



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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SELECT COMMITTEE ON AN INDEPENDENT  
INTEGRITY COMMISSION 2018

Mr Shane Rattenbury MLA (Chair), Ms Elizabeth Lee MLA (Deputy Chair)  
Ms Bec Cody MLA, Mrs Vicki Dunne MLA, Mr Chris Steel MLA

## Submission Cover Sheet

Inquiry into an Independent Integrity Commission 2018

**Submission Number:** 10

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# Andrew Barr MLA

## Chief Minister

Member for Kurrajong

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Mr Shane Rattenbury MLA

Chair

Select Committee on Independent Integrity Commission 2018

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

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Dear ~~Chair~~ *Shane*

I am writing to you about the 2018 Select Committee on Independent Integrity Commission inquiry.

I understand that the Select Committee is seeking submissions by Friday 31 August 2018. Please accept this submission into the Select Committee's inquiry.

As you are aware, I tabled the Exposure Draft Integrity Commission Bill 2018 in the Legislative Assembly on Tuesday 31 July 2018. The Exposure Bill has been referred to the Select Committee for inquiry and report by 31 October 2018.

The Exposure Bill and accompanying Explanatory Statement can be accessed on the ACT Legislation Register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

The Select Committee is inquiring into the Government's Exposure Draft Integrity Commission Bill 2018 and the Opposition's Anti-corruption and Integrity Commission Bill 2018.

### **Analysis between Government's Exposure Draft Integrity Commission Bill 2018 and the Opposition's Anti-corruption and Integrity Commission Bill 2018**

To assist the Select Committee in undertaking its inquiry, a detailed analysis of the two pieces of proposed legislation has been prepared to identify some differences and similarities. I have attached this detailed analysis for the Select Committee's consideration.

### **Exposure Draft Integrity Commission Bill 2018**

The Exposure Bill establishes the ACT Integrity Commission (the Commission) to investigate corruption in public administration and strengthen public confidence in the integrity of government and public administration. The Exposure Bill is an important step towards meeting the commitment made in the Parliamentary Agreement of the 9<sup>th</sup> Legislative Assembly, and is also an election commitment.

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The Government Response to the Select Committee on an Independent Integrity Commission (the Select Committee) report has informed the policy development of the Exposure Bill.

Through the policy development process, the Government carefully considered each of the 79 recommendations of the Select Committee and has since:

- agreed or agreed in part to 63 recommendations which have been incorporated into the Exposure Bill;
- 11 recommendations have been agreed in principle; and
- 5 recommendations have been noted.

The new ACT Integrity Commission will investigate conduct that is alleged to be corrupt conduct in relation to all ACT public sector entities (with the exception of the judiciary), their employees and contract staff in government directorates and territory-owned corporations, members of the Legislative Assembly and their staff.

Its jurisdiction will also extend to those performing functions of a public nature. The Commission will prioritise the investigation and exposure of serious corrupt conduct and systemic corrupt conduct.

As recommended by the Select Committee, the Exposure Bill also provides that the Commission's jurisdiction extends to members of ACT Policing. The Government is working with the Commonwealth Government on this matter with commencement of these provisions being delayed by 12 months to allow for further negotiations and amendments to relevant Commonwealth legislation.

The Exposure Bill also ensures the functions of the body are delineated, clearly defined and cognisant of existing independent oversight bodies. The Commission will focus mainly on prospective and current matters, with some limited ability to review retrospective or previous matters, subject to certain requirements. Matters to be investigated by the Commission would not go beyond self-government, given that the ACT was administered by the Commonwealth Government prior to 1989 and that these matters would fall to the Commonwealth.

The Government is committed to establishing an Integrity Commission and has provided funding of \$8.4m over four years in its 2018-19 Budget. This funding is to go towards not only establishing the Commission but also to ensure that the Commission can continue to operate over the coming years. This allocation also provides funding for an Inspector.

During the drafting process, the Government consulted with the ACT Auditor-General, the ACT Ombudsman, the ACT Electoral Commission, the Clerk of the Legislative Assembly, the ACT Public Sector Standards Commissioner, the Director of Public Prosecutions, the ACT Human Rights Commission and the Chief Police Officer.

#### **Referral to referral entity – clarification of policy intent and administrative oversight**

Clause 104 enables the Integrity Commission to oversight a matter that has been referred to another entity to ensure that it is properly dealt with. The Commission may ask referral entities to report on what outcome was taken and the action taken, or proposed to be taken, in relation to the corruption report.

While the Commission cannot compel a referral entity to take any particular action in relation to a referral, the Commission retains the ability to investigate the matter itself and to make public comment in relation to whether a referral was dealt with. It was the Government's policy intent that this clause would not apply to independent entities such as the Auditor-General, the Ombudsman or the Human Rights Commissioner. However, there was a typographical error in the Exposure Bill that was tabled in the Legislative Assembly and released on the Legislation Register. This version provided that this clause does apply to the independent entities. This is an administrative oversight and contrary to the policy intent.

In addition, clause 105 allows the Integrity Commission to withdraw referrals from certain referral entities. Where the Integrity Commission has made a referral to which this section applies, it may determine to investigate the corruption report and withdraw the referral by providing written notice to the person or body to whom the referral was made.

It was the Government's policy intention that for some referral entities, a referral cannot be withdrawn by the Integrity Commission. These referral entities include the Chief Police Officer, the Auditor-General, the Ombudsman, the Public Sector Standards Commissioner, the Legislative Assembly Commissioner for Standards, the Speaker, the Deputy Speaker and the Human Rights Commissioner. However, there was a typographical error in the Exposure Bill that was tabled in the Legislative Assembly and released on the Legislation Register. This version provided that the Integrity Commission could withdraw a referral made to these entities. This is an administrative oversight and contrary to the policy intent.

The content provided in the Explanatory Statement for clauses 104 and 105 is correct. The Government acknowledges the statutory independence of these entities and the important role that they perform. By having clauses 104 and 105 apply to these entities would impact or jeopardise their independence if the Integrity Commission provided directions about particular matters, or if these entities did not have the discretion over whether to accept a referral or to refuse it. This approach would also have resourcing implications for these entities if there was an expectation that matters referred to them from the Integrity Commission needed to be prioritised over their existing work program.

I wanted to draw the Select Committee's attention to these matters to clarify the Government's policy intent. Arrangements have been made for the Exposure Draft on the ACT Legislation Register to be updated with the minor change to clauses 104 and 105 to reflect the Government's policy intent.

### **Human rights**

Considerable work has been undertaken to ensure the protection of a person's human rights to meet the Government's legislative responsibilities under the *Human Rights Act 2004*. Where a human right may be limited by the operation of the Exposure Bill, sufficient safeguards have been implemented to reduce any undue affects. The Explanatory Statement provides a detailed analysis of these matters.

### **Assembly Committee oversight**

Instead of creating a new Standing Committee to oversight the ACT Integrity Commission and the Inspector, the Government proposes that the Standing Committee for Administration and Procedure

undertake the role and functions of the 'relevant Assembly committee' under the Exposure Bill. The Legislative Assembly Commissioner for Standards, who investigates Members of the Legislative Assembly, currently reports to this Standing Committee so it is appropriate that the same arrangements apply to the Integrity Commission and Inspector.

Other jurisdictions have a special and separate parliamentary committee that oversees the relevant integrity commission, which is the rationale behind this approach.

### **Other relevant matters to be considered by the Committee**

The Exposure Bill provides for the Assembly to determine what is subject to parliamentary privilege. Similar to the arrangement between the Australian Federal Police and the Assembly, a memorandum of understanding (MOU) between the Integrity Commission and the Speaker will be developed to ensure that parliamentary privilege arrangements are matters for the Assembly. The MOU will be supported by processes outlined in the Standing Orders and Continuing Resolutions.

The Exposure Bill only provides for part of the arrangements relating to parliamentary privilege and the oversight role of the Legislative Assembly Commissioner for Standards (established under Continuing Resolution 5AA). The remaining arrangements and processes will be contained within the Standing Orders and Resolutions from time to time.

To ensure the protection of parliamentary privilege, amendments to the Standing Orders and Continuing Resolutions will need to be made. In considering the Exposure Bill, I would like to request that the Select Committee also examine and make recommendations on the following related matters:

- the establishment a legal arbitration process in the Standing Orders, similar to the process that exists under Standing Order 213A in relation to claims of parliamentary privilege that emerge in the course of a Commission investigation;
- the content of the memorandum of understanding between the Speaker, on behalf of the Assembly, and the Integrity Commission about parliamentary privilege which will, among other matters, cover arrangements for the execution of search warrants or the provision of documents or information where parliamentary privilege is claimed;
- amendments to Continuing Resolution 5AA to enable the Legislative Assembly Commissioner for Standards to refer matters to the Integrity Commissioner when the conduct is suspected to fall under the Commission's jurisdiction; and
- amendments to Continuing Resolution 5AA to enable the Integrity Commissioner to refer matters to the Legislative Assembly Commissioner for Standards which are within the power of the Legislative Assembly Commissioner for Standards to investigate.

Under the terms of reference, the Select Committee is established to further inquire into the establishment of an integrity commission for the ACT, through examination of the Government Exposure Bill and the Anti-corruption and Integrity Commission Bill 2018, and other related matters. The four issues listed above fall within the scope of the Select Committee's terms of reference as other related matters.

The Exposure Bill is a significant piece of legislation developed in a short period within an existing complex integrity environment. I look forward to the Select Committee's report being provided to the Legislative Assembly by 31 October 2018. The Government continues to be committed to

introducing legislation in the Legislative Assembly in the November 2018 sittings, and potentially debating the Bill in the same sittings, subject to the view of the Assembly.

Yours sincerely



Andrew Barr MLA  
Chief Minister

**31 AUG 2018**

Analysis between Government's Exposure Draft Integrity Commission Bill 2018 and the Opposition's Anti-corruption and Integrity Commission Bill 2018

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
Section 1, Name of Act	<ul style="list-style-type: none"> <li>• Integrity Commission Act 2018</li> </ul>	<ul style="list-style-type: none"> <li>• Anti-corruption and Integrity Commission Act 2018</li> </ul>
Section 2, Commencement	<ul style="list-style-type: none"> <li>• The Act commences on a day fixed by the Minister.</li> <li>• Delayed commencement for 12 months for following provisions relating to ACT Policing:               <ul style="list-style-type: none"> <li>(1) section 11(1)(b)(vi), definition of public official;</li> <li>(2) section 12(a)(iv), definition of public sector entity;</li> <li>(3) section 13(d), definition of head, of a public sector entity;</li> <li>(4) section 16(1)(d), definition of entity of a public nature;</li> <li>(5) section 60(2) (Mandatory corruption notifications—heads of public sector entities);</li> <li>(6) dictionary, definitions of ACT Policing and Australian Federal Police.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 2: The Act commences on 1 January 2019.</li> <li>• ACT Policing is covered by this Bill upon commencement: Section 9(1)(c), definition of public authority and Section 10(g), definition of public official.</li> </ul>
Section 7, Application of Act – parliamentary privilege	<ul style="list-style-type: none"> <li>• The Act does not affect the law relating to the privileges of the Legislative Assembly, any Australian Parliament or any house of any Australian Parliament.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 47: Parliamentary privilege not affected - The commission must not exercise a compulsion power in a way that is inconsistent with the powers, privileges and immunities of the Legislative Assembly or its members or committees.</li> </ul>
Retrospective application	<ul style="list-style-type: none"> <li>• Section 8: Application of Act—conduct that happened <b>before the commencement</b> of this Act               <ul style="list-style-type: none"> <li>(1) Public interest test to be undertaken by the Integrity Commissioner</li> <li>(2) Must not investigate in specific circumstances, such as complaint is trivial, frivolous, vexatious or unrelated to commission's functions.</li> <li>(3) Limited retrospectivity to the commencement of self-Government</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 8(3) - Conduct may amount to corrupt conduct under subsection (1) regardless of whether—               <ul style="list-style-type: none"> <li>(a) it happened <b>before the commencement</b> of that subsection; or</li> <li>(b) some or all of the effects or other matters necessary to establish corrupt conduct happened before the commencement of that subsection; or</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(4) Safeguards to ensuring the Commission is not going to expose people to additional penalties that have been punished or disciplined. In addition to having regard to the public interest of investigating the conduct, the Commission must also be reasonably satisfied that where the conduct has been investigated by another investigatory body or decided not to be investigated there is reliable, substantial and highly probative evidence that was not considered by that investigatory body, or the body's investigation or decision not to investigate was materially affected by error.</p>	<p>(c) the conduct was engaged in by, or in relation to, a person who—</p> <ul style="list-style-type: none"> <li>(i) is no longer a public official; or</li> <li>(ii) was not a public official at the time the conduct happened, if the conduct was in relation to the exercise of the person's functions after becoming a public official (whether or not the person becomes a public official).</li> </ul> <ul style="list-style-type: none"> <li>• Section 29 (Investigation by commission) also provides that the commission may conduct an investigation regardless of when the alleged corrupt conduct occurred. The commission may, in considering whether to conduct or continue an investigation, have regard to anything it considers appropriate, including where a complaint is too trivial, too remote in time, frivolous, vexatious or not made in good faith.</li> </ul>
<p>Section 9, meaning of corrupt conduct by a person</p> <p>Section 10, meaning of corrupt conduct by a public official</p>	<ul style="list-style-type: none"> <li>• Section 9 is about a person that adversely affects or could affect, the honest and impartial exercise of a function of a public official or public sector entity.</li> <li>• Section 10 is about the conduct, by or involving a public official that involves the exercise of the public official's functions that is not honest or is not impartial, involves a breach of trust, or involves a misuse of information or material acquired.</li> <li>• if the corrupt conduct is proved—(i) be an offence against a law in force in the Territory; or (ii) be reasonable grounds for serious disciplinary action against the person.</li> </ul>	<ul style="list-style-type: none"> <li>• Has a general nature of corrupt conduct definition (section 9)</li> <li>• Conduct by a public official that constitutes or involves the dishonest or partial exercise of the official's functions;</li> <li>• Involves a breach of trust by a public official or the misuse of information/material acquired</li> <li>• Lists a number of activities that may be corrupt conduct which is taken from the NSW definition of corrupt conduct (e.g. bribery, fraud, theft) – these</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		matters/activities are currently captured in the ACT Criminal Code
Section 11, Public Official	<ul style="list-style-type: none"> <li>The Bill defines public official to include a person having public official functions for the Territory, or acting in a public official capacity for the Terri, and including a public servant, statutory office holder and an officer of the Legislative Assembly. Includes MLAs and their staff.</li> <li>Excludes judicial officers and an ACAT member to the extent that the member exercises a judicial or quasi-judicial function.</li> <li>Certifiers under the Building Act 2004 and persons that hold positions under a Remuneration Tribunal determination would fall within the scope of the IC Bill.</li> </ul>	<ul style="list-style-type: none"> <li>Unlike the IC Bill, this Bill includes judicial officers.</li> <li>It specifically mentions ACT policing, certifiers under the <i>Building Act 2004</i>, an individual employed or engaged by a public authority to provide work or services on behalf of the public authority and broadly anyone who holds a position for which a Remuneration Tribunal determination is in force.</li> <li>Section 48 (Independence of holders of judicial office) provides that the commission must have proper regard for the importance of preserving the independence of judicial officers.</li> </ul>
Section 12, public sector entity	<ul style="list-style-type: none"> <li>Uses the term 'public sector entity' - defines a public sector entity as an ACTPS entity; a Legislative Assembly entity; an entity of a public nature; and an entity prescribed by regulation. Section 12(b) provides that a public entity does not include the Integrity Commission, the Inspector of the Integrity Commission or an entity prescribed by regulations.</li> </ul>	<ul style="list-style-type: none"> <li>Uses the term 'public authority' - defined as a public sector entity; and non-public sector entities performing a public function; and ACT Policing.</li> <li>Does not have similar provisions as section 12(b) of the Integrity Commission Bill.</li> </ul>
Section 16, entity of a public nature	<ul style="list-style-type: none"> <li>The definition of 'entities of a public nature' is an entity that has functions of a public nature or include functions of a public nature, when it is exercising the functions (whether under a contract or otherwise) for the Territory, ACT public service, the Legislative Assembly or ACT Policing.</li> </ul>	<ul style="list-style-type: none"> <li>Does not appear to have a similar provision but captures some of the same entities under the definitions of 'public official' and 'public authority'.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• The definition provides factors that may be considered in deciding whether a function of an entity is a function of a public nature.</li> <li>• It also provides that some functions are taken to be functions of a public nature, such as:               <ul style="list-style-type: none"> <li>(1) the operation of detention places and correctional centres; and</li> <li>(2) the provision of any of the following services: gas, electricity, water supply; emergency services; public health services; public education, public transport; and public housing.</li> </ul> </li> </ul>	
<p>Chapter 2 Integrity commission</p> <p>Part 2.1 Commission— establishment, independence and functions</p>	<ul style="list-style-type: none"> <li>• Section 19 Establishment</li> <li>• Section 20 Constitution of commission</li> <li>• Section 21 Officer of the Legislative Assembly</li> <li>• Section 22 Independence of the commission</li> <li>• Section 23 Functions of commission</li> <li>• Section 24 Functions of commissioner</li> </ul>	<ul style="list-style-type: none"> <li>• Division 6.1 Establishment and functions of commission</li> <li>• Section 92 Establishment of Anti-corruption and Integrity Commission</li> <li>• Section 93 Functions of commission</li> <li>• Section 94 Officer of the Legislative Assembly— commissioner</li> <li>• Section 95 Independence</li> </ul>
<p>Section 25 Commissioner— appointment</p>	<ul style="list-style-type: none"> <li>• Section 25 Commissioner – appointment               <ul style="list-style-type: none"> <li>(1) Appointment is a disallowable instrument</li> </ul> </li> <li>• Section 25(3): The Speaker must not appoint a person as commissioner unless—               <ul style="list-style-type: none"> <li>(a) satisfied that the person has extensive knowledge of, and experience in—                   <ul style="list-style-type: none"> <li>(i) criminal investigation or criminal adjudication; or</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 96 Appointment of commissioner The Speaker must not appoint a person as commissioner unless—               <ul style="list-style-type: none"> <li>(a) the Speaker is satisfied that the person has extensive knowledge of, and experience in, integrity and accountability in public administration; and</li> <li>(b) the appointment is agreed by a resolution passed by at least a 2/3 majority of the members of the Legislative Assembly.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>(ii) law enforcement or the conduct of investigations; or</li> <li>(iii) public administration, governance or government; and</li> <li>(b) the Legislative Assembly has approved the appointment, by resolution passed by a majority of at least 2/3 of the members.</li> </ul>	
Section 26, Commissioner eligibility for appointment	<ul style="list-style-type: none"> <li>• (1) The Speaker may appoint a person as the commissioner only if the person has been— <ul style="list-style-type: none"> <li>(a) a judge of the Supreme Court; or (b) a judge of the Supreme Court of a State or another Territory; or (c) a judge of the Federal Court; or (d) a justice of the High Court.</li> </ul> </li> <li>• The Bill uses 5 years in limiting the time between a previous role and the appointment to Commissioner.</li> <li>• A person is not eligible for appointment to Commissioner if they have been convicted of an offence in the ACT, or elsewhere.</li> <li>• The role of the Integrity Commissioner may be exercised in a part-time capacity depending on the workload requirements to ensure the efficient and effective function of the Act.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 98: The Speaker may appoint a person as the commissioner only if the person has been— <ul style="list-style-type: none"> <li>(a) a judge of the Supreme Court; or (b) a judge of the Supreme Court of a State; or (c) a judge of the Federal Court; or (d) a justice of the High Court; or (e) a lawyer for at least 10 years.</li> </ul> </li> <li>• The Bill uses 10 years in limiting the time between a previous role and the appointment to Commissioner</li> </ul>
Section 27, Commissioner – term of appointment	<ul style="list-style-type: none"> <li>• Section 27 Commissioner – term of appointment</li> </ul>	<ul style="list-style-type: none"> <li>• Section 99 Term of appointment of commissioner</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
Section 28, Commissioner – oath or affirmation of office	<ul style="list-style-type: none"> <li>• Section 28 Commissioner – oath or affirmation of office</li> </ul>	<ul style="list-style-type: none"> <li>• Section 100 Oath or affirmation of office—commissioner</li> </ul>
Section 29, Commissioner – disclosure of interests	<ul style="list-style-type: none"> <li>• Section 29 Commissioner – disclosure of interests</li> </ul>	<ul style="list-style-type: none"> <li>• Section 101 Declaration of interests – commissioner               <ol style="list-style-type: none"> <li>(1) Declaration must be available on the Legislative Assembly website</li> </ol> </li> </ul>
Section 30, Commissioner – must not do inconsistent work etc	<ul style="list-style-type: none"> <li>• Section 30 Commissioner – must not do inconsistent work etc               <ol style="list-style-type: none"> <li>(1) Commissioner must not have paid employment that is <b>inconsistent with</b> the commissioner's functions</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 102 Commissioner must avoid conflict of interest               <ol style="list-style-type: none"> <li>(1) Commissioner must not have paid employment <b>other than</b> exercising the commissioner's functions</li> <li>(2) Additional conflict of interest requirements</li> </ol> </li> </ul>
Commissioner appointment provisions	<ul style="list-style-type: none"> <li>• Section 31 Commissioner—resignation</li> <li>• Section 32 Commissioner—retirement</li> <li>• Section 33 Commissioner—suspension generally</li> <li>• Section 34 Commissioner—suspension—relevant Assembly committee notice and meetings</li> <li>• Section 35 Commissioner—ending suspension</li> <li>• Section 36 Commissioner—ending appointment</li> <li>• Section 37 Commissioner—leave of absence</li> </ul>	<ul style="list-style-type: none"> <li>• Section 103 Resignation—commissioner</li> <li>• Section 104 Retirement—commissioner</li> <li>• Section 105 Suspension—commissioner</li> <li>• Section 106 Relevant Assembly committee to consider suspension of commissioner</li> <li>• Section 107 Ending suspension of commissioner</li> <li>• Section 108 Ending appointment of commissioner</li> <li>• Section 109 Leave of absence—commissioner</li> </ul>
Section 38, Commissioner – acting commissioner	<ul style="list-style-type: none"> <li>• Section 38 Commissioner – acting commissioner</li> </ul>	<ul style="list-style-type: none"> <li>• Section 97 Acting Commissioner               <ol style="list-style-type: none"> <li>(1) Disapplies some of the appointment provisions</li> </ol> </li> </ul>
Part 2.3 CEO	<ul style="list-style-type: none"> <li>• Detailed provisions/requirements contained within the Bill</li> </ul>	<ul style="list-style-type: none"> <li>• No provisions for the establishment of a CEO contained in the Bill</li> </ul>
Part 2.4 Staff of the Commission	<ul style="list-style-type: none"> <li>• Section 46 (Commission employed staff)</li> <li>• Section 47 (Commission consultants and contractors)</li> <li>• Section 48 (eligibility for appointment) - the commission may ask the person to do 1 or more of the following:</li> </ul>	<ul style="list-style-type: none"> <li>• Section 110 Employing staff of commission               <ol style="list-style-type: none"> <li>(1) The commissioner must not employ a person under this section if the person is, or has been in the 10 years immediately before the day of the</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>a) provide a police certificate for the person, dated not earlier than 6 months before the date of the request;</li> <li>b) declare personal interests the commission considers relevant;</li> <li>c) undergo a medical or psychological assessment;</li> <li>d) make a statement about a matter determined by the commission to be relevant to the person's suitability;</li> <li>e) anything else the commissioner considers is necessary to decide whether a person is suitable to be a member of staff of the commission.</li> </ul> <ul style="list-style-type: none"> <li>• Section 49 Staff of the commission – not subject to direction from others</li> <li>• Section 50 – delegation by commission: The commission may delegate the commission's functions under this Act or another territory law to— <ul style="list-style-type: none"> <li>a) the commissioner; or</li> <li>b) a member of staff of the commission; or</li> <li>c) another person.</li> </ul> </li> </ul>	<p>proposed appointment, a member of the Australian Federal Police.</p> <ul style="list-style-type: none"> <li>• Section 111 Commissioner – consultants and contractors</li> <li>• See section 112 <ul style="list-style-type: none"> <li>(1) commissioner must not employ or engage a person as an officer of the commission if the person has been a member of a registered party or political party under law of commonwealth or state, or a political party.</li> </ul> </li> <li>• Uses 10 years in limiting the time between a previous role and the appointment to officer of Commission.</li> <li>• Duration of contract for all staff cannot be longer than 7 years.</li> <li>• Section 113 - conflict of interest – officer of the commission must take all reasonable steps to avoid being placed in a position where conflict arises</li> <li>• Section 114 Officer of commission not subject to direction from others</li> <li>• Section 115 – delegation by commission: The commission may delegate the commission's functions under this Act or another territory law to an officer of the commission.</li> </ul>
Section 52 Commission – other arrangements for staff and facilities	<ul style="list-style-type: none"> <li>• Section 52 Commission-other arrangements for staff and facilities <ul style="list-style-type: none"> <li>(1) Arrangements with Head of Service and Speaker</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• No corresponding provision in the ACIC Bill.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
Part 2.5 Cooperation with other entities	<ul style="list-style-type: none"> <li>• Section 53 - The commission and public sector entities are to work cooperatively.</li> <li>• In exercising its functions, the commission must—(a) liaise with public sector entities, and coordinate its activities with the activities of public sector entities, to avoid needless duplication of work; and (b) have regard to the activities, findings and recommendations of entities outside the Territory, including outside Australia.</li> <li>• In exercising its education function, the commission may exchange information with the head of a public sector entity.</li> <li>• Section 54 - The commission may enter into a memorandum of understanding or agreement with another entity to assist in—(a) avoiding delay and unnecessary duplication of statutory functions; or (b) efficiently managing the interaction of the statutory functions of the parties to the memorandum of understanding or agreement.</li> <li>• Section 54 has further provisions allowing the Commission to enter into an MOU with another entity to help in the exercise of the entity’s functions.</li> <li>• The commission must ensure that the provision of the assistance does not interfere with the ability of the commission to exercise its functions.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 151: The commission must ensure that the commission’s functions are exercised in a way that does not delay or unnecessarily duplicate the exercise of functions of a person exercising a function under the Auditor-General Act 1996, the Ombudsman Act 1989, public sector standards commissioner, or a police officer investigating a fraud or other criminal matter.</li> </ul>
Division 3.1.1 Corruption complaints	<ul style="list-style-type: none"> <li>• Section 55 - Any person (a complainant) may make a complaint to the commission about conduct that may be corrupt conduct (a corruption complaint).</li> <li>• Section 56 – how to make a corruption complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Section 11 - Any person may make a complaint to the commission about a matter that concerns, or may concern, corrupt conduct.</li> <li>• Section 14 Referral by Legislative Assembly</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 57 – other entities may refer corruption complaints. The relevant entity may (a) refer the complaint to the commission; and (b) if the complaint is referred—               <ul style="list-style-type: none"> <li>(i) give the commissioner any information the entity has in relation to the complaint; and</li> <li>(ii) tell the complainant about the referral.</li> </ul> </li> <li>• Section 57 defines ‘relevant entity’.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not appear to have a provision on how to make a complaint</li> <li>• Section 153 - Public authority may refer matter to commission</li> </ul>
<p>Division 3.1.2 Mandatory corruption notifications by public sector entities</p>	<ul style="list-style-type: none"> <li>• Section 60 - The head of a public sector entity must notify the commission about any matter the head of the entity suspects on reasonable grounds involves serious corrupt conduct or systemic corrupt conduct</li> <li>• The <b>chief police officer</b> need not notify the commission about a matter in relation to a member of ACT Policing</li> <li>• Section 61 - A member of the Legislative Assembly must notify the commission about any matter the member suspects on reasonable grounds involves serious corrupt conduct or systemic corrupt conduct by (a) another member of the Legislative Assembly; or (b) a member of staff of a MLA.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 12 – the principal officer of a public authority or a minister must report a matter to the commission that the person suspects on reasonable grounds concerns, or may concern, corrupt conduct; and that is of relevance to, or comes to the attention of, the person in the person’s capacity as a public official</li> <li>• The <b>deputy commissioner of ACT Policing</b> need not report a matter in relation to a member of ACT Policing</li> <li>• Lists principal officer, of a public authority to include the following:           <ul style="list-style-type: none"> <li>a) for an administrative unit—the director-general of the administrative unit;</li> <li>b) for ACT Policing—the deputy commissioner with management responsibility for ACT Policing;</li> <li>c) for the Supreme Court, Magistrates Court, Coroner’s Court or the ACAT—the principal registrar appointed under the Court Procedures Act 2004, section 11A;</li> <li>d) for the Office of the Legislative Assembly—the clerk of the Legislative Assembly;</li> <li>e) for an officer of the Assembly—the officer;</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<ul style="list-style-type: none"> <li>f) for a statutory office-holder and the staff assisting the statutory office-holder—the statutory office-holder;</li> <li>g) for a territory-owned corporation or a subsidiary of a territory-owned corporation—the chief executive officer of the corporation or subsidiary;</li> <li>h) for a royal commission, board of inquiry or judicial commission—the director-general of the administrative unit that provides secretariat support to the royal commission, board of inquiry or judicial commission;</li> <li>i) for any other public authority—the person prescribed by regulation to be the principal officer.</li> </ul>
<p>Division 3.1.3 Reports must be dismissed, referred or investigated</p>	<ul style="list-style-type: none"> <li>• Section 64 - Commission must dismiss, refer or investigate corruption reports. If the commission receives a corruption report, the commission must— <ul style="list-style-type: none"> <li>a) dismiss the corruption report under section 65; or</li> <li>b) refer the corruption report to another entity under— <ul style="list-style-type: none"> <li>(i) section 103 (Referring a corruption report to another entity); or</li> <li>(ii) section 106 (Referring a matter to a prosecutorial body); or</li> </ul> </li> <li>c) investigate the corruption report under section 97 (Commission may investigate corruption report).</li> </ul> </li> <li>• Section 65 - When corruption reports must be dismissed</li> </ul>	<ul style="list-style-type: none"> <li>• Section 16 - Commission to decide on next steps - The commission must do 1 of the following in relation to a corruption issue: <ul style="list-style-type: none"> <li>(a) dismiss the issue;</li> <li>(b) refer the issue to another entity under section 65 (Commission may refer matters);</li> <li>(c) investigate the issue under part 4 (Investigations).</li> </ul> </li> <li>• Section 18 - Commission may dismiss certain matters</li> <li>• Section 29(7): If the commission decides not to conduct, or to discontinue, the investigation of a complaint or report made to it, the commission must inform the complainant or officer who made the report in writing of its decision and the reasons for it.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
<p>Division 3.1.4 Commission must keep people informed</p>	<ul style="list-style-type: none"> <li>• Division 3.1.4 (sections 66, 67 and 68) has detailed provisions on keeping complainants, and entities that refers a matter to the commission and a notifiers informed. If the commission decides to dismiss or discontinue a corruption report, the commission must provide the ground for the decision; the reasons for making the decision on that ground; and (if the commission gives the corruption report to another Entity) — the name and contact details of the other entity. If referring a corruption report to a referral entity the commission must provide the referral to the complainant, entity or notifier.</li> <li>• If the corruption report is investigated the commission must provide a progress report at least once every 3 months and provide a copy of the investigation report on conclusion of the investigation.</li> <li>• Section 69 has some limitations on keeping people informed, including if telling the person would be likely to adversely affect a person’s safety; or an investigation under this Act; or would identify another person who has given information; or would be contrary to a law in force in the Territory.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 29(7) has an element of 'keeping the complainant informed' but is not as detailed as the IC Bill. It provides that if the commission decides not to conduct, or to discontinue, the investigation of a complaint or report made to it, the commission must inform the complainant or officer who made the report in writing of its decision and the reasons for it.</li> </ul>
<p>Part 3.2 Confidentiality notices</p>	<ul style="list-style-type: none"> <li>• Detailed provisions/requirements relating to confidentiality notices</li> </ul>	<ul style="list-style-type: none"> <li>• Does not appear to have similar confidentiality notice provisions but the closest provision is section 43 (Directions about disclosure of information) <ol style="list-style-type: none"> <li>1) The presiding officer may give directions prohibiting or restricting <ol style="list-style-type: none"> <li>a) the publication of evidence given at an examination (whether in public or private) or of</li> </ol> </li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<p>matters contained in documents lodged with, or received in evidence by, the commission; or</p> <p>b) the disclosure to some or all of the people present at an examination of evidence given before, or the contents of a document lodged with or received in evidence by, the commission.</p> <p>2) In making a decision under subsection (1), the presiding officer must consider the factors mentioned in section 33 (2) (Examination may be private)</p>
Part 3.3 Preliminary inquiries	<ul style="list-style-type: none"> <li>• Detailed provisions on conducting preliminary inquiry <ul style="list-style-type: none"> <li>– Section 81 Preliminary inquiries about corruption reports – The commission <b>may carry out a preliminary inquiry</b> to decide whether to dismiss, refer or investigate a corruption report.</li> <li>– Section 82 - Preliminary inquiries about own initiative matters</li> <li>– Section 83 - Certain powers not to be used for preliminary inquiries</li> <li>– Section 84 -Power to request information from head of public sector entity</li> <li>– Section 85 - Power to issue preliminary inquiry summons</li> <li>– Section 86 – Preliminary inquiry summons—content</li> <li>– Section 87 - Preliminary inquiry summons—commission must notify inspector</li> <li>– Section 88 - Preliminary inquiry summons—person under 16 years</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 17: Commission <b>may conduct preliminary inquiry</b> <ol style="list-style-type: none"> <li>1) The commission may conduct a preliminary inquiry for the purpose of making a decision under section 16.</li> <li>2) In conducting the preliminary inquiry, the commission may exercise its powers under— <ol style="list-style-type: none"> <li>a) section 30 (Power to obtain information) to require a public authority or public official to give a statement of information to the commission; and</li> <li>b) section 31 (Power to obtain documents etc) to require a public authority or public official to give a document or other thing to the commission.</li> </ol> </li> <li>3) Except as applied in subsection (2), parts 4 and 5 do not apply to, or in relation to, the preliminary inquiry.</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>- Section 89 - Preliminary inquiry summons—notice and immediate attendance</li> <li>- Section 90 - Preliminary inquiry summons—service</li> <li>- Section 91 - Preliminary inquiry summons—first actions to be taken</li> <li>- Section 92 - Preliminary inquiry summons—claiming privilege or secrecy</li> <li>- Section 93 - Preliminary inquiry summons—application to Supreme Court to decide privilege or secrecy</li> <li>- Section 94 - Preliminary inquiry summons—Supreme Court to decide privilege or secrecy</li> <li>- Section 95 - Preliminary inquiry summons—offence to open secured document or other thing</li> <li>- Section 96 - Preliminary inquiries—application of Criminal Code, chapter 7</li> </ul>	<ul style="list-style-type: none"> <li>• Section 30 Power to obtain information</li> <li>• Section 31 Power to obtain documents etc</li> </ul>
Section 97 - Commission may investigate corruption report	<ul style="list-style-type: none"> <li>• The commission <b>may</b> conduct an investigation if the commission—(a) receives a corruption report; and (b) suspects on reasonable grounds that the conduct in the corruption report may constitute corrupt conduct.</li> <li>• Corruption reports include complaints from members of the public and mandatory notifications.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 29 of ACIC Bill has a similar provision as the IC Bill. It provides that the commission may investigate corrupt conduct alleged in a corruption issue — the subject of a complaint by any person about a matter that concerns corrupt conduct; or a report by a principal officer or minister; or an own initiative investigation.</li> <li>• The commission <b>must not</b> conduct an investigation unless the commission suspects on reasonable grounds that the conduct constitutes corrupt conduct.</li> <li>• The ACIC Bill compels the commission to investigate an Assembly referral under section 14 (Referral by Legislative Assembly). The Legislative Assembly may, by resolution, refer a matter that is relevant to the</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<p>functions of the commission. The commission <b>must</b> investigate the referral.</p> <ul style="list-style-type: none"> <li>The ACIC Bill provides that the commission may conduct an investigation even though— (a) no particular public official or other person has been implicated in the corruption issue or Assembly referral; (b) or a person who was a public official at the time of the alleged corrupt conduct is no longer a public official; or (c) a body that was a public authority at the time of the alleged corrupt conduct is no longer a public authority or has ceased to exist as a public authority.</li> </ul>
Section 98, investigate on own initiative	<ul style="list-style-type: none"> <li>The commission may, on its own initiative, conduct an investigation about a matter if the commission suspects on reasonable grounds that the matter involves corrupt conduct.</li> </ul>	<ul style="list-style-type: none"> <li>Section 13: The Commission may investigate a matter related to its functions.</li> </ul>
Section 99, Investigation may be conducted during court proceeding	<ul style="list-style-type: none"> <li>The commission may do any of the following despite any proceeding (whether civil or criminal) in any court or tribunal: <ul style="list-style-type: none"> <li>a) commence or continue an investigation;</li> <li>b) discontinue or complete an investigation;</li> <li>c) provide a report about an investigation;</li> <li>d) do anything necessary or convenient to carry out an action under paragraphs (a) to (c).</li> </ul> </li> </ul> <p>The commission must take all reasonable steps to ensure the conduct of an investigation does not prejudice any proceeding (whether civil or criminal) in any court or tribunal.</p>	<ul style="list-style-type: none"> <li>Section 49 Concurrent court proceedings <ol style="list-style-type: none"> <li>The commission may do any of the following in relation to a matter that is the subject of a proceeding before a court or tribunal: <ol style="list-style-type: none"> <li>commence, continue, discontinue or complete an investigation;</li> <li>provide a report in relation to an investigation;</li> <li>do anything necessary or convenient for paragraphs (a) and (b).</li> </ol> </li> <li>If the proceedings mentioned in subsection (1) are proceedings for an indictable offence, the commission must, to the extent that the commission considers it necessary to ensure that an accused person's right to a fair trial is not prejudiced—</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<ul style="list-style-type: none"> <li>a) if practicable—conduct the investigation in private during the currency of the proceedings; and</li> <li>b) give directions under section 42 (Directions about people present at private examination) having effect during the currency of the proceedings; and</li> <li>c) defer making a report to the Legislative Assembly during the currency of the proceedings.</li> </ul> <p>3) Subsection (2) does not apply if—</p> <ul style="list-style-type: none"> <li>a) the committal hearing has not commenced; or</li> <li>b) the offence is dealt with summarily.</li> </ul>
<p>Section 100, Investigations may be conducted as joint investigation</p>	<ul style="list-style-type: none"> <li>• Section 100 Investigation may be conducted as joint investigation</li> <li>• (1) The commission may conduct an investigation as a <b>joint investigation with an integrity body or law enforcement agency (a joint investigation)</b>.</li> <li>• Integrity body includes the auditor-general; the ombudsman; the inspector; or the information privacy commissioner.</li> <li>• It also includes an entity, established under a law of the Commonwealth or a State, with functions substantially corresponding to the functions of the commission or the inspector; an ombudsman of the Commonwealth or a State or an auditor-general of the Commonwealth or a State.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 155 Interjurisdictional arrangements <ul style="list-style-type: none"> <li>1) The commissioner or the Minister may enter into an agreement with the <b>relevant head of a Commonwealth or State integrity entity</b> in relation to— <ul style="list-style-type: none"> <li>a) the exercise on a joint basis of any of the commission’s functions; or</li> <li>b) the exercise by the commission, on behalf of an integrity entity, of any of the integrity entity’s functions; or</li> <li>c) the exercise by an integrity entity, on behalf of the Territory, of any of the commission’s functions.</li> </ul> </li> </ul> </li> <li>• Integrity entity means— the Australian Federal Police; or the Integrity Commissioner under the <i>Law Enforcement</i></li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Law enforcement agency includes the Australian Federal Police and the police force or police service of a State.</li> </ul>	<p><i>Integrity Commissioner Act 2006 (Cwlth)</i>, an entity established by a law of another jurisdiction that has functions substantially corresponding with the commission's functions.</p>
<p>Division 3.4.2 Referring matters to another entity</p>	<ul style="list-style-type: none"> <li>• Section 101 Commission must refer corruption reports about staff to inspector</li> <li>• Section 103 Commission may refer corruption reports to referral entity               <ol style="list-style-type: none"> <li>1) The commission may, at any time, refer a corruption report to a referral entity if—                   <ol style="list-style-type: none"> <li>a) the commission has power to investigate the corruption report; and</li> <li>b) the referral entity has power to investigate the subject matter of the corruption report; and</li> <li>c) the commission considers it would be more appropriate for the corruption report to be investigated by the referral entity.</li> </ol> </li> <li>2) However, the commission must not refer a corruption report to a referral entity if the commission suspects the report relates to serious corrupt conduct or systemic corrupt conduct.</li> <li>3) In deciding whether to make a referral under subsection (1), the commission must consult the referral entity.</li> <li>4) Nothing in this section requires the referral entity to deal with the corruption report.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Does not appear to have a similar provision to section 101 of the IC Bill.</li> <li>• Section 65 Commission may refer matters –               <ol style="list-style-type: none"> <li>1) The commission may at any time refer a matter to another person or body (the relevant authority) for investigation or other action.</li> <li>2) The commission may give the relevant authority any information the commission has obtained in relation to the matter, including information obtained during any investigation under this part or part 5.</li> <li>3) The commission must not refer a matter to a relevant authority under subsection (1) unless the commission has—                   <ol style="list-style-type: none"> <li>a) consulted the relevant authority; and</li> <li>b) considered any views of the relevant authority about the referral.</li> </ol> </li> <li>4) The commission must tell the relevant authority if the information given to the relevant authority under this section is protected information.</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• The IC Bill does not provide powers for the Integrity Commission to issue directions.</li> <li>• Section 104 Referral to referral entity—results and actions:               <ol style="list-style-type: none"> <li>1) If the commission refers a corruption report to a referral entity, the commission <b>may ask</b> the referral entity to give the commission a written report about—                   <ol style="list-style-type: none"> <li>a) the results of the investigation; and</li> <li>b) any action taken, or proposed to be taken, in relation to the corruption report.</li> </ol> </li> <li>2) This section does not apply to a referral entity that is—                   <ol style="list-style-type: none"> <li>a) the auditor-general; or</li> <li>b) the ombudsman; or</li> <li>c) the human rights commissioner.</li> </ol> </li> </ol> </li> <li>• Section 105 - Referral to referral entity—withdrawal of referral</li> <li>• Section 106 - Commission may refer matters to prosecutorial body</li> </ul>	<ul style="list-style-type: none"> <li>• Section 66 - Directions to relevant authority –               <ol style="list-style-type: none"> <li>1) The commission may give directions to a relevant authority in relation to the referral, including directions as to—                   <ol style="list-style-type: none"> <li>a) how the relevant authority is to deal with the matter; and</li> <li>b) reporting requirements of the relevant authority in relation to the matter.</li> </ol> </li> <li>2) However, the commission cannot give a direction mentioned in subsection (1) to the Speaker or a judicial officer.</li> <li>3) A relevant authority is not obliged to comply with a direction of the commission to the extent that compliance is beyond the power, or incompatible with the functions, of the relevant authority.</li> </ol> </li> <li>• Section 67 - Report to commission               <ul style="list-style-type: none"> <li>– Provides that if an entity has been directed under section 66 to report to the commission, they must report as required by the commission and within the time period required by the commission.</li> </ul> </li> <li>• Section 68 Further action by commission:               <ol style="list-style-type: none"> <li>1) This section applies if the commission is not satisfied that a relevant authority has taken appropriate action in relation to a matter referred to the relevant authority under section 65 (Commission may refer matters).</li> <li>2) The commission must give the relevant authority written notice—</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<ul style="list-style-type: none"> <li>a) stating the grounds for the commission's dissatisfaction with the authority's action in relation to the matter; and</li> <li>b) inviting the authority to respond to the grounds of the commission's dissatisfaction within a stated period of time that is not less than 21 days after the day the commission gives the notice to the relevant authority.</li> </ul> <p>3) The commission must consider any comments received from the relevant authority and, if the commission is still not satisfied that the relevant authority has taken appropriate action, may give a report to the relevant Minister for the authority.</p> <p>4) A report under subsection (3) must:</p> <ul style="list-style-type: none"> <li>a) state the matter the commission has referred to the relevant authority; and</li> <li>b) state the grounds for the commission's dissatisfaction with the authority's action in relation to the matter; and</li> <li>c) include a copy of the comments (if any) received from the relevant authority; and</li> <li>d) include any additional comments from the commission; and</li> <li>e) invite the Minister to comment on the report within 21 days after the day the commission gives the report to the Minister.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<p>5) If, after considering any comments received from the relevant Minister, the commission is still not satisfied with the response to the matter, the commission may make a report under section 60 (Reports 17 on investigations).</p> <p>6) In this section: relevant Minister means the Minister responsible for the public authority.</p> <ul style="list-style-type: none"> <li>• Section 69 - Brief of evidence Following an investigation, the commission may provide a brief of evidence— <ul style="list-style-type: none"> <li>a) to a law enforcement agency to investigate, or prosecute a person for, an offence; or</li> <li>b) to a public authority or public officer to investigate, or take, disciplinary action against a public officer.</li> </ul> </li> </ul>
Division 3.4.3 Discontinuing an investigation	<ul style="list-style-type: none"> <li>• Section 107 Discontinuing an investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Section 29(6) provides that the commission may have regard to anything it considers appropriate when deciding whether to conduct or continue an investigation.</li> </ul>
Part 3.5 Powers of entry, search and seizure	<ul style="list-style-type: none"> <li>• Section 108 - Appointment: The commission may appoint a member of staff of the commission as an investigator</li> <li>• Section 109 - Identity Cards: The commission must give each investigator an identity card that states the person's name and appointment as an investigator, and shows—(a) a recent photograph of the person; and (b) the date of issue and expiry of the card; and (c) anything else prescribed by regulation.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 28: The commissioner may appoint an officer of the commission as an investigator for this part.</li> <li>• Section 116 – identity cards: same as IC Bill</li> <li>• Section 73: Power to enter premises of public – For an investigation, an investigator may at any time enter and remain on premises occupied or used by— (a) a public authority; or (b) a public official in that capacity. However, does not permit an investigator to enter or remain on— (a) any part of the premises that are</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 110 – Investigator must show identity card on exercising power. If an investigator exercises a power under this Act that affects an individual, the investigator must first show the investigator’s identity card to the individual.</li> <li>• Section 112 – power to enter premises: An investigator may at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or at any time, enter premises with the occupier’s consent; or enter premises in accordance with a search warrant.</li> <li>• Section 113 – production of identity card. An investigator, and any other person other than a police officer who is accompanying the investigator, may not remain at premises entered under this part if the investigator does not produce the investigator’s identity card when asked by the occupier.</li> <li>• Section 114 – consent to entry.</li> <li>• Section 115 – General powers on entry to premises. An investigator who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises: <ul style="list-style-type: none"> <li>(a) inspect or examine;</li> <li>(b) take measurements or conduct tests;</li> <li>(c) take samples;</li> <li>(d) make sketches, drawings or any other kind of record (including photographs, films, audio, video or other recordings);</li> </ul> </li> </ul>	<p>residential premises; or (b) any premises that are not solely occupied or used by a public authority</p> <ul style="list-style-type: none"> <li>• Section 74: Power to enter other premises: This section applies if an investigator believes on reasonable grounds that there is anything that may be evidence of corrupt conduct on premises other than premises mentioned in section 73.</li> <li>• Section 74 provides a broad power as to when an investigator may enter a premises</li> <li>• Section 75 – Production of identity card. An investigator must not remain at premises entered under this part if the investigator does not produce the investigator’s identity card when asked by the occupier.</li> <li>• Section 76 – consent to entry – same provision as in IC Bill.</li> <li>• Section 77 – General powers on entry to premises without warrant. An investigator who enters premises under section 73 or section 74 may do 1 or more of the following in relation to the premises or anything at the premises: (a) inspect the premises; and (b) inspect any document or other thing in or on the premises; and (c) take copies of, or extracts from, any document in or on the premises; and (d) require any person in or on the premises to give the investigator reasonable assistance to enable the investigator to exercise powers under this section; and (e) ask questions of any person in or on the premises where the investigator considers it reasonable to enable the investigator to exercise powers under this section.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(e) require the occupier, or anyone at the premises, to give the investigator reasonable help to exercise a power under this part.</p> <ul style="list-style-type: none"> <li>• Section 115 has an offence provision for someone who fails to comply with section 115(1)(e)</li> <li>• Section 116 Power to seize things <ul style="list-style-type: none"> <li>(1) An investigator who enters premises under this part with the occupier’s consent may seize anything at the premises if seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier’s consent.</li> <li>(2) An investigator who enters premises under a warrant under this part may seize anything at the premises that the investigator is authorised to seize under the warrant.</li> <li>(3) An investigator who enters premises under this part (whether with the occupier’s consent or under a warrant) may seize anything at the premises if satisfied on reasonable grounds that— <ul style="list-style-type: none"> <li>(a) the thing is connected with corrupt conduct; and</li> <li>(b) the seizure is necessary to prevent the thing from being— <ul style="list-style-type: none"> <li>(i) concealed, lost or destroyed; or</li> <li>(ii) used to engage in, continue or repeat the corrupt conduct.</li> </ul> </li> </ul> </li> <li>(4) Having seized a thing, an investigator may—</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• No offence provision for section 77</li> <li>• Section 78 has a power for Investigator to direct a person to provide their full name and home address if the investigator believes on reasonable grounds that a person may be able to assist in an investigation. This power is not in the IC Bill.</li> <li>• Section 79 Injunctions - The commission may apply to the Supreme Court for an injunction if the commission reasonably believes a person has engaged, is engaging or proposes to engage in conduct, and that conduct is the subject, or affects the subject of, an investigation or proposed investigation by the commission. This requirement is not in the IC Bill.</li> <li>• Section 83 - Power to seize evidence <ul style="list-style-type: none"> <li>(1) An authorised officer who enters premises with a warrant under this division may seize the evidence for which the warrant was issued.</li> <li>(2) An authorised officer may seize any document or thing at the premises if the authorised officer is satisfied on reasonable grounds that— <ul style="list-style-type: none"> <li>(a) the document or thing is evidence that would be admissible in the prosecution of a person for an indictable offence against a law of the Territory, the Commonwealth, or a State; and</li> <li>(b) the seizure is necessary to prevent the thing being concealed, lost or destroyed.</li> </ul> </li> <li>(3) Having seized a thing, an authorised officer may— <ul style="list-style-type: none"> <li>(a) move the thing from the premises where it was seized (the place of seizure) to another place; or</li> </ul> </li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(a) remove the thing from the premises where it was seized (the place of seizure) to another place; or</p> <p>(b) leave the thing at the place of seizure but restrict access to it.</p> <p>(5) A person commits an offence if the person—</p> <p>(a) interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (4) (b); and</p> <p>(b) does not have an investigator’s approval to interfere with the thing. Maximum penalty: 50 penalty units.</p> <p>(6) An offence against subsection (5) is a strict liability offence.</p> <ul style="list-style-type: none"> <li>• Section 117 – warrants generally: An investigator may apply to a magistrate for a warrant to enter premises. The application must be sworn; and state the grounds on which the warrant is sought.</li> <li>• The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires. The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—(a) there is a particular thing or activity connected with corrupt conduct; and (b) the thing or activity— <ul style="list-style-type: none"> <li>(i) is, or is being engaged in, at the premises; or</li> </ul> </li> </ul>	<p>(b) leave the thing at the place of seizure but restrict access to it.</p> <p>(4) A person commits an offence if the person—</p> <p>(a) interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (3); and</p> <p>(b) does not have an authorised officer’s approval to interfere with the thing. Maximum penalty: 50 penalty units</p> <ul style="list-style-type: none"> <li>• Section 81 - Issue of search warrant. An authorised officer may apply to a magistrate for a warrant to enter premises. The application must be sworn and state the grounds on which the warrant is sought. The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.</li> </ul> <p>The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting— (a) there is a particular thing or activity connected with a matter that the commission is investigating; and (b) the thing or activity—</p> <ul style="list-style-type: none"> <li>(i) is, or is being engaged in, at the premises; or</li> <li>(ii) may be, or may be engaged in, at the premises within the next <b>14 days</b>.</li> </ul> <p>The warrant must—</p> <ul style="list-style-type: none"> <li>(a) state the purpose for which the warrant is issued; and</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(ii) may be, or may be engaged in, at the premises within the next <b>7 days</b>.</p> <ul style="list-style-type: none"> <li>• (5) The warrant must state— <ul style="list-style-type: none"> <li>(a) that an investigator may, with any necessary assistance and force, enter the premises and exercise the investigator’s powers under this part; and</li> <li>(b) the nature of the corrupt conduct for which the warrant is issued; and</li> <li>(c) the things that may be seized under the warrant; and</li> <li>(d) the hours when the premises may be entered; and</li> <li>(e) the date, <b>within 7 days</b> after the day of the warrant’s issue, when the warrant ends.</li> </ul> </li> <li>• Section 118 Warrants—application other than in person <ul style="list-style-type: none"> <li>(1) An investigator may apply for a warrant by <b>phone, radio, email, letter or other form of communication</b> if the investigator considers it necessary because of— <ul style="list-style-type: none"> <li>(2) (a) urgent circumstances; or (b) other special circumstances.</li> </ul> </li> </ul> </li> <li>• Section 119 - Search warrants—announcement before entry</li> <li>• Section 120 – Details of search warrant to be given to occupier etc</li> <li>• Section 121 Occupier entitled to be present during search etc</li> </ul>	<ul style="list-style-type: none"> <li>(b) state particular hours during which the entry is authorised or state that entry is authorised at any time of the day or night; and</li> <li>(c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and</li> <li>(d) state the date, not later than <b>1 month</b> after the day of the warrant’s issue, the warrant ends.</li> </ul> <ul style="list-style-type: none"> <li>• Section 82 – powers under a warrant</li> <li>• Section 84 Warrants—application made other than in person <p>An authorised officer may apply for a warrant <b>by phone, email, radio or other form of communication</b> if the authorised officer considers it necessary because of—</p> <ul style="list-style-type: none"> <li>(a) urgent circumstances; or (b) other special circumstances.</li> </ul> </li> <li>• Section 85 Search warrants—announcement before entry – same as IC Bill</li> <li>• Section 86 Details of search warrant to be given to occupier etc – same as IC Bill</li> <li>• Section 87 Occupier entitled to be present during search etc – same as IC Bill</li> <li>• Division 5.3 Dealing with things seized</li> </ul> <p>Section 88:</p> <ul style="list-style-type: none"> <li>(1) Receipts for things seized similar to IC Bill apart from section 126(3)</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 122 Search warrants—claiming privilege               <ul style="list-style-type: none"> <li>(1) Section 123 supreme court to deal with privilege</li> </ul> </li> <li>• Section 125 Search warrants—offence to open secured document or other thing</li> <li>• Division 3.5.4 Return and forfeiture of things seized               <ul style="list-style-type: none"> <li>(1) Section 126(3) Receipt for things seized – A receipt under this section must include the following:                   <ul style="list-style-type: none"> <li>(a) a description of the thing seized;</li> <li>(b) an explanation of why the thing was seized;</li> <li>(c) the investigator’s name, and how to contact the investigator;</li> <li>(d) if the thing is moved from the premises where it is seized—where the thing is to be taken.</li> </ul> </li> <li>(2) Section 127 – Moving things to another place for examination or processing under search warrant</li> <li>(3) Section 129 Return of things seized. A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, unless—                   <ul style="list-style-type: none"> <li>(a) a prosecution for an offence against a territory law in connection with the thing is begun within 1 year after the day the seizure is made and the thing is required to be produced in evidence in the prosecution; or</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(2) Section 90: A thing seized under section 83 (Power to seize evidence) must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—               <ul style="list-style-type: none"> <li>(a) on conclusion of its investigation, the commission does not recommend that a prosecution for an offence relating to the thing be instituted; or</li> <li>(b) the court does not find the offence proved in a prosecution for an offence relating to the thing.                   <ul style="list-style-type: none"> <li>▪ A thing seized under this division is forfeited to the Territory if a court—                       <ul style="list-style-type: none"> <li>(a) finds an offence relating to the thing to be proved; and</li> <li>(b) orders the forfeiture.</li> </ul> </li> </ul> </li> </ul> </li> <li>• Section 91 – disposal of things seized</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(b) an application for the forfeiture of the seized thing is made to a court under the Confiscation of Criminal Assets Act 2003 or another territory law within 1 year after the day the seizure is made; or</p> <p>(c) all proceedings in relation to the offence with which the seizure was connected have ended and the court has not made an order about the thing.</p> <ul style="list-style-type: none"> <li>• Section 133 Damage etc to be minimised</li> <li>• Section 134 Compensation for exercise of enforcement powers</li> </ul>	
Part 3.6 Examinations	<ul style="list-style-type: none"> <li>• Section 135 Power to hold examination</li> <li>• Section 136 Commissioner to preside</li> <li>• Section 137 Conduct of examination</li> <li>• Section 138 Examinations may be public or private <ul style="list-style-type: none"> <li>(1) An examination may be held in public or in private.</li> <li>(2) In deciding whether to hold an examination in public or in private, the commission must consider whether— <ul style="list-style-type: none"> <li>(a) it is in the public interest to hold a public examination; and</li> <li>(b) a public examination can be held without unreasonably infringing a person’s human rights.</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 32 Commission may conduct examination</li> <li>• Section 41 presiding officer for examination</li> <li>• Section 45 Evidence and procedures</li> <li>• Section 33 Examination may be private <ul style="list-style-type: none"> <li>(1) An examination under section 32 must be conducted in public unless the commission decides it is in the public interest to hold the examination in private.</li> <li>(2) Without limiting the factors that it may take into account in deciding whether it is in the public interest to conduct an examination in private, the commission must consider the following: <ul style="list-style-type: none"> <li>(a) the benefit of exposing to the public, and making the public aware of, corrupt conduct;</li> </ul> </li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(3) In deciding whether it is in the <b>public interest</b> to hold a public examination, the commission may consider the following:</p> <ul style="list-style-type: none"> <li>(a) whether the corrupt conduct is related to an individual and was an isolated incident or systemic in nature;</li> <li>(b) the benefit of exposing to the public, and making it aware of, corrupt conduct;</li> <li>(c) the seriousness of the matter being investigated.</li> </ul> <ul style="list-style-type: none"> <li>• Section 139 Commission must notify inspector of public examination</li> </ul>	<ul style="list-style-type: none"> <li>(b) the seriousness of the allegation or complaint being investigated;</li> <li>(c) any risk of undue prejudice to a concerned person's reputation (including prejudice that might arise from not holding an inquiry);</li> <li>(d) whether the <b>public interest</b> in exposing the matter is outweighed by the public interest in preserving the privacy of a concerned person;</li> <li>(e) any representations of a concerned person in response to a notice under section 32 (3).</li> </ul>
Part 3.6 Examinations continued	<ul style="list-style-type: none"> <li>• Section 140 Offence to be present at examination not open to public</li> <li>• Section 141 provides that the Commission may give directions about who may be present during an examination and people who must not be present. It also provides the commission may make directions to hold an examination (or part of examination) in private, on request from a person required to attend the examination under an examination summons.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 42 Directions about people who may be present at private examination. Subsection 42(4) provides that a person must not be present in contravention of a direction (section 72 provides that it is offence to contravene a direction).</li> <li>• Section 38 (Right of appearance) provides that a person, who is substantially and directly interested in a matter that is the subject to an examination, is entitled to appear.</li> </ul>
	<ul style="list-style-type: none"> <li>• Section 142 Power to issue examination summons <ul style="list-style-type: none"> <li>(1) Detailed criteria on matters that the commission must consider before deciding to issue a summons, including evidentiary or intelligence value of the information, the age of the person or whether the person may be suffering a mental impairment.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 34 Notice to appear</li> <li>• Section 35 Presiding officer may compel witness</li> <li>• Section 37 Content of notice to appear</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 143 Examination summons—content               <ul style="list-style-type: none"> <li>(1) Detailed information on what must accompany the summons</li> </ul> </li> <li>• Section 144 Examination summons—commission must notify inspector</li> <li>• Section 145 Examination summons—person under 16 years</li> <li>• Section 146 Examination summons—notice and immediate attendance</li> <li>• Section 147 Examination summons—service</li> </ul>	
	<ul style="list-style-type: none"> <li>• Section 148 Examination—legal representation               <ul style="list-style-type: none"> <li>(1) A witness may be represented at an examination by a lawyer.</li> <li>(2) If the commission makes a legal advice direction, the commission must allow the witness at least 3 days from the day the witness receives the legal advice direction to obtain legal advice or representation by another lawyer before the witness is required to attend to comply with the examination summons.</li> <li>(3) Subsection (2) does not apply if the examination summons is issued under section 146 (2).</li> <li>(4) If the commission considers there are special circumstances, the commission may authorise a person who is not a witness to be represented by a lawyer during the examination of a witness.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 39 Right of representation</li> <li>• Section 40 Examination and cross-examination               <ul style="list-style-type: none"> <li>(1) This section applies to—                   <ul style="list-style-type: none"> <li>(a) a legal practitioner appointed by the commission to assist it; and</li> <li>(b) a person to whom section 39 applies; and</li> <li>(c) a legal practitioner authorised to represent a person mentioned in paragraph (b).</li> </ul> </li> <li>(2) The person may, with the leave of the commission, examine or cross-examine any witness on any matter that the commission considers relevant.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>• Section 149 Examination—provisions for vulnerable witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• These provisions for vulnerable witnesses do not appear in the ACIC Bill.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(1) Requirements for commission to comply with when dealing with witnesses who are under 16 or 18, do not speak English or have a mental impairment.</p> <ul style="list-style-type: none"> <li>• Section 150 Examination—commission may issue suppression order prohibiting or restricting the publication of any information or evidence given during a public examination.</li> <li>• Section 151 Offence—contravene suppression order               <ul style="list-style-type: none"> <li>(1) 200 penalty units, imprisonment for 2 years or both as maximum penalty for a person that contravenes a suppression order.</li> </ul> </li> <li>• Section - 152 Examination—first actions to be taken</li> </ul>	
	<ul style="list-style-type: none"> <li>• Section 153 - Examination—power to examine on oath</li> </ul>	<ul style="list-style-type: none"> <li>• Section 35 Presiding officer may compel witness to make oath or make affirmation, answer questions or produce stated document or other thing.</li> </ul>
	<ul style="list-style-type: none"> <li>• Section 154 - Examination—video recording and transcript</li> <li>• Section 155 - Examination—commission must give video recording and transcript to inspector</li> </ul>	<ul style="list-style-type: none"> <li>• These requirements do not appear in the ACIC Bill.</li> </ul>
	<ul style="list-style-type: none"> <li>• Section 156 Examination—warrant to arrest witness who fails to appear</li> <li>• Section 157 Examination—executing warrant to arrest witness who fails to appear</li> <li>• Section 158 Arrest warrant—commission must notify inspector</li> </ul>	<ul style="list-style-type: none"> <li>• Section 36 Commission may apply for arrest warrant</li> </ul>
Division 3.6.2 Examinations—privilege	<ul style="list-style-type: none"> <li>• Section 159 Examination—claiming privilege               <ul style="list-style-type: none"> <li>(1) This section applies if an examination summons directed to a person requires the person to—</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 46 Privilege in regards to information, documents etc</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(a) give evidence at an examination and the person claims that the information in answer to a question at an examination or otherwise required to be given to the commission is the subject of privilege; or</p> <p>(b) produce a document or other thing to the commission and the person claims that the document or other thing is the subject of privilege.</p> <p>(2) The claimant must attend before the commission in accordance with the examination summons.</p> <p>(3) The commission must consider the claim and either—</p> <p>(a) withdraw the requirement to answer the question, provide the information or produce the document or other thing; or</p> <p>(b) refuse to withdraw the requirement and, if the claim relates to a document or other thing, require the claimant to immediately secure the document or other thing and give it to the commission.</p> <p>(4) In considering the claim, if the claim relates to a document or other thing, the commission must not inspect the document or other thing.</p> <p>(5) In this section: privilege does not include parliamentary privilege.</p> <ul style="list-style-type: none"> <li>• Section 160 Examination—application to Supreme Court to decide privilege</li> </ul>	<p>(1) This section applies if the commission exercises a power (a compulsion power)—</p> <p>(a) to require a person to give the commission—</p> <p>(i) a statement of information under section 30 (Power to obtain information); or</p> <p>(ii) a document or other thing under section 31 (Power to obtain documents etc); or</p> <p>(b) to obtain a copy of a document or thing under section 77 (General powers on entry to premises without warrant); or</p> <p>(c) to require a person appearing before an examination conducted by the commission to—</p> <p>(i) be sworn or make an affirmation; or</p> <p>(ii) give evidence; or</p> <p>(iii) produce a stated document or other thing; or</p> <p>(iv) answer a question relevant to the examination</p> <p>(2) A person <b>cannot rely</b> on any of the following to resist the exercise of a compulsion power:</p> <p>(a) the common law privilege against self-incrimination and exposure to the imposition of a civil penalty;</p> <p>(b) the common law privilege in relation to <b>client legal privilege</b>;</p>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 161 Examination—Supreme Court to decide privilege</li> <li>• Section 162 Examination—offence to open secured document or other thing</li> <li>• Section 163 Examination—protection of witnesses and lawyers</li> </ul>	<ul style="list-style-type: none"> <li>(c) any rule under which, in proceedings in a court of law, a person might object to a similar requirement on <b>public interest</b> grounds;</li> <li>(d) <b>any duty of secrecy</b> or other restriction on disclosure applying to a person as a public authority or public official or a former public authority or public official;</li> <li>(e) any other rule of evidence that would entitle the person to refuse to divulge or disclose information in a court.</li> </ul> <p>(3) Any information, document or other thing obtained, directly or indirectly, because of the exercise of the compulsion power is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for—</p> <ul style="list-style-type: none"> <li>(a) an offence in relation to the falsity or the misleading nature of the document, other thing or answer; or</li> <li>(b) an offence against the Criminal Code, chapter 7 (Administration of justice offences).</li> </ul>
Division 3.6.3 Examinations—contempt	<ul style="list-style-type: none"> <li>• Section 164 Contempt of commission <ul style="list-style-type: none"> <li>(1) A person is in contempt of the commission if the person— <ul style="list-style-type: none"> <li>(a) has been served with a preliminary inquiry summons and refuses or fails to produce a</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 51 - Contempt of commission <ul style="list-style-type: none"> <li>(1) A person commits an offence if the person does something in the face, or within the hearing, of the commission that would be contempt of court if the commission were a <b>court of record</b>.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>document or other thing as required by the preliminary inquiry summons; or</p> <p>(b) has been served with an examination summons and—</p> <p>(i) fails to attend the examination as required by the examination summons; or</p> <p>(ii) when appearing as a witness at the examination—</p> <p>A. refuses or fails to take an oath when required; or</p> <p>B. refuses or fails to answer a question relevant to the subject matter of the examination; or</p> <p>C. refuses or fails to produce a document or other thing as required by the examination summons; or</p> <p>(c) gives evidence at an examination that the person knows is false or misleading in a material particular; or</p> <p>(d) obstructs or hinders the commissioner in the performance of the commissioner’s functions at an examination; or</p> <p>(e) disrupts an examination; or</p> <p>(f) threatens a person present at an examination.</p>	<p>Maximum penalty: 100 penalty units, imprisonment for 1 year or both.</p> <ul style="list-style-type: none"> <li>Does not appear to have any sections referring to how contempt is dealt with.</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(2) However, subsection (1) does not apply if the person has a reasonable excuse.</p> <ul style="list-style-type: none"> <li>• Section 165 Commission may apply to <b>Supreme Court</b> to deal with contempt (<b>as if it was a contempt of the Supreme Court</b>)</li> <li>• Section 166 Contempt application—commission must notify inspector</li> <li>• Section 167 Supreme Court to deal with contempt</li> <li>• Section 168 Commission may withdraw contempt application</li> <li>• Section 169 Act or omission both offence and contempt</li> </ul>	
Division 3.6.4 Examinations—other provisions	<ul style="list-style-type: none"> <li>• Section 170 Witnesses at examinations—provision of legal assistance</li> <li>• Section 171 Witnesses at examinations—reimbursement of expenses</li> <li>• Section 172 Examination—application of Criminal Code, chapter 7</li> </ul>	<ul style="list-style-type: none"> <li>• Section 44 (Reimbursement of expenses of witnesses) A witness appearing before the commission is entitled to be paid by the Territory the witness' expenses of attendance authorised in accordance with the Supreme Court scale of costs.</li> <li>• Identical provision at section 50 (Application of Criminal Code, chapter 7)</li> </ul>
Part 3.7 Privilege	<ul style="list-style-type: none"> <li>• Section 174 Privileges against self-incrimination and exposure to civil penalty do not apply</li> <li>• Section 175 Privileges against self-incrimination and exposure to civil penalty—use and derivative use immunity <ul style="list-style-type: none"> <li>(1) Any information, document or other thing obtained <b>directly</b> because of the operation of section 174 is not admissible in evidence against the person in— <ul style="list-style-type: none"> <li>(a) civil or criminal proceedings; or</li> <li>(b) a disciplinary process or action, unless the commission has made a finding of serious corrupt</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 46(2) provides that a person cannot rely on the common law privilege against self-incrimination and exposure to the imposition of a civil penalty to resist the exercise of a compulsion power:</li> <li>• Section 46(2) goes beyond the IC Bill to provide that a person cannot rely on the common law privilege in relation to client legal privilege; any rule under which, in proceedings in a court of law, a person might object to a similar requirement on public interest grounds; any duty of secrecy or other restriction on disclosure applying to a</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>conduct or systemic corrupt conduct in relation to the person.</p> <p>(2) Any information, document or other thing obtained <b>indirectly</b> because of the operation of section 174 is not admissible in evidence against the person in civil or criminal proceedings, unless—</p> <p>(a) the information, document or thing could have been obtained without the operation of section 174; or</p> <p>(b) the significance of the information, document or other thing could have been appreciated without the operation of section 174.</p>	<p>person as a public authority or public official or a former public authority or public official; or any other rule of evidence that would entitle the person to refuse to divulge or disclose information in a court.</p> <ul style="list-style-type: none"> <li>Section 46(3) provides that any information, document or other thing obtained, directly or indirectly, because of the exercise of the compulsion power is not admissible in evidence against the person in a civil or criminal proceeding.</li> </ul>
Memorandum of understanding relating to parliamentary privilege	<ul style="list-style-type: none"> <li>Section 176 Parliamentary privilege—memorandum of understanding <ul style="list-style-type: none"> <li>(1) memorandum of understanding <b>must</b> be established between the Speaker and the Integrity Commission about parliamentary privilege – this ensures that management and oversight of privileges remains with the Assembly</li> </ul> </li> <li>memorandum of understanding is a notifiable instrument</li> </ul>	<ul style="list-style-type: none"> <li>Division 4.4 Dealing with parliamentary privilege claims <ul style="list-style-type: none"> <li>(1) See section 150 (exercise of commission powers – Assembly)</li> </ul> </li> <li>memorandum of understanding <b>may</b> be established between the Speaker and Integrity Commissioner.</li> <li>memorandum of understanding is a notifiable instrument</li> <li>Detailed provision on process and application to Supreme Court to determine parliamentary privilege - See Division 4.4: Dealing with parliamentary privilege claims: <ul style="list-style-type: none"> <li>notification of an inspection provided to Clerk (section 54)</li> <li>process for dealing with parliamentary privilege claims (section 55)</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<ul style="list-style-type: none"> <li>- investigator to consider parliamentary privilege and secure document or thing (section 56)</li> <li>- application to Supreme Court to determine parliamentary privilege (section 57)</li> <li>- determination of parliamentary privilege claim (section 58)</li> </ul>
Part 3.8 Recommendations	<ul style="list-style-type: none"> <li>• Section 177 Commission may make private recommendation at any time</li> <li>• Section 178 Commission may require response to private recommendation</li> <li>• Section 179 Commission may make private recommendation public               <ul style="list-style-type: none"> <li>(1) The commission may make a private recommendation public in an investigation report or annual report if the commission has not received a private recommendation report within the stated time; or has received the report and considers the person has failed to take appropriate action in relation to a private recommendation.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• There does not appear to be similar provisions in the ACIC Bill. A general provision on findings, opinions and recommendations is provided at section 59 of the ACIC Bill.</li> </ul>
Part 3.9 Completing an investigation— investigation reports	<ul style="list-style-type: none"> <li>• Section 180 Investigation reports               <ul style="list-style-type: none"> <li>(1) After completing an investigation, the commission must prepare a report of the investigation (an investigation report).</li> <li>(2) An investigation report may include the commission's—                   <ul style="list-style-type: none"> <li>(a) findings, opinions and recommendations; and</li> <li>(b) reasons for those findings, opinions and recommendations.</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 59 findings, opinions, recommendations               <ul style="list-style-type: none"> <li>(1) On completing an investigation, the commission may—                   <ul style="list-style-type: none"> <li>(a) make a finding or form an opinion in relation to the matters investigated, regardless of whether the finding or opinion relates to corrupt conduct; and</li> <li>(b) if the commission considers that a person should take action in relation to a finding or opinion or</li> </ul> </li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 181 Investigation report—not to include findings of guilt etc or recommendations about prosecution</li> <li>• Section 182 Investigation report—not to include finding of corrupt conduct unless serious corrupt conduct</li> <li>• Section 183 Investigation report—not to include information that may prejudice proceeding etc</li> <li>• Section 184 Investigation report—not to include information identifying certain people</li> <li>• Section 185 Investigation report—not to include information contrary to the public interest               <ol style="list-style-type: none"> <li>(1) The commission must not include information in an investigation report if the commission considers that the disclosure of the information would, on balance, be contrary to the public interest.</li> <li>(2) The disclosure of information may be contrary to the public interest only if the disclosure would be reasonably likely to—                   <ol style="list-style-type: none"> <li>(a) infringe an individual’s right to privacy and reputation, or any other right under the Human Rights Act 2004; or</li> <li>(b) disclose a trade secret, or the business affairs or research of an entity; or</li> <li>(c) prejudice relations between the ACT government and another government.</li> </ol> </li> <li>(3) However, the commission may include in the investigation report information mentioned in subsection (1) if satisfied the substance of the information is public knowledge</li> </ol> </li> </ul>	<p>as a result of the investigation—make a recommendation that the person take action.</p> <ol style="list-style-type: none"> <li>(2) The commission is not restricted in its findings, opinions or recommendations except as provided in this section</li> <li>(3) The commission must not—           <ol style="list-style-type: none"> <li>(a) make a finding or form an opinion that a named person is guilty of or has committed, is committing or is about to commit a criminal offence or disciplinary offence; or</li> <li>(b) make a recommendation, or form an opinion, that a named person be prosecuted for a criminal offence or disciplinary offence.</li> </ol> </li> <li>(4) The commission does not make a finding or form an opinion mentioned in subsection (3) merely because the commission makes a finding or forms an opinion that a person has engaged, is engaging or is about to engage in—           <ol style="list-style-type: none"> <li>(a) corrupt conduct (whether or not the particular corrupt conduct is stated); or</li> <li>(b) stated conduct (being conduct that constitutes or involves, or could constitute or involve, corrupt conduct).</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• Section 60 Reports on investigations       <ol style="list-style-type: none"> <li>(1) The commission—           <ol style="list-style-type: none"> <li>(a) must prepare a report on completion of an investigation in relation to—               <ol style="list-style-type: none"> <li>(i) a corruption issue; and</li> <li>(ii) an Assembly referral; and</li> </ol> </li> </ol> </li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 186 Investigation report—comments on proposed reports</li> <li>• Section 187 Investigation report—presentation to Legislative Assembly</li> <li>• Section 188 Investigation report—publication on website</li> <li>• Section 189 Investigation report—Ministerial response about ACT public service entity</li> <li>• Section 190 <b>Confidential investigation report</b> <ol style="list-style-type: none"> <li>(1) This section applies if the commission omits information from an investigation report under—               <ol style="list-style-type: none"> <li>(a) section 183 (Investigation report—not to include information that may prejudice proceeding etc); or</li> <li>(b) section 184 (Investigation report—not to include information identifying certain people); or</li> <li>(c) section 185 (Investigation report—not to include information contrary to the public interest).</li> </ol> </li> <li>(2) The commission may prepare a confidential investigation report that includes the omitted information.</li> <li>(3) The commission <b>must give the confidential investigation report to the presiding member</b> of the relevant Assembly committee.</li> <li>(4) The presiding member must present the confidential investigation report to the committee.</li> <li>(5) A confidential investigation report presented to the committee is taken for all purposes to have been referred to the committee by the Legislative Assembly for inquiry and any report that the committee considers appropriate.</li> </ol> </li> </ul>	<ol style="list-style-type: none"> <li>(b) must prepare a report if the relevant Assembly committee requests a report on a particular investigation; and</li> <li>(c) may prepare a report in relation to a matter before the investigation is completed.</li> </ol> <ol style="list-style-type: none"> <li>(2) However, the commission need not prepare a report under subsection (1)(a)(i) if, in the opinion of the commission, this would be contrary to the public interest.</li> </ol> <ul style="list-style-type: none"> <li>• Section 61 Public interest considerations       <ol style="list-style-type: none"> <li>(1) When preparing a report under section 60, the commission must consider whether all or part of the report must be kept confidential (a confidential report) because—           <ol style="list-style-type: none"> <li>(a) there are public interest considerations against disclosure; and</li> <li>(b) those considerations outweigh the public interest in favour of disclosure.</li> </ol> </li> <li>(2) There is a public interest against disclosure if disclosure of information could reasonably have any of the following effects:           <ol style="list-style-type: none"> <li>(a) compromise an ongoing investigation;</li> <li>(b) place an individual in danger;</li> <li>(c) prejudice an upcoming judicial proceeding.</li> </ol> </li> </ol> </li> <li>• Section 62 Delivery and tabling of reports       <ol style="list-style-type: none"> <li>(1) Similar to IC Bill provision but does not have provisions for deputy speaker in the Speaker’s absence</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
		<ul style="list-style-type: none"> <li>• Section 63 <b>Confidential reports to be given to relevant committee</b> <ol style="list-style-type: none"> <li>(1) The commission must give a copy of a confidential report to the presiding member of the relevant Assembly committee.</li> </ol> </li> </ul>
Part 3.10 Secrecy and information sharing	<ul style="list-style-type: none"> <li>• Section 191 Legal advice directions</li> <li>• Section 192 Legal advice direction—commission must notify inspector</li> <li>• Section 193 Offence—fail to comply with legal advice direction</li> <li>• Section 194 Disclosure of information by commission</li> <li>• Section 195 Information about investigation may be given to certain people</li> <li>• Section 196 Commission must give disclosure notice when giving information</li> <li>• Section 197 Meaning of permitted disclosure of information—Part 3.10</li> <li>• Section 198 Offence—disclose information received from the commission</li> <li>• Section 199 Evidence in <b>court proceedings</b> <ol style="list-style-type: none"> <li>(1) This section applies if—               <ol style="list-style-type: none"> <li>(a) a person is a party to a court proceeding (whether civil or criminal); and</li> <li>(b) the court considers it desirable that particular evidence given to the commission be made available to a party to the proceeding; and</li> <li>(c) the person is prohibited by this Act from disclosing the evidence.</li> </ol> </li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Does not appear to have a similar provision for legal advice direction</li> <li>• See section 43 for disclosure of information</li> <li>• Section 148 Evidence in <b>criminal proceedings</b> <ol style="list-style-type: none"> <li>(4) The section applies if—               <ol style="list-style-type: none"> <li>(a) a person is prosecuted for an offence; and</li> <li>(b) the court before which the person is prosecuted considers it desirable that particular evidence given to the commission that a person is otherwise prohibited by this Act from disclosing be made available to—                   <ol style="list-style-type: none"> <li>(i) the defendant; or</li> <li>(ii) a legal practitioner representing the defendant; or</li> <li>(iii) the prosecutor</li> </ol> </li> </ol> </li> <li>(5) After giving the commission a reasonable opportunity to appear and make representations concerning the matter, the court may order that the commission make the evidence available to the court.</li> <li>(6) The court may then make the evidence available to the defendant, the defendant’s legal practitioner or the prosecutor, if the court has examined the</li> </ol> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(2) After giving the commission a reasonable opportunity to appear and make representations about the evidence, the court may order that the commission make the evidence available to the court.</p> <p>(3) If the court has examined the evidence and is satisfied that it is in the <b>interests of justice</b> to make the evidence available to the party, the court may make the evidence available to the party.</p>	<p>evidence and is satisfied that the <b>interests of justice</b> so require.</p> <ul style="list-style-type: none"> <li>• Section 154 Information sharing</li> </ul>
Part 3.11 Outcomes	<ul style="list-style-type: none"> <li>• Section 200 Outcome of prosecutions and serious disciplinary action to be published</li> <li>• Section 201 Exoneration guidelines <ul style="list-style-type: none"> <li>(1) The commission must make <b>guidelines</b> about how the commission is to deal with damage to a person's reputation if— <ul style="list-style-type: none"> <li>(a) the commission publishes in an investigation report or annual report— <ul style="list-style-type: none"> <li>(i) a finding or opinion that a person has engaged in, is engaging in, or is about to engage in, corrupt conduct; or</li> <li>(ii) a comment or opinion which is adverse to a person; and</li> </ul> </li> <li>(b) if the matter is referred to a prosecutorial body— <ul style="list-style-type: none"> <li>(i) the person is not prosecuted for an offence arising out of the investigation; or</li> <li>(ii) the person is prosecuted for an offence arising out of the investigation and— <ul style="list-style-type: none"> <li>A. the prosecution is discontinued or dismissed; or</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The ACIC Bill does not appear to have a similar provision to section 200 from the IC Bill.</li> <li>• Section 157 Reputational repair protocol <ul style="list-style-type: none"> <li>(1) The commission must develop a <b>protocol</b> to deal with reputational damage suffered by a person— <ul style="list-style-type: none"> <li>(a) who the commission has publicly named as having engaged in corrupt conduct in a report tabled in the Legislative Assembly under section 62 (Delivery and tabling of reports); and</li> <li>(b) <b>who has subsequently been cleared of any wrongdoing (whether by a court or otherwise).</b></li> </ul> </li> <li>(2) The commission must develop guidelines for use of the protocol under subsection (1).</li> <li>(3) The guidelines are a notifiable instrument.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>B. the person is found not guilty of the offence; or</li> <li>C. the person is convicted of the offence but the conviction is quashed, nullified or set aside; or</li> <li>D. the person is otherwise cleared of wrongdoing; and</li> </ul> <p>(c) if the person is the subject of serious disciplinary action arising out of the investigation—the person is cleared of wrongdoing.</p>	
Part 4.1 Special reports	<ul style="list-style-type: none"> <li>• Section 202 provides that the commission may, at any time, prepare a report (a special report) for the Legislative Assembly on any matter relating to the exercise of the commission’s functions, including administrative and general policy matter. Sections 203 to 212 set out detailed provisions on what must not be included in a special report, procedures for tabling, and confidential reporting to the relevant Assembly committee.</li> </ul>	<ul style="list-style-type: none"> <li>• No similar provisions.</li> </ul>
Part 4.2 Annual reports	<ul style="list-style-type: none"> <li>• Section 213 Annual report—content <ul style="list-style-type: none"> <li>(1) More detailed provisions compared to the ACIC Bill</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 118 Annual reports of commission</li> </ul>
Part 5.1 Inspector— independence and functions	<ul style="list-style-type: none"> <li>• Section 219 Inspector—<b>officer of the Legislative Assembly</b></li> <li>• Section 220 Inspector—independence</li> <li>• Section 221 Inspector—functions <ul style="list-style-type: none"> <li>(1) The functions of the inspector are— <ul style="list-style-type: none"> <li>(a) to assess and report on the <b>commission’s compliance</b> with this Act and any memorandums of understanding or agreements entered into under this Act; and</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>No requirement for inspector to be an officer of the Legislative Assembly</b></li> <li>• Identical independence provision at section 121 (Independence of inspector)</li> <li>• Section 120 Functions of inspector <ul style="list-style-type: none"> <li>The functions of the inspector are—</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>(b) to receive, investigate and assess complaints about the commission and members of staff of the commission; and</p> <p>(c) to make recommendations to the commission or public bodies about practices or procedures in relation to the performance of functions under this Act; and</p> <p>(d) any other functions given to the inspector under this Act or another territory law.</p> <p>(2) The inspector is not subject to direction from anyone in relation to the exercise of the inspector's functions.</p> <ul style="list-style-type: none"> <li>• Section 224 Inspector – term of appointment</li> </ul>	<p>(a) examining and reviewing the commission's performance and reporting on it to the Speaker; and</p> <p>(b) receiving and dealing with complaints about the commission or officers of the commission; and</p> <p>(c) making recommendations to the commission or a public authority about practices or procedures in relation to the exercise of functions under this Act; and</p> <p>(d) exercising other functions given to the inspector under this Act or another territory law.</p>
Part 5.2 Inspector—appointment	<ul style="list-style-type: none"> <li>• Section 222 Inspector—appointment (3) The Speaker must not appoint a person as inspector unless—(a) satisfied that the person has <b>extensive knowledge</b> of, and experience in— <ul style="list-style-type: none"> <li>(i) criminal investigation or criminal adjudication;</li> <li>(ii) law enforcement or the conduct of investigations; or</li> <li>(iii) public administration, governance or government.</li> </ul> </li> <li>• Section 223 Inspector—eligibility for appointment (1) Excludes persons from being eligible if they have previously been convicted of an offence in ACT or Australia.</li> <li>• Section 224 Inspector—term of appointment</li> <li>• Section 225 Inspector—oath or affirmation of office</li> <li>• Section 226 Inspector—disclosure of interests</li> </ul>	<ul style="list-style-type: none"> <li>• Section 119 Appointment of Inspector (3) The Speaker must not appoint a person as inspector unless— <ul style="list-style-type: none"> <li>(a) the Speaker is satisfied that the person has <b>extensive knowledge</b> of, and experience in, integrity and accountability in public administration.</li> </ul> </li> <li>• Section 123 Eligibility for appointment as inspector – includes lawyer of 10 years and uses 10 years in limiting the time between a previous role and the appointment to Inspector.</li> <li>• Section 124 Term of appointment of inspector (1) Inspector not eligible for reappointment</li> <li>• Section 132 Oath or affirmation of office—inspector</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 227 Inspector—must not do inconsistent work etc</li> <li>• Section 228 Inspector—resignation</li> <li>• Section 229 Inspector—retirement</li> <li>• Section 230 Inspector—suspension generally</li> <li>• Section 231 Inspector—suspension—relevant Assembly committee notice and meetings</li> <li>• Section 232 Inspector—ending suspension</li> <li>• Section 233 Inspector—ending appointment</li> <li>• Section 234 Inspector—leave of absence</li> <li>• Section 235 Inspector—acting inspector</li> <li>• Section 236 Inspector—arrangements for another person to exercise functions</li> </ul>	<ul style="list-style-type: none"> <li>• Section 133 Declaration of interests—inspector <ul style="list-style-type: none"> <li>(1) Declaration must be available on the Legislative Assembly website</li> </ul> </li> <li>• Section 134 Inspector must avoid conflict of interest <ul style="list-style-type: none"> <li>(1) Inspector must not have paid employment <b>other than</b> exercising the inspector’s functions</li> <li>(2) Additional conflict of interest requirements</li> </ul> </li> <li>• Section 135 Resignation—inspector</li> <li>• Section 136 Retirement—inspector</li> <li>• Section 137 Suspension of inspector—generally</li> <li>• Section 138 Relevant Assembly committee to consider suspension of inspector</li> <li>• Section 139 Ending suspension of inspector</li> <li>• Section 140 Ending appointment of inspector</li> <li>• Section 141 Leave of absence—inspector</li> <li>• Section 122 Acting inspector includes extra subsection: <ul style="list-style-type: none"> <li>(3) The following provisions do not apply in relation to a person appointed to act as inspector: <ul style="list-style-type: none"> <li>• section 119 (2) (b) - (open and accountable selection process)</li> <li>• section 119 (3) (b) - (appointment agreed by Legislative Assembly)</li> <li>• section 123 (2) (b) - (10 year limitation for person who has been a public employee).</li> </ul> </li> </ul> </li> </ul>
Part 5.3 Inspector—staff	<ul style="list-style-type: none"> <li>• Section 238 The Inspector may employ staff on behalf of the Territory. The staff <b>must</b> be employed under the <i>Public Sector Management Act 1994</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 142 Inspector’s staff <ul style="list-style-type: none"> <li>(1) Inspector staff <b>must</b> be employed under the Public Sector Management Act 1994 as per the IC Bill.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 240 Staff of the inspector—eligibility for appointment (2) In deciding whether a person is suitable to be a member of staff of the inspector, the inspector may ask the person to do 1 or more of the following:               <ul style="list-style-type: none"> <li>(a) provide a police certificate for the person, dated not earlier than 6 months before the date of the request;</li> <li>(b) declare personal interests the inspector considers relevant;</li> <li>(c) undergo a medical or psychological assessment;</li> <li>(d) make a statement about a matter determined by the inspector to be relevant to the person’s suitability;</li> <li>(e) anything else the inspector considers is necessary to decide whether a person</li> </ul> </li> <li>• Section 241 Staff of the inspector—not subject to direction from others</li> <li>• Section 242 Delegation by inspector</li> <li>• Section 243 Inspector-other arrangements for staff and facilities               <ul style="list-style-type: none"> <li>(1) Arrangements with Head of Service and Speaker</li> </ul> </li> <li>• Section 244 Inspector—arrangements with other entities</li> </ul>	<ul style="list-style-type: none"> <li>• Section 143 Inspector – consultants and contractors</li> <li>• Section 144 Other arrangements for staff and facilities               <ul style="list-style-type: none"> <li>(1) Arrangements with Head of Service</li> </ul> </li> <li>• Section 145 Conflict of interest—inspector’s staff – focusses on financial and personal disclosures of interest</li> <li>• Section 146 Delegation by inspector</li> </ul>
Part 5.4 Inspector—investigating complaints about the commission	<ul style="list-style-type: none"> <li>• Section 246 Inspector—making a complaint to the inspector (1) A person may make a complaint to the inspector about the conduct of the commission or commission</li> </ul>	<ul style="list-style-type: none"> <li>• Section 128 Complaints about commission (1) A person may make a complaint about the commission or an officer of the commission to— (a) the commission; or</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<p>personnel in relation to the exercise of, or failure to exercise, a function under this Act or another law in force in the Territory.</p> <p>(2) Without limiting subsection (1), a complaint may be made on the basis that the conduct of the commission or commission personnel was—</p> <ul style="list-style-type: none"> <li>(a) contrary to law; or</li> <li>(b) unreasonable, unjust, oppressive or improperly discriminatory; or</li> <li>(c) based on improper motives; or</li> <li>(d) an abuse of power; or</li> <li>(e) otherwise improper.</li> </ul> <ul style="list-style-type: none"> <li>• Section 247 Inspector—must keep complainant informed</li> <li>• Section 248 Inspector—must give disclosure notice when giving information</li> <li>• Section 249 Meaning of permitted disclosure of information—Part 5.5</li> <li>• Section 250 Offence—disclose information received from the inspector</li> <li>• Section 251 Inspector—investigating a complaint</li> <li>• Section 252 Inspector—own initiative investigation</li> <li>• Section 253 Inspector—conduct of investigation</li> <li>• Section 254 Inspector—commission must give assistance</li> <li>• Section 255 Inspector—withdrawal of complaint</li> <li>• Section 256 Inspector—power to ask for information, documents and other things</li> <li>• Section 257 Inspector—privileges against self-incrimination and exposure to civil penalty</li> </ul>	<p>(b) the inspector.</p> <p>(2) If the commission receives a complaint, the commission must notify the inspector <b>within 14 days</b>.</p> <p>(3) The inspector may deal with a complaint in any manner the inspector considers appropriate.</p> <ul style="list-style-type: none"> <li>• Section 130 Further powers of inspector</li> </ul> <p>(1) On completion of, or at any time during, a review or dealing with a complaint, the inspector may—</p> <ul style="list-style-type: none"> <li>(a) refer a matter to a law enforcement agency for investigation or prosecution; or</li> <li>(b) refer a matter to the commission or a public authority for investigation and disciplinary action against a public official for which the commission or public authority is responsible; or</li> <li>(c) make recommendations to the commission or a public authority about practices or procedures in relation to the performance of functions under this Act.</li> </ul> <p>(2) The inspector may recommend to the Speaker that an acting commissioner be appointed under section 97 to investigate the conduct of the commissioner or an officer of the commission if—</p> <ul style="list-style-type: none"> <li>(c) a complaint raises allegations of corrupt conduct of the commissioner or an officer of the commission; or</li> <li>(d) the inspector becomes aware (in a review or in dealing with a complaint or otherwise) of</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 258 Inspector—referral to other entities               <ol style="list-style-type: none"> <li>(1) The inspector may, at any time, refer a matter to the commission if—                   <ol style="list-style-type: none"> <li>(a) the commission has power to investigate the matter; and</li> <li>(b) the inspector considers it would be more appropriate for the matter to be investigated by the commission.</li> </ol> </li> <li>(2) The inspector may, at any time, refer a matter to the <b>public sector standards commissioner or the Legislative Assembly commissioner for standards</b> (a relevant commissioner) if—                   <ol style="list-style-type: none"> <li>(a) the relevant commissioner has power to investigate the matter; and</li> <li>(b) the inspector considers it would be more appropriate for the matter to be investigated by the relevant commissioner.</li> </ol> </li> <li>(3) The inspector may, at any time, refer a matter to a law enforcement agency or prosecutorial body if—                   <ol style="list-style-type: none"> <li>(a) the matter is relevant to the exercise of the law enforcement agency’s, or prosecutorial body’s, functions; and</li> <li>(b) the inspector considers it appropriate to refer the matter.</li> </ol> </li> </ol> </li> <li>• Section 259 Inspector—recommendations about practices or procedures</li> <li>• Section 260 Inspector—recommendation that acting commissioner be appointed to investigate commission</li> </ul>	<p>information that, if true, would tend to show corrupt conduct of the commissioner or an officer of the commission.</p> <ol style="list-style-type: none"> <li>(3) If the inspector is of the opinion that a <b>matter needs to be brought to the attention of the Speaker</b> sooner than the next report under section 127 is due, the inspector may make a report to the Speaker.</li> <li>(4) The inspector may request the Speaker table the report in the Legislative Assembly.</li> <li>(5) If the inspector requests a report be tabled in the Legislative Assembly, the Speaker must table the report in the Legislative Assembly within 6 sitting days after the Speaker receives the report.</li> </ol> <ul style="list-style-type: none"> <li>• Section 129 <b>Access to commission premises and information</b></li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
Part 5.5 Inspector—secrecy and information sharing	<ul style="list-style-type: none"> <li>• Section 261 Inspector—disclosure of information</li> </ul>	<ul style="list-style-type: none"> <li>• Section 131 - Confidentiality of information</li> </ul>
Part 5.6 Inspector’s special reports	<ul style="list-style-type: none"> <li>• Detailed provisions/requirements</li> </ul>	<ul style="list-style-type: none"> <li>• These requirements of the IC Bill do not appear to be in the ACIC Bill.</li> </ul>
Part 5.7 Inspector—annual operational review of commission	<ul style="list-style-type: none"> <li>• Section 266 Inspector – annual operation review report               <ul style="list-style-type: none"> <li>(1) Inspector must give the commission a reasonable opportunity to comment on the proposed report</li> </ul> </li> <li>• Section 267 Inspector—annual report.</li> <li>• More detailed provisions compared to section 125 of the ACIC Bill.</li> <li>• Section 268 Inspector—annual report not to include information contrary to the public interest.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 126 Comments on proposed report</li> <li>• Section 125 Review of commission’s performance               <ul style="list-style-type: none"> <li>(1) The inspector must examine and review the performance of the commission for the financial year.</li> <li>(2) In exercising the function under subsection (1), the inspector must consider—                   <ul style="list-style-type: none"> <li>(a) whether the commission and officers of the commission have acted within power and in compliance with this Act and other territory laws; and</li> <li>(b) whether the commission has implemented any previous recommendations made by the inspector; and</li> <li>(c) any other matters the inspector considers relevant.</li> </ul> </li> </ul> </li> <li>• Section 127 Report on review               <ul style="list-style-type: none"> <li>(1) The inspector must prepare a report about a review under section 125 as soon as practicable but not later than 3 months after the end of the financial year to which the review relates.</li> </ul> </li> </ul>
Chapter 6 Protections for complainants	<ul style="list-style-type: none"> <li>• Section 270 Immunity from liability</li> <li>• Section 271 Protection from defamation action</li> </ul>	<ul style="list-style-type: none"> <li>• Division 3.3 Protections for complainants and reporters</li> <li>• Section 20 – Immunity from liability</li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 272 Loss of protection</li> <li>• Section 273 Liability for own conduct               <ul style="list-style-type: none"> <li>(1) A person’s liability for the person’s own conduct is not affected by the person’s disclosure of that conduct under this Act.</li> <li>(2) In this section: liability includes civil or criminal liability or any liability arising from an administrative action (including disciplinary action or dismissal).</li> </ul> </li> <li>• Section 274 Meaning of detrimental action</li> <li>• Section 275 Offence—taking detrimental action</li> <li>• Section 276 Damages for detrimental action</li> <li>• Section 277 Injunction to prevent detrimental action etc</li> </ul>	<ul style="list-style-type: none"> <li>• Section 21 – Protection from defamation action</li> <li>• Section 22 – Loss of protection</li> <li>• Section 23 Liability for own conduct               <ul style="list-style-type: none"> <li>(1) A person’s liability for the person’s own conduct is not affected by the person’s—                   <ul style="list-style-type: none"> <li>(a) complaint under section 11 (Complaints about possible corrupt 22 conduct); or</li> <li>(b) report under section 12 (Duty of principal officer of public authority to tell commission about corrupt conduct).</li> </ul> </li> <li>(2) In this section: liability includes civil or criminal liability or any liability arising from an administrative action (including disciplinary action or dismissal).</li> </ul> </li> <li>• Section 24 Meaning of detrimental action</li> <li>• Section 25 Offence—taking detrimental action</li> <li>• Section 26 Damages for detrimental action</li> <li>• Section 27 Injunction to prevent detrimental action etc</li> </ul>
Chapter 7 Miscellaneous	<ul style="list-style-type: none"> <li>• Section 278 Offences—use or divulge protected information</li> <li>• Section 279 Protection of officials from liability</li> <li>• Section 280 Information guidelines               <ul style="list-style-type: none"> <li>(1) The commission must, in consultation with the information privacy commissioner, make guidelines about the handling of information under this Act (the information guidelines).</li> <li>(2) An information guideline is a notifiable instrument.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 147 Secrecy</li> <li>• Section 156 Protection of officials from liability</li> <li>• Section 149 Information handling guidelines               <ul style="list-style-type: none"> <li>(1) The commission must develop guidelines for handling information obtained by the commission in performing its functions under this Act (information handling guidelines).</li> <li>(2) The commission must consult with the information privacy commission in developing the information handling guidelines.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
	<ul style="list-style-type: none"> <li>• Section 281 Regulation-making power. There is no restriction on the maximum penalty units for offences.</li> </ul>	<ul style="list-style-type: none"> <li>(3) The commissioner must ensure that the information handling guidelines are published on the commission’s website.</li> <li>• Section 158 – regulation making power <ul style="list-style-type: none"> <li>(2) A regulation may create offences and fix maximum penalties of not more than 30 penalty units for the offences.</li> </ul> </li> </ul>
Relevant Assembly Committee functions	<ul style="list-style-type: none"> <li>• Dictionary - defines ‘relevant Assembly committee’ as the committee of the Legislative Assembly whose functions include the examination of matters related to corruption and integrity in public administration.</li> <li>• There is no specific provisions that sets out the functions of the committee. This will be a matter for the Legislative Assembly. However, the following clauses contemplate a role for the relevant Assembly committee: <ul style="list-style-type: none"> <li>• Clause 25 - Commissioner—appointment</li> <li>• Clause 34 - Commissioner—suspension—relevant Assembly committee notice and meetings</li> <li>• Clause 35 - Commissioner—ending suspension</li> <li>• Clause 38 - Commissioner—acting commissioner</li> <li>• Clause 190 - Confidential investigation report</li> <li>• Clause 212 - Confidential special report</li> <li>• Clause 222 - Inspector—appointment</li> <li>• Clause 231 - Inspector—suspension—relevant Assembly committee notice and meetings</li> <li>• Clause 232 - Inspector—ending suspension</li> <li>• Clause 235 - Inspector—acting inspector</li> <li>• Clause 280 - Regulation-making power</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Oversight of commission by committee (section 117) <ul style="list-style-type: none"> <li>(1) committee to monitor and report to Legislative Assembly on the performance and functions of the commission;</li> <li>(2) committee may report to the Legislative Assembly about a review of a commission’s report;</li> <li>(3) committee to be consulted on the preparation of annual appropriations.</li> </ul> </li> </ul>

Government Bill Part or Section	Government Bill (Integrity Commission Bill 2018) provision	Opposition Bill (Anti-corruption and Integrity Commission Bill 2018) provision
Section 282, Review of Act	<ul style="list-style-type: none"> <li>• Section 282 Review of Act:               <ol style="list-style-type: none"> <li>(1) The Minister must, in consultation with the Speaker, review the operation of this Act as soon as practicable after the end of every 5<sup>th</sup> year of its operation.</li> <li>(2) The Minister must present a report of the review to the Legislative Assembly at a time decided in consultation with the Speaker.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Section 159 Review of Act:               <ol style="list-style-type: none"> <li>(1) The Minister must review the operation of this Act as soon as practicable after the end of every 5<sup>th</sup> year of its operation.</li> <li>(2) The Minister must present a report of the review to the Legislative Assembly within 3 months after the day the review is started.</li> </ol> </li> </ul>
Consequential amendments	<p><u>19 consequential amendments</u></p> <ul style="list-style-type: none"> <li>• Part 1.1 Bail Act 1992</li> <li>• Part 1.2 Children and Young People Act 2008</li> <li>• Part 1.3 Co-operatives National Law (ACT) Act 2017</li> <li>• Part 1.4 Corrections Management Act 2007</li> <li>• Part 1.5 Crimes (Assumed Identities) Act 2009</li> <li>• Part 1.6 Crimes (Controlled Operations) Act 2008</li> <li>• Part 1.7 Crimes (Protection of Witness Identity) Act 2011</li> <li>• Part 1.8 Crimes (Surveillance Devices) Act 2010</li> <li>• Part 1.9 Criminal Code 2002</li> <li>• Part 1.10 Freedom of Information Act 2016</li> <li>• Part 1.11 Gambling and Racing Control Act 1999</li> <li>• Part 1.12 Information Privacy Act 2014</li> <li>• Part 1.13 Legislation Act 2001</li> <li>• Part 1.14 Mental Health Act 2015</li> <li>• Part 1.15 Mental Health (Secure Facilities) Act 2016</li> <li>• Part 1.16 Public Interest Disclosure Act 2012</li> <li>• Part 1.17 Remuneration Tribunal Act 1995</li> <li>• Part 1.18 Terrorism (Extraordinary Temporary Powers) Act 2006</li> <li>• Part 1.19 Victims of Crime Act 1994</li> </ul>	<p><u>7 consequential amendments</u></p> <ul style="list-style-type: none"> <li>• Part 1.1 Corrections Management Act 2007</li> <li>• Part 1.2 Crimes (Controlled Operations) Act 2008</li> <li>• Part 1.3 Crimes (Surveillance Devices) Act 2010</li> <li>• Part 1.4 Freedom of Information Act 2016</li> <li>• Part 1.5 Information Privacy Act 2014</li> <li>• Part 1.6 Legislation Act 2001</li> <li>• Part 1.7 Public Interest Disclosure Act 2012</li> </ul>