

LEGISLATIVE COUNCIL

INTEGRITY AND ACCOUNTABILITY LEGISLATION AMENDMENT (A STRONGER SYSTEM) BILL 2015

(Amendments and New Clauses to be proposed in Committee by Ms PENNICUIK)

1. Clause 3, page 4, after line 29 insert—
 - '(f) in the definition of *relevant offence*, for paragraph (a) **substitute**—
 - "(a) a criminal offence against any Act or any other law relevant to the conduct in question; or
 - (aa) a disciplinary offence; or";'
2. Clause 3, page 5, after line 8 insert—
 - '(2) After section 3(4) of the **Independent Broad-based Ant-corruption Commission Act 2011** insert—
 - '(5) For the purposes of the definition of *relevant offence* in subsection (1)—

disciplinary offence includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.".'
3. Clause 22, page 21, line 31, after "body" insert "or the relevant Minister".
4. Clause 22, page 22, line 1, after "officer" insert "or relevant Minister".
5. Clause 22, page 22, line 8, after "officer" insert "or relevant Minister".
6. Clause 22, page 22, line 11, after "officer" insert "or a relevant Minister".
7. Clause 22, page 22, line 14, after "officer" insert "or a relevant Minister".
8. Clause 23, lines 6 to 12, omit this subclause and insert—
 - "(1) Section 60(2) of the **Independent Broad-based Anti-corruption Commission Act 2011** is **repealed**."
9. Clause 92, line 22, omit 'sector;'' and insert—
 - 'sector;
 - (iv) there are any environmental issues in the performance of Victorian public sector operations and activities having regard to the principles of environment protection as set out in sections 1B to 1L of the **Environment Protection Act 1970**;".'
10. Clause 92, line 26, after "when" insert "auditing an authority's financial statements under section 8(1) or".

NEW CLAUSES

11. Insert the following New Clauses to follow clause 94—

'A. Amendment of section 8—Audit of authorities

After section 8(1) of the **Audit Act 1994** insert—

- "(1A) In the course of conducting an audit under subsection (1), the Auditor-General may consider the effectiveness, economy and efficiency of services provided or functions performed by an associated entity for, or on behalf of, an authority, or on behalf of the State, for which an authority is responsible.
- (1B) An audit having regard to information called for from an associated entity of an authority under this Act is limited to any matter relating to the use of public funds that are, or were, held or received by the authority and given to any associated entity.
- (1C) The following provisions apply to an audit which involves information called for from an associated entity referred to in subsection (1B) and apply (where appropriate) as if any references in those provisions to an authority were references to an associated entity—
- (a) section 3A (objectives);
 - (b) section 3B (extra-territorial operation of Part 3);
 - (c) section 11 (power to call for persons or documents);
 - (d) section 11A (Auditor-General to report to Victorian Inspectorate on calling for persons or documents);
 - (e) section 11B (requirement given to person under 16 years);
 - (f) section 11C (legal advice and representation);
 - (g) section 11D (advance notice of performance audits);
 - (h) section 11E (further provisions relating to appearances);
 - (i) section 11F (audio or video recording of compulsory appearances);
 - (j) section 11G (protection of legal practitioners and witnesses at compulsory appearances);
 - (k) section 12 (access to information);
 - (ka) section 12A (access to accounts, information, money and property:
 - (l) section 13 (auditing standards);
 - (m) section 14 (offences);
 - (n) section 16 (audit reports to Parliament);
 - (o) section 16F (information to public officials during the course of an audit);

- (p) section 20 (content of reports);
- (q) section 20A (improper use of information).".'

B. Amendment of section 9—Audit opinion on financial statements

After section 9(3) of the **Audit Act 1994** insert—

"(4) An audit opinion that includes information called for from an associated entity about services provided, or functions performed by, an associated entity for, or on behalf of, an authority, or on behalf of the State, for which an authority is responsible, must only direct any opinion to that authority.".'

12. Insert the following New Clause to follow clause 96—

C. New section 10A inserted—Access to accounts, information, money and property

After section 12 of the **Audit Act 1994** insert—

"12A Access to accounts, information, money and property

- (1) In this section—

authorised person means a person who has written authority to exercise powers under this section;

premises means any land or place;

written authority means a written notice signed by the Auditor-General.

- (2) For the purposes of an audit the Auditor-General or an authorised person, is entitled to full and free access at all reasonable times to—

- (a) all accounts, information, documents, systems and records that the Auditor-General considers to be relevant to the audit; or
- (b) public money, other money or statutory authority money; or
- (c) public property or other property—

that is or are in the possession of any person and the Auditor-General, or any authorised person, may make copies of or take extracts from any of the accounts, information, documents and records.

- (3) For the purposes of subsection (2), the Auditor-General may cause a search to be made in, and extracts to be taken from, anything in the custody of the Treasurer or in any office of an authority, without paying any fee for doing so.
- (4) Subject to subsection (6), the Auditor-General or an authorised person may, at all reasonable times, enter and remain on any premises in order to exercise powers under this section.
- (5) If an authorised person, enters, or proposes to enter, premises under this section, the occupier must provide the authorised person with all

reasonable facilities for the effective exercise of powers under this section.

Penalty: 50 penalty units, in the case of a natural person;
250 penalty units, in the case of a body corporate.

- (6) An authorised person is not entitled to enter or remain on premises if the authorised person fails to produce a written authority on being asked by the occupier to produce proof that the entry is authorised.
- (7) This section extends and applies to an associated entity and to persons employed by the associated entity.".'.

13. Clause 97, page 88, after line 24 insert—

"(ka) section 12A (access to accounts, information, money and property):".