



Australian Information Commissioner Act 2010

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About this compilation

This compilation

This is a compilation of the *Australian Information Commissioner Act 2010* that shows the text of the law as amended and in force on 11 December 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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**An Act to establish the Office of the Australian
Information Commissioner, and for related
purposes**

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Information Commissioner Act 2010*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	31 May 2010
2. Sections 3 to 36	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 November 2010 (see F2010L01547)

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Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Definitions

In this Act:

agency has the meaning given by the *Freedom of Information Act 1982*.

consumer data right matters has the meaning given by section 32A.

Freedom of Information Commissioner means the person appointed under section 14 as the Freedom of Information Commissioner.

freedom of information functions has the meaning given by section 8.

freedom of information matters has the meaning given by subsection 31(1).

IGIS official has the meaning given by subsection 29(6).

Information Commissioner has the meaning given by section 3A.

information commissioner functions has the meaning given by section 7.

information officer has the meaning given by section 6.

partial access has a meaning affected by subsection 31(3).

Privacy Commissioner means the person appointed under section 14 as the Privacy Commissioner.

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privacy functions has the meaning given by section 9.

privacy matters has the meaning given by section 32.

3A Meaning of *Information Commissioner* in any Act

In any Act:

Information Commissioner means the person appointed under section 14 of this Act as the Australian Information Commissioner.

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Part 2—Office of the Australian Information Commissioner

Division 1—Introduction

4 Guide to this Part

This Part establishes the Office of the Australian Information Commissioner.

The Office of the Australian Information Commissioner consists of the information officers and the staff of the Office.

The information officers are the Information Commissioner, the Freedom of Information Commissioner and the Privacy Commissioner. The Information Commissioner is the head of the Office (for the purposes of the *Public Service Act 1999*).

The functions of the Office are as follows:

- (a) the freedom of information functions, which are about giving the Australian community access to information held by the Commonwealth Government in accordance with the *Freedom of Information Act 1982* (and other Acts);
- (b) the privacy functions, which are mainly about protecting the privacy of individuals in accordance with the *Privacy Act 1988* (and other Acts);
- (c) the information commissioner functions, which are strategic functions concerning information management by the Commonwealth Government.

All of the information officers may perform the freedom of information functions and the privacy functions.

Only the Information Commissioner can perform the information commissioner functions.

Division 2—Establishment

5 Establishment

- (1) The Office of the Australian Information Commissioner is established by this section.
- (2) The Office of the Australian Information Commissioner consists of:
 - (a) the information officers; and
 - (b) the staff mentioned in Part 3.
- (3) For the purposes of the *Public Service Act 1999*:
 - (a) the information officers and staff of the Office of the Australian Information Commissioner together constitute a Statutory Agency; and
 - (b) the Information Commissioner is the Head of that Statutory Agency.

Note: The Information Commissioner holds an office equivalent to that of a Secretary of a Department (see the definition of *Agency Head* in section 7 of the *Public Service Act 1999*).

- (4) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
 - (a) the Office of the Australian Information Commissioner is a listed entity; and
 - (b) the Information Commissioner is the accountable authority of the Office of the Australian Information Commissioner; and
 - (c) the following persons are officials of the Office of the Australian Information Commissioner:
 - (i) the information officers;
 - (ii) the staff mentioned in Part 3;
 - (iii) consultants engaged under section 24; and
 - (d) the purposes of the Office of the Australian Information Commissioner include:

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- (i) the functions of the Information Commissioner referred to in section 10; and
- (ii) the functions of the Freedom of Information Commissioner referred to in section 11; and
- (iii) the functions of the Privacy Commissioner referred to in section 12.

6 Definition of *information officers*

Each of the following is an *information officer*:

- (a) the Information Commissioner;
- (b) the Freedom of Information Commissioner;
- (c) the Privacy Commissioner.

Division 3—Functions and powers of the information officers

7 Definition of *information commissioner functions*

The *information commissioner functions* are as follows:

- (a) to report to the Minister on any matter that relates to the Commonwealth Government's policy and practice with respect to:
 - (i) the collection, use, disclosure, management, administration or storage of, or accessibility to, information held by the Government; and
 - (ii) the systems used, or proposed to be used, for the activities covered by subparagraph (i);
- (b) any other function conferred by this Act or another Act (or an instrument under this Act or another Act) on the Information Commissioner other than a freedom of information function or a privacy function.

8 Definition of *freedom of information functions*

The *freedom of information functions* are as follows:

- (a) promoting awareness and understanding of the *Freedom of Information Act 1982* and the objects of that Act (including all the matters set out in sections 3 and 3A of that Act);
- (b) assisting agencies under section 8E of the *Freedom of Information Act 1982* to publish information in accordance with the information publication scheme under Part II of that Act;
- (c) the functions conferred by section 8F of the *Freedom of Information Act 1982*;
- (d) providing information, advice, assistance and training to any person or agency on matters relevant to the operation of the *Freedom of Information Act 1982*;

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- (e) issuing guidelines under section 93A of the *Freedom of Information Act 1982*;
- (f) making reports and recommendations to the Minister about:
 - (i) proposals for legislative change to the *Freedom of Information Act 1982*; or
 - (ii) administrative action necessary or desirable in relation to the operation of that Act;
- (g) monitoring, investigating and reporting on compliance by agencies with the *Freedom of Information Act 1982*;
- (h) reviewing decisions under Part VII of the *Freedom of Information Act 1982*;
- (i) undertaking investigations under Part VIIB of the *Freedom of Information Act 1982*;
- (j) collecting information and statistics from agencies and Ministers about the freedom of information matters (see section 31) to be included in the annual reports mentioned in section 30;
- (k) any other function conferred on the Information Commissioner by the *Freedom of Information Act 1982*;
- (l) any other function conferred on the Information Commissioner by another Act (or an instrument under another Act) and expressed to be a freedom of information function.

9 Definition of *privacy functions*

- (1) The *privacy functions* are functions conferred on the Information Commissioner by an Act (or an instrument under an Act), if:
 - (a) the functions:
 - (i) relate to the privacy of an individual; and
 - (ii) are not freedom of information functions; or
 - (b) the functions are conferred by:
 - (i) Part IVD (about the consumer data right) of the *Competition and Consumer Act 2010*; or
 - (ii) an instrument made under that Part; or
 - (iii) another Act because of that Part.

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- (2) The functions mentioned in subsection (1) include, but are not limited to, the provisions in the following table.

Provisions that confer privacy functions		
Item	Legislation	Provision
1	<i>Privacy Act 1988</i>	Division 2 of Part IV
2	<i>Crimes Act 1914</i>	Division 5 of Part VIIC
3	<i>Data-matching Program (Assistance and Tax) Act 1990</i>	Sections 12 to 14
4	<i>National Health Act 1953</i>	Section 135AA
5	<i>Telecommunications Act 1997</i>	Section 309

10 Functions and powers of the Information Commissioner

- (1) The Information Commissioner has the following functions:
- (a) the information commissioner functions;
 - (b) the freedom of information functions;
 - (c) the privacy functions.
- (2) The Information Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of functions conferred by this section.

11 Functions and powers of the Freedom of Information Commissioner

- (1) The Freedom of Information Commissioner has the freedom of information functions.
- (2) The Freedom of Information Commissioner may also perform the privacy functions.
- (3) The Freedom of Information Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of functions conferred by this section.

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- (4) However, the following actions may only be taken with the approval of the Information Commissioner:
 - (a) the issue, variation or revocation of a guideline mentioned in paragraph 8(e);
 - (b) the making of a report or recommendation under paragraph 8(f) to the Minister about:
 - (i) proposals for legislative change to the *Freedom of Information Act 1982*; or
 - (ii) administrative action necessary or desirable in relation to the operation of that Act.
- (5) If the Freedom of Information Commissioner performs a function, or exercises a power, expressed by an Act (or an instrument under an Act) to be conferred on the Information Commissioner:
 - (a) the Freedom of Information Commissioner must perform the function or exercise the power upon his or her own belief or state of mind (to the extent that the performance or exercise is dependent on the belief or state of mind of the Information Commissioner); and
 - (b) the function or power is taken to have been performed or exercised by the Information Commissioner; and
 - (c) neither the Information Commissioner, nor the Privacy Commissioner, is prevented from performing the same function, or exercising the same power, on another occasion (in relation to a different matter).

12 Functions and powers of the Privacy Commissioner

- (1) The Privacy Commissioner has the privacy functions.
- (2) The Privacy Commissioner may also perform the freedom of information functions (whether or not the Privacy Commissioner holds the qualifications mentioned in subsection 14(3)).
- (3) The Privacy Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of functions conferred by this section.

- (4) However, the following actions may only be undertaken with the approval of the Information Commissioner:
- (a) performing the functions, and exercising the powers, conferred on the Commissioner by Part IIIB of the *Privacy Act 1988*;
 - (c) the making of guidelines under paragraph 28(1)(a) or (b) of the *Privacy Act 1988*, or the variation or revocation of those guidelines;
 - (d) the issue, variation or revocation of rules under:
 - (i) section 17 of the *Privacy Act 1988*; or
 - (ii) section 12 of the *Data-matching Program (Assistance and Tax) Act 1990*; or
 - (iii) section 135AA of the *National Health Act 1953*;
 - (e) the making of a report or recommendation to the Minister in relation to any matter that concerns the need for or the desirability of legislative or administrative action in the interests of the privacy of individuals under paragraph 28B(1)(c) of the *Privacy Act 1988*;
 - (g) advising the Minister whether an exclusion from the application of Division 3 of Part VIIC of the *Crimes Act 1914* should be granted and whether there should be any restrictions on the circumstances in which an exclusion would apply under paragraph 85ZZ(1)(b) of that Act.
- (5) If the Privacy Commissioner performs a function, or exercises a power, expressed by an Act (or an instrument under an Act) to be conferred on the Information Commissioner:
- (a) the Privacy Commissioner must perform the function or exercise the power upon his or her own belief or state of mind (to the extent that the performance or exercise is dependent on the belief or state of mind of the Information Commissioner); and
 - (b) the function or power is taken to have been performed or exercised by the Information Commissioner; and
 - (c) neither the Information Commissioner, nor the Freedom of Information Commissioner, is prevented from performing the

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same function, or exercising the same power, on another occasion (in relation to a different matter).

Part 3—Appointments and staffing for the Office of the Australian Information Commissioner

Division 1—Introduction

13 Guide to this Part

This Division provides for:

- (a) the appointment of the information officers; and
- (b) the staff of the Office of the Australian Information Commissioner, who are engaged under the *Public Service Act 1999*.

The Information Commissioner may engage consultants.

The Information Commissioner may delegate all of his or her functions or powers, other than the information commissioner functions, the preparation of reports, the making of certain instruments (such as guidelines and determinations) and certain formal procedural steps.

Division 2—The information officers

14 Appointment

Appointment of the Australian Information Commissioner

- (1) The Australian Information Commissioner is to be appointed by the Governor-General by written instrument.

Note: The Australian Information Commissioner is referred to in this and other Acts as the **Information Commissioner** (see sections 3 and 3A).

Appointment of the Freedom of Information Commissioner

- (2) The Freedom of Information Commissioner is to be appointed by the Governor-General by written instrument.
- (3) A person may only be appointed as the Freedom of Information Commissioner if he or she has obtained a degree from a university, or an educational qualification of a similar standing, after studies in the field of law.

Appointment of the Privacy Commissioner

- (4) The Privacy Commissioner is to be appointed by the Governor-General by written instrument.

Note: The information officers are all eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

15 General terms and conditions of appointment

- (1) An information officer holds office for the period specified in the information officer's instrument of appointment. The period must not exceed 5 years.
- (2) An information officer holds office on a full-time basis.

- (3) An information officer holds office on the terms and conditions (if any), in relation to matters not covered by this Act, that are determined by the Governor-General.

16 Restriction on outside employment

An information officer must not engage in paid employment outside the duties of his or her office without the Minister's approval.

17 Remuneration

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

18 Leave of absence

- (1) An information officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant an information officer leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

19 Resignation

- (1) An information officer may resign his or her appointment by giving the Governor-General a written resignation.

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- (2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

20 Termination of appointment

- (1) The Governor-General may terminate the appointment of an information officer for misbehaviour or physical or mental incapacity.
- (2) The Governor-General must terminate the appointment of an information officer if any of the following apply:
- (a) the information officer:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors;
 - (b) the information officer is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;
 - (c) the information officer engages, except with the Minister's approval, in paid employment outside the duties of his or her office;
 - (d) the information officer fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

21 Acting appointments

- (1) The Minister may, by written instrument, appoint a person to act as an information officer:
- (a) during a vacancy in the office of the information officer (whether or not an appointment has previously been made to the office); or

- (b) during any period, or during all periods, when the information officer:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) A person must not be appointed to act as the Freedom of Information Commissioner unless he or she is qualified, as mentioned in subsection 14(3), to be appointed as the Freedom of Information Commissioner.

22 Disclosure of interests

- (1) A disclosure by an information officer under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Minister.
- (2) Subsection (1) applies in addition to any rules made for the purposes of that section.
- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the information officer is taken not to have complied with section 29 of that Act if he or she does not comply with subsection (1) of this section.

Division 3—Staff, consultants and delegations

23 Staff

The staff of the Office of the Australian Information Commissioner must be persons engaged under the *Public Service Act 1999*.

24 Consultants

- (1) The Information Commissioner may, on behalf of the Commonwealth, engage consultants to assist in the performance of the functions and the exercise of the powers of the Information Commissioner (see section 10).
- (2) However, a consultant engaged under subsection (1) may only perform a function, or exercise a power, if the function or power can be delegated to a member of staff of the Office of the Australian Information Commissioner under section 25.

25 Delegation by the Information Commissioner

- (1) Subject to subsection (2), the Information Commissioner may delegate, in writing, all or any of his or her functions or powers to a member of staff of the Office of the Australian Information Commissioner, other than the following:
 - (a) the information commissioner functions conferred by paragraph 7(a) (reporting to the Minister);
 - (b) preparing the report mentioned in section 30;
 - (c) issuing guidelines as mentioned in paragraph 8(e);
 - (d) the function conferred by section 55H of the *Freedom of Information Act 1982* (referring questions of law in a review to the Federal Court of Australia);
 - (f) the function conferred by section 55Q of the *Freedom of Information Act 1982* (correcting errors in IC review decisions);

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- (i) the function conferred by sections 89 and 89A of the *Freedom of Information Act 1982* (implementation notices and reports);
 - (j) the function conferred by section 89K of the *Freedom of Information Act 1982* (making a vexatious applicant declaration);
 - (k) issuing rules under section 17 of the *Privacy Act 1988*.
- (2) The Information Commissioner may only delegate the following functions or powers to a member of staff of the Office of the Australian Information Commissioner who is an SES employee, or an acting SES employee, or who holds, or is acting in, a position that is equivalent to, or higher than, a position occupied by an SES employee:
 - (a) the function conferred by section 55K of the *Freedom of Information Act 1982* (making a decision on an IC review);
 - (b) the function conferred by section 73 of the *Freedom of Information Act 1982* (discretion not to investigate a complaint);
 - (c) the function conferred by section 86 of the *Freedom of Information Act 1982* (obligation to notify on completion of investigation);
 - (d) making determinations for the purposes of section 52 of the *Privacy Act 1988*.

Part 4—Information Advisory Committee

26 Guide to this Part

This Part establishes an Information Advisory Committee to assist and advise the Information Commissioner on matters relating to the performance of the information commissioner functions.

27 Establishment and functions

- (1) There is to be an Information Advisory Committee, with the function of assisting and advising the Information Commissioner in matters relating to the performance of the information commissioner functions.
- (2) The Committee consists of the following persons:
 - (a) the Information Commissioner, as Chair;
 - (b) senior officers of agencies nominated in writing by the Minister, in consultation with the relevant Ministers;
 - (c) such other persons as the Minister thinks fit and who, in the Minister's opinion, hold suitable qualifications or experience.
- (3) A Committee member appointed by the Minister for the purposes of paragraph (2)(c) is entitled to be paid travel allowance in accordance with the regulations.
- (4) However, a person covered by subsection (3) is not entitled to be paid any remuneration or allowances in relation to the holding of the position of Committee member other than any travel allowance that is prescribed for the purposes of subsection (3).

27A Disclosure of interests*Disclosure to Minister*

- (1) A member of the Information Advisory Committee must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

Disclosure to Information Advisory Committee

- (2) A member of the Information Advisory Committee must disclose to a meeting of the Committee the nature of an interest, pecuniary or otherwise, that he or she has in a matter being considered, or about to be considered, by the Committee.
- (3) The disclosure must be made as soon as possible after the relevant facts have come to the Committee member's knowledge.
- (4) The disclosure must be recorded in the minutes of the meeting of the Committee.
- (5) Unless the Committee otherwise determines, the Committee member:
 - (a) must not be present during any deliberation by the Committee on the matter; and
 - (b) must not take part in any decision of the Committee with respect to the matter.
- (6) For the purposes of making a determination under subsection (5), the Committee member:
 - (a) must not be present during any deliberation of the Committee for the purpose of making the determination; and
 - (b) must not take part in making the determination.
- (7) A determination under subsection (5) must be recorded in the minutes of the meeting of the Committee.

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Information Commissioner

- (8) This section does not apply in relation to the disclosure of interests by the Information Commissioner.

Note: The Information Commissioner, as an information officer, is required to disclose material personal interests to the Minister (see section 22).

Part 5—Miscellaneous

28 Guide to this Part

This Part deals with a number of other matters relevant to the operation of the Office of the Australian Information Commissioner. These are as follows:

- (a) an offence for unauthorised dealings with information;
- (b) the requirements for annual reports;
- (c) immunity from legal suit;
- (d) the making of regulations.

29 Unauthorised dealing with information

- (1) A person commits an offence if:
- (a) the person makes a record of, discloses or otherwise uses information; and
 - (b) the information was acquired by the person in the course of performing functions or exercising powers conferred for the purposes of an information commissioner function, a freedom of information function or a privacy function.

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) This section does not apply if:
- (a) both of the following apply:

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- (i) the information was acquired by the person in the course of performing an information commissioner function or exercising a related power;
 - (ii) the person records, discloses or otherwise uses the information in the course of performing an information commissioner function or exercising a related power; or
- (aa) both of the following apply:
 - (i) the information was acquired by the person in the course of performing a freedom of information function or exercising a related power;
 - (ii) the person records, discloses or otherwise uses the information in the course of performing a freedom of information function or exercising a related power; or
- (ab) both of the following apply:
 - (i) the information was acquired by the person in the course of performing a privacy function or exercising a related power;
 - (ii) the person records, discloses or otherwise uses the information in the course of performing a privacy function or exercising a related power; or
- (ac) for information covered by subsection (5)—the person records, discloses or otherwise uses the information in the course of any of the following:
 - (i) performing a function described in paragraph 9(1)(b), or exercising a related power;
 - (ii) providing information to the Minister or the Department;
 - (iii) providing information to the Minister administering Part IVD of the *Competition and Consumer Act 2010* or the Department administered by that Minister;
 - (iv) providing information to the Australian Competition and Consumer Commission or the Data Recipient Accreditor (within the meaning of that Act); or
- (b) the person acquires the information for any other lawful purpose; or

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- (c) the person to whom the information relates consents to the recording, disclosure or use of the information; or
- (d) the person:
 - (i) records or otherwise uses the information for the purpose of an IGIS official exercising a power, or performing a function or duty, as an IGIS official; or
 - (ii) discloses the information to an IGIS official for the purpose of the IGIS official exercising a power, or performing a function or duty, as an IGIS official.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person to whom this section applies must not be required to do either of the following unless that disclosure or production is necessary for the purposes of this Act:
 - (a) disclose to a court information that the person acquired in the course of performing functions or exercising powers under this Act for the purposes of another Act (or an instrument under another Act) that confers an information commissioner function, a freedom of information function or a privacy function;
 - (b) produce all or part of a document that contains information of that kind to a court.
- (4) For the purposes of subsection (3), **court** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- (5) This subsection covers information that:
 - (a) was acquired in the course of performing a function described in paragraph 9(1)(b) (about the consumer data right), or exercising a related power; or
 - (b) could be relevant to either of the following decisions:
 - (i) a decision under subsection 56CA(1) (about accreditation for the consumer data right) of the *Competition and Consumer Act 2010*;

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- (ii) a decision under the consumer data rules (within the meaning of that Act) relating to a person's accreditation under subsection 56CA(1) of that Act.
- (6) In this Act:
 - IGIS official** means:
 - (a) the Inspector-General of Intelligence and Security; or
 - (b) any other person covered by subsection 32(1) of the *Inspector-General of Intelligence and Security Act 1986*.

30 Annual report

The annual report prepared by the Information Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include:

- (a) the freedom of information matters (see section 31); and
- (b) the privacy matters (see section 32); and
- (c) the consumer data right matters (see section 32A).

31 Definition of the *freedom of information matters*

- (1) The *freedom of information matters* are as follows:
 - (a) information about any guidelines mentioned in paragraph 8(e) issued during the year and the matters to which those guidelines relate;
 - (b) the number of requests under the *Freedom of Information Act 1982* to which subsection (2) applies;
 - (c) the number of applications under section 48 of the *Freedom of Information Act 1982* received during the year and particulars of the results of those applications;
 - (d) particulars of the total charges collected during the year in dealing with requests and other applications whenever received;
 - (e) the number of applications made under Part VI of the *Freedom of Information Act 1982* during the year for the

Section 31

internal review of decisions, and particulars of the results of those reviews;

- (f) the number of applications made under Part VII of the *Freedom of Information Act 1982* during the year to the Information Commissioner for the review of decisions, and particulars of the results of those reviews;
 - (g) the number of applications made under Part VIIA of the *Freedom of Information Act 1982* during the year to the Administrative Review Tribunal for the review of decisions, and particulars of the results of those reviews;
 - (h) the number of complaints made under Part VIIB of the *Freedom of Information Act 1982* during the year to the Information Commissioner, and particulars of the results of investigations undertaken as a result of those complaints;
 - (i) a description of any efforts made by the Information Commissioner to assist agencies to comply with the agency's obligations under the *Freedom of Information Act 1982*.
- (2) This subsection applies to a request if, during the year:
- (a) the request was received under section 15 of the *Freedom of Information Act 1982*; or
 - (b) access (other than partial access) to the document (or all of the documents) to which the request relates was given; or
 - (c) access to the document (or all of the documents) to which the request relates was refused; or
 - (d) partial access to the document (or documents) to which the request relates was granted.
- (3) Without limiting subsection (2), and for the purposes of that subsection, ***partial access*** is granted in respect of a request if either or both of the following conditions are satisfied in relation to the request:
- (a) access was granted to an edited copy (within the meaning of section 22 of the *Freedom of Information Act 1982*) of the document (or any of the documents) requested;
 - (b) the request related to 2 or more documents and access was refused to one or more of the documents.
-

Section 32

32 Definition of the *privacy matters*

- (1) The *privacy matters* are as follows:
 - (a) a statement of the performance during the year of the privacy functions conferred by section 17 and paragraph 28A(1)(d) of the *Privacy Act 1988*;
 - (b) a statement about the operation of registered APP codes under the *Privacy Act 1988* that contain procedures covered by subsection (2), including details about the number of complaints made during the year under codes, their nature and outcome;
 - (c) a statement including details about the number of complaints made under section 36 of the *Privacy Act 1988* during the year;
 - (d) a statement including details about the number of complaints made under section 36 of the *Privacy Act 1988* in relation to which the Commissioner has decided during the year under section 41 of that Act not to investigate, or not to investigate further, and the relevant grounds for the decision.
- (2) This subsection covers procedures for making and dealing with complaints in relation to acts or practices that may be an interference with the privacy of an individual.

32A Definition of the *consumer data right matters*

The *consumer data right matters* are a statement of the performance of the functions conferred as described in paragraph 9(1)(b).

33 Review of operation of Act

- (1) The Minister must cause a review of the operation of this Act to be undertaken.
- (2) The review must:
 - (a) start 2 years after the commencement of this section; and
 - (b) be completed within 6 months.

- (3) The Minister must cause a written report about the review to be prepared.
- (4) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

34 Privileges and immunities of the Crown

The Office of the Australian Information Commissioner has the privileges and immunities of the Crown.

35 Information officer etc. not to be sued

- (1) This section applies to a person if:
 - (a) the person is an information officer; or
 - (b) the person is acting under the direction or authority of an information officer.
- (2) The person is not liable to an action, suit or proceeding in relation to an act done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred for the purposes of an information commissioner function, a freedom of information function or a privacy function.

36 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Information Commissioner Act 2010	52, 2010	31 May 2010	ss. 3–36: 1 Nov 2010 (F2010L01547) Remainder: Royal Assent	
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 168–170) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 135, 148–155) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19) Sch 6 (item 1): 12 Dec 2012 (s 2(1) item 16)	Sch 6 (items 1, 15–19)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (item 18), Sch 7 (items 263–267) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Treasury Laws Amendment (Consumer Data Right) Act 2019	63, 2019	12 Aug 2019	Sch 1 (items 4–10): 13 Aug 2019 (s 2(1) item 1)	—
Surveillance Legislation Amendment (Identify and Disrupt) Act 2021	98, 2021	3 Sept 2021	Sch 2 (items 48–50): 4 Sept 2021 (s 2(1) item 3)	—
Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022	83, 2022	12 Dec 2022	Sch 1 (items 2–8, 45): 13 Dec 2022 (s 2(1) item 1)	Sch 1 (item 45)
Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024	39, 2024	31 May 2024	Sch 2 (item 8): 14 Oct 2024 (s 2(1) item 2)	—
Privacy and Other Legislation Amendment Act 2024	128, 2024	10 Dec 2024	Sch 1 (items 68–71): 11 Dec 2024 (s 2(1) item 6)	Sch 1 (item 71)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3.....	am No 63, 2019; No 98, 2021
Part 2	
Division 1	
s 4.....	am No 63, 2019
Division 2	
s 5.....	am No 62, 2014
Division 3	
s 8.....	am No 62, 2014
s 9.....	am No 197, 2012; No 63, 2019
s 12.....	am No 197, 2012
Part 3	
Division 2	
s. 14.....	am. No. 46, 2011
s 20.....	am No 62, 2014
s. 21.....	am. No. 46, 2011
s 22.....	rs No 62, 2014
Division 3	
s 25.....	am No 197, 2012; No 83, 2022
Part 4	
s 27A.....	am No 62, 2014
Part 5	
s 29.....	am No 63, 2019; No 98, 2021; No 83, 2022
s 30.....	rs No 62, 2014
	am No 63, 2019
s 31.....	am No 39, 2024

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 32.....	am No 197, 2012; No. 128, 2024
s 32A.....	ad No 63, 2019