



New South Wales

# Privacy and Government Information Legislation Amendment Bill 2010

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Privacy and Personal Information Protection Act 1998 (PPIPA)*, the *Government Information (Information Commissioner) Act 2009 (GIICA)*, the *Government Information (Public Access) Act 2009 (GIPAA)* and other Acts to provide for the following:

- (a) an Information and Privacy Commission (*the Commission*) will be established by merging the Office of the Information Commissioner and Privacy NSW (with the Information Commissioner to be head of the Commission and responsible for the management of the staff of the Commission),
- (b) the staff of the Information Commissioner and the Privacy Commissioner will be employed in the Commission,
- (c) the Privacy Commissioner will be appointed and removed in the same manner as the Information Commissioner (with the same person not being permitted to hold both offices),
- (d) the Privacy Commissioner will report to Parliament on the operation of PPIPA,

- (e) the Privacy Advisory Committee under PPIPA will be replaced with an Information and Privacy Advisory Committee having the function of advising on matters relevant to the functions of the Privacy Commissioner and the Information Commissioner,
- (f) the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission (*the Joint Committee*) will be responsible for oversight of the Privacy Commissioner's functions (in the same way as the Committee is currently responsible for oversight of the Information Commissioner's functions),
- (g) the Information Commissioner will be required to consult with the Privacy Commissioner before issuing guidelines about a privacy-related public interest consideration against disclosure under GIPAA,
- (h) the Privacy Commissioner will be required to consult with the Information Commissioner before issuing guidelines about the information protection principle that limits the disclosure of personal information by a public sector agency,
- (i) the Information Commissioner will be required to consult with the Privacy Commissioner before making a recommendation about a decision of an agency that concerns a privacy-related public interest consideration against disclosure under GIPAA,
- (j) a right of appearance in proceedings before the Administrative Decisions Tribunal on a review under GIPAA or PPIPA will be conferred on the Privacy Commissioner (in relation to privacy-related public interest considerations against disclosure) and on the Information Commissioner (in relation to the provision of access to government information),
- (k) the Minister will be required to consult with the Privacy Commissioner before a regulation is made under GIPAA that concerns the protection of individual privacy or a privacy-related public interest consideration against disclosure,
- (l) the Joint Committee will be required to consult with the Privacy Commissioner on any review of the public interest provisions of GIPAA that concern a privacy-related public interest consideration,
- (m) Part 6A of PPIPA (which relates to the obligation of government agencies to amend their records) will be repealed, leaving section 15 of PPIPA as the only mechanism in that Act for the alteration of personal information in government records.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of Privacy and Personal Information Protection Act 1998 No 133**

### **Privacy Commissioner**

**Schedule 1 [3]** aligns the procedure for the appointment, removal and staff of the Privacy Commissioner with the procedure for the appointment, removal and staff of the Information Commissioner. **Schedule 1 [5] and [15]** make consequential amendments.

**Schedule 1 [12]** requires the Privacy Commissioner to report on his or her work and activities and the operation of PPIPA to Parliament each year. **Schedule 1 [13]** is a consequential amendment.

**Schedule 1 [2]** provides that the Privacy Commissioner's guidelines may make provision with respect to requests for the alteration of personal information held by a public sector agency, which includes a Minister and a Minister's personal staff.

**Schedule 1 [4]** requires the Privacy Commissioner to consult with the Information Commissioner before preparing guidelines about the information protection principle concerning limits on disclosure of personal information.

**Schedule 1 [6]** makes the Joint Committee responsible for the oversight of the Privacy Commissioner's functions, as well as the Information Commissioner's functions as is currently the case.

### **Information and Privacy Commission**

**Schedule 1 [23]** provides for the transfer of staff of the Privacy Commissioner (who are currently employed in the Department of Justice and Attorney General) to the Information and Privacy Commission. The Commission is established by **Schedule 4.3**, which renames the Office of the Information Commissioner as the Information and Privacy Commission. The Information Commissioner is the head of the Commission. The Commission is a merger of the Office of the Information Commissioner with Privacy NSW.

### **Information and Privacy Advisory Committee**

**Schedule 1 [11]** replaces the Privacy Advisory Committee with an Information and Privacy Advisory Committee. The Committee will consist of the Information Commissioner, the Privacy Commissioner and 6 part-time members who are appointed by the Governor. **Schedule 1 [16]–[21]** make consequential amendments to Schedule 2 to PPIPA, which contains provisions relating to the members and procedures of the Committee. **Schedule 1 [14]** is a consequential amendment.

### **Amendment of records**

**Schedule 1 [10]** repeals a Part of PPIPA that will be transferred from the *Freedom of Information Act 1989* when that Act is repealed on 1 July 2010. The Part gives a person the right to apply for the amendment of government records that concern the

person's personal affairs and that are incomplete, incorrect, out of date or misleading. Section 15 of PPIPA provides for the making of corrections to government records for similar purposes.

### **Other provisions**

**Schedule 1 [7] and [8]** provide that a person aggrieved by the conduct of a Minister or a Minister's personal staff in relation to the alteration of personal information is not entitled to an internal review of the conduct but is still entitled to seek a review of the conduct by the Administrative Decisions Tribunal (the *ADT*).

**Schedule 1 [9]** requires the Privacy Commissioner to be notified by the ADT of any applications for reviews made to the ADT and allows the Privacy Commissioner to appear and be heard in any review proceedings. The Information Commissioner must also be notified of any review that relates to the provision of government information by an agency and is entitled to appear and be heard in those proceedings.

**Schedule 1 [1]** inserts a definition of *Information Commissioner*.

**Schedule 1 [22]** enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

## **Schedule 2      Amendment of Government Information (Information Commissioner) Act 2009 No 53**

**Schedule 2 [2]** provides that the same person is not entitled to hold both the office of Privacy Commissioner and the office of Information Commissioner.

**Schedule 2 [3]** provides that a person acting in the office of the Information Commissioner, during the illness or absence of the Information Commissioner, is also taken to be the Chairperson of the Information and Privacy Advisory Committee during that period.

**Schedule 2 [4]** provides that the annual report of the Information Commissioner is to be included as part of the annual report of the Information and Privacy Commission. **Schedule 2 [5]–[7]** are consequential amendments.

**Schedule 2 [1]** inserts a definition of *Privacy Commissioner*.

## **Schedule 3      Amendment of Government Information (Public Access) Act 2009 No 52**

**Schedule 3 [1]** requires the Information Commissioner to consult with the Privacy Commissioner before issuing guidelines about a privacy-related public interest consideration against disclosure.

**Schedule 3 [2]** requires the Information Commissioner to consult with the Privacy Commissioner before making a recommendation about a decision of an agency that concerns a privacy-related public interest consideration against disclosure.

**Schedule 3 [4]** requires the Minister to consult with the Privacy Commissioner before a regulation is made under GIPAA that concerns the protection of individual privacy or a privacy-related public interest consideration against disclosure.

**Schedule 3 [3]** gives the Privacy Commissioner a right to appear and be heard in ADT proceedings in relation to a review of a decision concerning a privacy-related public interest consideration against disclosure.

**Schedule 3 [5]** requires the statutory review of GIPAA to include a consideration of the relationship between GIPAA and PPIPA. **Schedule 3 [6]** requires the Minister conducting the review to consult with the Privacy Commissioner, in addition to the Information Commissioner.

**Schedule 3 [7]** requires the Joint Committee to consult with the Privacy Commissioner on any review of the privacy-related public interest considerations against disclosure.

**Schedule 3 [8]** inserts a definition of *Privacy Commissioner*.

## **Schedule 4      Amendment of other Acts**

**Schedule 4** contains consequential amendments and amendments relating to the merging of the Office of the Information Commissioner and Privacy NSW into the new Information and Privacy Commission.





New South Wales

# Privacy and Government Information Legislation Amendment Bill 2010

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New South Wales

# Privacy and Government Information Legislation Amendment Bill 2010

No. , 2010

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## **A Bill for**

An Act to amend various Acts to provide for the Information and Privacy Commission and the Information and Privacy Advisory Committee, and to make further provision with respect to privacy protection principles and the office, role, functions and staff of the Information Commissioner and the Privacy Commissioner.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Privacy and Government Information Legislation Amendment Act 2010</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6

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<b>Schedule 1</b>	<b>Amendment of Privacy and Personal Information Protection Act 1998 No 133</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert in alphabetical order in section 3 (1):	4
	<i>Information Commissioner</i> means the Information Commissioner under the <i>Government Information (Information Commissioner) Act 2009</i> .	5 6 7
<b>[2] Section 15 Alteration of personal information</b>		8
	Insert after section 15 (4):	9
	(5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.	10 11 12 13
	(6) In this section (and in any other provision of this Act in connection with the operation of this section), <i>public sector agency</i> includes a Minister and a Minister's personal staff.	14 15 16
<b>[3] Part 4 Privacy Commissioner, Division 1</b>		17
	Omit the Division. Insert instead:	18
<b>Division 1</b>	<b>Appointment of Privacy Commissioner</b>	19
<b>34</b>	<b>Appointment of Privacy Commissioner</b>	20
	(1) The Governor may appoint a Privacy Commissioner.	21
	(2) The Privacy Commissioner holds office for such term not exceeding 5 years as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	22 23 24 25
	(3) A person is not eligible to be appointed for more than 2 terms of office as Privacy Commissioner (whether or not consecutive terms).	26 27 28
	(4) A person is not eligible to be appointed as Privacy Commissioner or to act in that office if the person is the Information Commissioner.	29 30 31
	(5) A person is not eligible to be appointed as Privacy Commissioner or to act in that office if the person is a member of the Legislative Council or of the Legislative Assembly or is a member of a	32 33 34

	House of Parliament or legislature of another State or Territory or of the Commonwealth.	1 2
(6)	The Privacy Commissioner may be appointed on a full-time or part-time basis. If the Privacy Commissioner is appointed to office on a full-time basis, the Privacy Commissioner is required to hold the office on that basis except to the extent permitted by the Governor.	3 4 5 6 7
<b>35</b>	<b>Veto of proposed appointment of Privacy Commissioner</b>	8
(1)	A person is not to be appointed as Privacy Commissioner until:	9
(a)	a proposal that the person be so appointed has been referred to the Joint Committee under section 31BA of the <i>Ombudsman Act 1974</i> , and	10 11 12
(b)	the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.	13 14 15 16 17
(2)	A person may be proposed for appointment on more than one occasion.	18 19
(3)	In this section, <i>appointment</i> includes re-appointment.	20
<b>35A</b>	<b>Remuneration</b>	21
(1)	The Privacy Commissioner is entitled to be paid:	22
(a)	remuneration in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> , and	23 24
(b)	such travelling and subsistence allowances as the Minister may from time to time determine.	25 26
(2)	The Privacy Commissioner is not, if a Judge of a New South Wales Court and while receiving remuneration as such a Judge, entitled to remuneration under this Act.	27 28 29
<b>35B</b>	<b>Vacancy in office</b>	30
	The office of Privacy Commissioner becomes vacant if the holder:	31 32
(a)	dies, or	33
(b)	completes a term of office and is not re-appointed, or	34
(c)	resigns the office by instrument in writing addressed to the Governor, or	35 36

(d)	is nominated for election as a member of the Legislative Council or of the Legislative Assembly or as a member of a House of Parliament or a legislature of another State or Territory or of the Commonwealth, or	1 2 3 4
(e)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	5 6 7 8
(f)	becomes a mentally incapacitated person, or	9
(g)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	10 11 12 13 14
(h)	is removed from office under section 35C.	15
<b>35C</b>	<b>Removal from office</b>	16
(1)	The Governor may remove the Privacy Commissioner from office on the address of both Houses of Parliament.	17 18
(2)	The Governor may suspend the Privacy Commissioner from office:	19 20
(a)	for misbehaviour, or	21
(b)	for incapacity, or	22
(c)	if the Privacy Commissioner is absent from duty for a period in excess of his or her leave entitlement as approved by the Governor unless the absence is caused by illness or other unavoidable cause.	23 24 25 26
(3)	The Minister is to lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Privacy Commissioner has been suspended from office, a full statement of the grounds for the suspension.	27 28 29 30
(4)	The suspension is to be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Privacy Commissioner ought to be removed from office.	31 32 33 34
(5)	If each House does so declare within that period, the Privacy Commissioner is to be removed from office by the Governor.	35 36
(6)	For the purposes of this section, sitting days are to be counted whether or not they occur in the same session.	37 38

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<b>35D</b>	<b>Filling of vacancy</b>	1
	If the office of Privacy Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	2 3
<b>35E</b>	<b>Public Sector Employment and Management Act 2002</b>	4
	The <i>Public Sector Employment and Management Act 2002</i> does not apply to the appointment of the Privacy Commissioner, and the holder of that office is not, as holder, subject to that Act.	5 6 7
<b>35F</b>	<b>Appointment of acting Privacy Commissioner</b>	8
(1)	The Minister may, from time to time, appoint a person to act in the office of the Privacy Commissioner during the illness or absence of the Privacy Commissioner or during a vacancy in the office of the Privacy Commissioner. The person, while so acting, has all the functions of the Privacy Commissioner and is taken to be the Privacy Commissioner.	9 10 11 12 13 14
(2)	The Minister may, at any time, remove a person from office as acting Privacy Commissioner.	15 16
(3)	An acting Privacy Commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.	17 18 19
<b>35G</b>	<b>Staff of Privacy Commissioner</b>	20
	The staff of the Privacy Commissioner are to be employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> .	21 22 23
<b>35H</b>	<b>Delegation</b>	24
	The Privacy Commissioner may delegate the exercise of any function of the Privacy Commissioner (other than this power of delegation) to:	25 26 27
	(a) any member of staff of the Privacy Commissioner, or	28
	(b) any person, or any class of persons, authorised for the purposes of this section by the regulations.	29 30
<b>[4]</b>	<b>Section 36 General functions</b>	31
	Insert after section 36 (2):	32
(3)	The Privacy Commissioner must consult with the Information Commissioner before preparing any guidelines concerning the information protection principle set out in section 18 (Limits on disclosure of personal information).	33 34 35 36

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<b>[5] Section 44 Delegation of functions</b>	1
Omit the section.	2
<b>[6] Section 44A</b>	3
Insert after section 44:	4
<b>44A Oversight of functions by Joint Committee</b>	5
(1) The Joint Committee has the following functions under this Act:	6
(a) to monitor and review the exercise by the Privacy Commissioner of the Privacy Commissioner's functions,	7
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(b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Privacy Commissioner or connected with the exercise of the Privacy Commissioner's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,	9
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(c) to examine each annual and other report of the Privacy Commissioner and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report,	15
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(d) to recommend to both Houses of Parliament any changes to the functions of the Privacy Commissioner that the Joint Committee thinks desirable,	18
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(e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.	21
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(2) Nothing in this section authorises the Joint Committee:	24
(a) to investigate a matter relating to any particular conduct, or	25
(b) to reconsider any decision to investigate, not to investigate or to discontinue investigation of any particular matter, or	26
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(c) to reconsider the findings, recommendations or other decisions of the Privacy Commissioner in relation to any particular matter.	28
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(3) The provisions of Part 4A of the <i>Ombudsman Act 1974</i> apply in relation to the Joint Committee's functions under this Act in the same way as they apply in relation to the Joint Committee's functions under that Act.	31
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(4) In this section:	35
<b>Joint Committee</b> means the Committee on the Office of the Ombudsman and the Police Integrity Commission constituted under the <i>Ombudsman Act 1974</i> or such other joint committee of	36
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	members of Parliament as may be appointed to exercise the functions of the Joint Committee under this Act.	1 2
<b>[7]</b>	<b>Section 53 Internal review by public sector agencies</b>	3
	Insert after section 53 (1):	4
	(1A) There is no entitlement under this section to the review of the conduct of a Minister (or a Minister's personal staff) in respect of a contravention of section 15 (Alteration of personal information).	5 6 7 8
	<b>Note.</b> Any such conduct can still be reviewed by the Tribunal. See section 55 (1A).	9 10
<b>[8]</b>	<b>Section 55 Review of conduct by Tribunal</b>	11
	Insert after section 55 (1):	12
	(1A) A person ( <i>the applicant</i> ) who is aggrieved by the conduct of a Minister (or a Minister's personal staff) constituting a contravention of section 15 (Alteration of personal information) may apply to the Tribunal for a review of the conduct.	13 14 15 16
<b>[9]</b>	<b>Section 55 (6) and (7)</b>	17
	Omit the subsections. Insert instead:	18
	(6) The Privacy Commissioner is to be notified by the Tribunal of any application for a review under this section. The Privacy Commissioner has a right to appear and be heard in any proceedings before the Tribunal in relation to a review under this section.	19 20 21 22 23
	(7) The Information Commissioner is to be notified by the Tribunal of any application for a review under this section that concerns the provision of government information by an agency (within the meaning of the <i>Government Information (Public Access) Act 2009</i> ). The Information Commissioner has a right to appear and be heard in any proceedings before the Tribunal in relation to such a review.	24 25 26 27 28 29 30
<b>[10]</b>	<b>Part 6A Amendment of records (as inserted by Schedule 1 [1] to Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009)</b>	31 32 33
	Omit the Part.	34



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<b>[11] Part 7</b>	1
Omit the Part. Insert instead:	2
<b>Part 7 Information and Privacy Advisory Committee</b>	3 4
<b>60 Establishment of Information and Privacy Advisory Committee</b>	5
(1) There is established by this Act an Information and Privacy Advisory Committee.	6 7
(2) The Committee is to consist of the Information Commissioner, the Privacy Commissioner, and the following part-time members appointed by the Governor:	8 9 10
(a) 2 persons who are senior officers of public sector agencies and who are nominated by the Minister in consultation with such other Ministers as the Minister considers appropriate,	11 12 13 14
(b) 2 persons (not being officers of public sector agencies) who are nominated by the Minister and who, in the opinion of the Minister, have special knowledge of or interest in matters affecting access to government information,	15 16 17 18
(c) 2 persons (not being officers of public sector agencies) who are nominated by the Minister and who, in the opinion of the Minister, have special knowledge of or interest in matters affecting the privacy of persons.	19 20 21 22
(3) The Information Commissioner is to be the Chairperson of the Committee and is to preside at meetings of the Committee.	23 24
(4) Schedule 2 contains provisions relating to the members and procedure of the Committee.	25 26
<b>61 Functions of Information and Privacy Advisory Committee</b>	27
The Information and Privacy Advisory Committee has the following functions:	28 29
(a) to advise on matters relevant to the functions of the Information Commissioner and the Privacy Commissioner,	30 31 32
(b) to advise the Minister on such matters as may be referred to it by the Minister.	33 34

<b>[12] Part 7A</b>	1
Insert after Part 7:	2
 <b>Part 7A Reports by Privacy Commissioner</b>	 3
<b>61A Annual report</b>	4
(1) The Privacy Commissioner is, as soon as practicable after 30 June in each year, to prepare a report of the Privacy Commissioner's work and activities for the 12 months preceding that date and is to furnish the report to the Presiding Officer of each House of Parliament.	5 6 7 8 9
(2) A copy of the report is to be provided to the Minister.	10
(3) The report is to be included as part of the annual report of the Information and Privacy Commission.	11 12
<b>61B Report on operation of Act</b>	13
(1) The Privacy Commissioner is, as soon as practicable after 30 June in each year, to prepare and publish a report on the operation of this Act (generally, across all public sector agencies) for the 12 months preceding that date and is to furnish the report to the Presiding Officer of each House of Parliament.	14 15 16 17 18
(2) A copy of the report is to be provided to the Minister.	19
<b>61C Special report to Parliament</b>	20
(1) The Privacy Commissioner may, at any time, make a special report on any matter relating to the functions of the Privacy Commissioner to the Presiding Officer of each House of Parliament and must also provide the Minister with a copy of the report.	21 22 23 24 25
(2) The Privacy Commissioner may include in a report under this section a recommendation that the report be made public immediately.	26 27 28
<b>61D Procedure for reporting</b>	29
(1) <b>Tabling</b>	30
A copy of a report made or furnished to the Presiding Officer of a House of Parliament under this Part must be laid before that House on the next sitting day of that House after it is received by the Presiding Officer.	31 32 33 34

(2) <b>Public reports</b>	1
If a report includes a recommendation by the Privacy Commissioner that the report be made public forthwith, the Presiding Officer of a House of Parliament may make it public whether or not that House is in session and whether or not the report has been laid before that House.	2 3 4 5 6
(3) <b>Privileges and immunities</b>	7
A report that is made public by the Presiding Officer of a House of Parliament before it is laid before that House attracts the same privileges and immunities as it would if it had been laid before that House.	8 9 10 11
(4) <b>Report procedures</b>	12
A Presiding Officer need not inquire whether all or any conditions precedent have been satisfied as regards a report purporting to have been made or furnished in accordance with this Act.	13 14 15 16
(5) <b>Reference to Presiding Officer</b>	17
In this Part, a reference to a Presiding Officer of a House of Parliament is a reference to the President of the Legislative Council or the Speaker of the Legislative Assembly. If there is a vacancy in the office of President, the reference to the President is taken to be a reference to the Clerk of the Legislative Council and, if there is a vacancy in the office of Speaker, the reference to the Speaker is taken to be a reference to the Clerk of the Legislative Assembly.	18 19 20 21 22 23 24 25
<b>[13] Sections 64 and 65</b>	26
Omit the sections.	27
<b>[14] Section 66 Personal liability of Privacy Commissioner and others</b>	28
Omit “Privacy Advisory Committee” wherever occurring.	29
Insert instead “Information and Privacy Advisory Committee”.	30
<b>[15] Schedule 1 Provisions relating to Privacy Commissioner</b>	31
Omit the Schedule.	32



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|-----|--|----------------------------|
| (2) | The Privacy Advisory Committee established under this Act before the substitution of Part 7 by the <i>Privacy and Government Information Legislation Amendment Act 2010</i> is abolished.  | 1<br>2<br>3                |
| (3) | An appointment of a person as Privacy Commissioner or acting Privacy Commissioner in force immediately before the commencement of Division 1 of Part 4 (as substituted by the <i>Privacy and Government Information Legislation Amendment Act 2010</i> ) is taken to have been made under that Division as so substituted. | 4<br>5<br>6<br>7<br>8<br>9 |
| (4) | A delegation in force under section 44 immediately before the repeal of that section is taken to have been made under section 35H.   | 10<br>11<br>12             |

<b>Schedule 2</b>	<b>Amendment of Government Information (Information Commissioner) Act 2009 No 53</b>	1 2 3
<b>[1] Section 3 Definitions</b>		4
	Insert in alphabetical order in section 3 (1):	5
	<i>Privacy Commissioner</i> means the Privacy Commissioner under the <i>Privacy and Personal Information Protection Act 1998</i> .	6 7
<b>[2] Section 4 Appointment of Information Commissioner</b>		8
	Insert after section 4 (3):	9
	(3A) A person is not eligible to be appointed as Information Commissioner or to act in that office if the person is the Privacy Commissioner.	10 11 12
<b>[3] Section 11 Appointment of acting Commissioner</b>		13
	Insert “(including as Chairperson of the Information and Privacy Advisory Committee under the <i>Privacy and Personal Information Protection Act 1998</i> )” after “taken to be the Commissioner” in section 11 (1).	14 15 16
<b>[4] Section 36 Annual report</b>		17
	Insert after section 36 (2):	18
	(2A) The report is to be included as part of the annual report of the Information and Privacy Commission.	19 20
<b>[5] Section 36 (3)</b>		21
	Omit “annual reports of the Commissioner”.	22
	Insert instead “annual reports of the Information and Privacy Commission”.	23
<b>[6] Section 36 (3) (c)</b>		24
	Insert “or the Information and Privacy Commission” after “Commissioner”.	25
<b>[7] Section 36 (4)</b>		26
	Omit “Commissioner”. Insert instead “Information and Privacy Commission”.	27

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<b>Schedule 3</b>	<b>Amendment of Government Information</b>	1
	<b>(Public Access) Act 2009 No 52</b>	2
<b>[1]</b>	<b>Section 14 Public interest considerations against disclosure</b>	3
	Insert after section 14 (3):	4
	(4) The Information Commissioner must consult with the Privacy Commissioner before issuing any guideline about a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to this section).	5 6 7 8 9
<b>[2]</b>	<b>Section 94 Recommendation as to public interest against disclosure</b>	10
	Insert at the end of section 94:	11
	(2) The Information Commissioner must consult with the Privacy Commissioner before making a recommendation under this section about a decision that concerns a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to section 14).	12 13 14 15 16
<b>[3]</b>	<b>Section 104 Right of appearance before ADT</b>	17
	Re-number section 104 (2) as section 104 (3) and insert as new section 104 (2):	18
	(2) The Privacy Commissioner has a right to appear and be heard in any proceedings before the ADT (and proceedings on an appeal in respect of any such proceedings) in relation to a review under this Division of a decision that concerns a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to section 14).	19 20 21 22 23 24
<b>[4]</b>	<b>Section 129 Regulations</b>	25
	Insert after section 129 (3):	26
	(4) The Minister is to consult with the Privacy Commissioner before recommending the making of a regulation under this Act that concerns the protection of the privacy of individuals or a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to section 14).	27 28 29 30 31 32

<b>[5] Section 130 Review of Act</b>	1
Insert after section 130 (1):	2
(1A) The review is to include a consideration of the relationship between this Act and the <i>Privacy and Personal Information Protection Act 1998</i> .	3 4 5
<b>[6] Section 130 (2)</b>	6
Omit the subsection. Insert instead:	7
(2) The Minister is to consult with the Information Commissioner and the Privacy Commissioner on a review under this section and the Information Commissioner and Privacy Commissioner may assist the Minister and provide advice in connection with the review.	8 9 10 11 12
<b>[7] Section 131 Review of public interest provisions by Joint Committee</b>	13
Insert after section 131 (2):	14
(2A) The Joint Committee is to consult with the Privacy Commissioner on any review under this section that concerns a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to section 14), and the Privacy Commissioner may assist the Joint Committee and provide advice in connection with any such review.	15 16 17 18 19 20 21
<b>[8] Schedule 4 Interpretative provisions</b>	22
Insert in alphabetical order in clause 1:	23
<b><i>Privacy Commissioner</i></b> means the Privacy Commissioner under the <i>Privacy and Personal Information Protection Act 1998</i> .	24 25



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<b>Schedule 4</b>	<b>Amendment of other Acts</b>	1
<b>4.1</b>	<b>Ombudsman Act 1974 No 68</b>	2
<b>[1]</b>	<b>Section 31A Constitution of Joint Committee</b>	3
	Insert “the <i>Privacy and Personal Information Protection Act 1998</i> ,” after “the <i>Government Information (Information Commissioner) Act 2009</i> ,” in section 31A (2).	4 5 6
<b>[2]</b>	<b>Section 31BA Power to veto proposed appointments</b>	7
	Insert “Privacy Commissioner,” after “Information Commissioner,” in section 31BA (1).	8 9
<b>[3]</b>	<b>Section 31BA (5) (b2)</b>	10
	Insert after section 31BA (5) (b1):	11
	(b2) in the context of an appointment of Privacy Commissioner, a reference to the Minister administering section 35 of the <i>Privacy and Personal Information Protection Act 1998</i> , and	12 13 14 15
<b>[4]</b>	<b>Section 31H Confidentiality</b>	16
	Insert “Privacy Commissioner,” after “Information Commissioner,” wherever occurring in section 31H (1A) and (1C).	17 18
<b>4.2</b>	<b>Public Finance and Audit Act 1983 No 152</b>	19
	<b>Schedule 3 Departments</b>	20
	Insert in alphabetical order in Columns 1 and 2, respectively:	21
	Information and Privacy Commission      Information Commissioner	
<b>4.3</b>	<b>Public Sector Employment and Management Act 2002 No 43</b>	22
	<b>Schedule 1 Divisions of the Government Service</b>	23
	Omit “Office of the Information Commissioner” from Division 2 of Part 1.	24
	Insert instead “Information and Privacy Commission”.	25

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<b>4.4 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)</b>	1
	2
<b>Schedule 1 Public offices</b>	3
Omit “Full-time Privacy Commissioner”.	4
Insert instead “Privacy Commissioner”.	5