. 2 item 66) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1</td>
<td>This information relates only to the provision/s amending the Ombudsman Act 1973</td>
</tr>
</tbody>
</table>
### Mental Health Act 2014, No. 26/2014
- **Assent Date:** 8.4.14
- **Commencement Date:** S. 455(Sch. item 21) on 1.7.14: s. 2(1)
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

### Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014, No. 35/2014
- **Assent Date:** 13.5.14
- **Commencement Date:** S. 62 on 30.6.14: Special Gazette (No. 188) 17.6.14 p. 1
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

### Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014
- **Assent Date:** 3.6.14
- **Commencement Date:** S. 10(Sch. item 119) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

### Privacy and Data Protection Act 2014, No. 60/2014
- **Assent Date:** 2.9.14
- **Commencement Date:** S. 140(Sch. 3 item 33) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

### Inquiries Act 2014, No. 67/2014
- **Assent Date:** 23.9.14
- **Commencement Date:** S. 147(Sch. 2 item 27) on 15.10.14: Special Gazette (No. 364) 14.10.14 p. 2
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**

### Integrity and Accountability Legislation Amendment (A Stronger System) Act 2016, No. 30/2016
- **Assent Date:** 31.5.16
- **Commencement Date:** Ss 55–62, 63(2), 64–70 on 1.7.16: Special Gazette (No. 194) 21.6.16 p. 1
- **Current State:** This information relates only to the provision/s amending the **Ombudsman Act 1973**
3 Amendments Not in Operation

This publication does not include amendments made to the Ombudsman Act 1973 by the following Act/s.

Judicial Commission of Victoria Act 2016, No. 16/2016

| Assent Date: | 19.4.16 |
| Commencement Date: | Ss 201–203 not yet proclaimed |
| Current State: | This information relates only to the provision/s amending the Ombudsman Act 1973 |

Health Complaints Act 2016, No. 22/2016

| Assent Date: | 3.5.16 |
| Commencement Date: | S. 239 not yet proclaimed |
| Current State: | This information relates only to the provision/s amending the Ombudsman Act 1973 |

Integrity and Accountability Legislation Amendment (A Stronger System) Act 2016, No. 30/2016

| Assent Date: | 31.5.16 |
| Commencement Date: | S. 63(1) on 1.12.16: Special Gazette (No. 194) 21.6.16 p. 1 |
| Current State: | This information relates only to the provision/s amending the Ombudsman Act 1973 |

At the date of this publication, the following provisions amending the Ombudsman Act 1973 were Not in Operation:

Amending Act/s:

Judicial Commission of Victoria Act 2016, No. 16/2016

201 Ombudsman Act 1973—Definitions

Insert the following definition in section 2(1) of the Ombudsman Act 1973—

"Judicial Commission has the same meaning as in Part IIIAA of the Constitution Act 1975;".

202 Ombudsman Act 1973—Disclosure of information by the Ombudsman

After section 16L(2)(h) of the Ombudsman Act 1973 insert—

"(ha) the Judicial Commission;".
203 Ombudsman Act 1973—Amendment of Schedules 2 and 3

(1) For item 7 of Schedule 2 to the Ombudsman Act 1973 substitute—

"7 A Victorian court or VCAT and any of the following—

(a) judicial officers and non-judicial members of VCAT within the meaning of the Judicial Commission of Victoria Act 2016;

(b) any judicial employee employed under Division 3 of Part 6 of the Public Administration Act 2004;

(c) any other member of the staff of a registry or office of a court, to the extent that their functions relate to a judicial or quasi-judicial function of the court

7A The Judicial Commission or an investigating panel under the Constitution Act 1975".

(2) After item 10 of Schedule 3 to the Ombudsman Act 1973 insert—

"10AA The Judicial Commission".

Health Complaints Act 2016, No. 22/2016

239 Schedule 3 amended

For item 9 of Schedule 3 to the Ombudsman Act 1973 substitute—

"9 The Health Complaints Commissioner".
Integrity and Accountability Legislation Amendment
(A Stronger System) Act 2016, No. 30/2016

63 Amendment of section 16E—Notification to IBAC

(1) For section 16E(1) of the Ombudsman Act 1973 substitute—

"(1) Subject to any exemption notice issued under section 57B of the Independent Broad-based Anti-corruption Commission Act 2011, the Ombudsman must notify the IBAC of the following—

(a) a complaint or referred matter that the Ombudsman suspects on reasonable grounds involves corrupt conduct or police personnel misconduct occurring or having occurred;

(b) a matter that the Ombudsman suspects on reasonable grounds involves corrupt conduct or police personnel misconduct occurring or having occurred, of which the Ombudsman becomes aware in the course of dealing with a complaint, conducting an own motion investigation or performing any other functions under this Act.".
4 Explanatory details

No entries at date of publication.