

House of Assembly—No 211

As introduced, read a first time, and Standing Orders suspended for second reading, and negatived, 1 June 2017

South Australia

**Independent Commissioner Against Corruption
(Serious or Systemic Misconduct or
Maladministration) Amendment Bill 2017**

A BILL FOR

An Act to amend the *Independent Commissioner Against Corruption Act 2012*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Independent Commissioner Against Corruption (Serious or Systemic Misconduct or Maladministration) Amendment Act 2017*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Independent Commissioner Against Corruption Act 2012*

3—Amendment of section 7—Functions

- (1) Section 7(1)(cb)—delete "to exercise the powers of an inquiry agency in dealing with" and substitute:
 - to investigate
- 15 (2) Section 7(1)(cc)—delete "to exercise the powers of an inquiry agency in dealing with" and substitute:
 - to investigate
- (3) Section 7(4)(a)(ii)—delete subparagraph (ii)
- (4) Section 7(5)—delete "subsection (1)(d)" and substitute:
 - 20 subsection (1)(cb), (cc), (d)

- (5) Section 7(5)(b)—before "may regulate" insert:
subject to section 36A(2),

4—Amendment of section 24—Action that may be taken

- (1) Section 24(2)(b)—delete "exercise the powers of an inquiry agency in dealing with" and substitute:
investigate
- (2) Section 24(2)(c)—delete "exercise the powers of an inquiry agency in dealing with" and substitute:
investigate

5—Substitution of section 36A

Sections 36A—delete the section and substitute:

36A—Investigation by Commissioner

- (1) The Commissioner must, before deciding (in accordance with section 24(2)(b) or (c)) to investigate a matter raising potential issues of misconduct or maladministration in public administration rather than referring the matter to an inquiry agency, take reasonable steps to obtain the views of the agency.
- (2) For the purposes of an investigation by the Commissioner in respect of a matter raising potential issues of misconduct or maladministration in public administration, the Commissioner has (subject to this section) the powers of a commission as defined in the *Royal Commissions Act 1917* and that Act applies as if—
- (a) the Commissioner were a commission as so defined; and
 - (b) the subject matter of the investigation were set out in a commission of inquiry issued by the Governor under that Act.
- (3) The Commissioner may at any time withdraw from an investigation, or decide to investigate, as the Commissioner sees fit.

6—Amendment of section 42—Reports

Section 42(1a)(b)—delete paragraph (b)

7—Amendment of section 45—Commissioner's annual report

Section 45(2)(b)(x)—delete subparagraph (x)

Schedule 1—Transitional provisions

1—Application of amendments

- 5 (1) If, immediately before the commencement of this Act, the Independent Commissioner Against Corruption (the *Commissioner*) was exercising powers in accordance with section 36A of the *Independent Commissioner Against Corruption Act 2012* (the *Act*) in respect of a matter, the Act, as in force immediately before the commencement of section 5, continues to apply in relation to the matter unless and until the Commissioner determines to withdraw from exercising the powers of an inquiry agency in accordance with section 36A(3) of the Act (as so in force).
- 10 (2) If the Commissioner determines to withdraw from exercising the powers of an inquiry agency in respect of a matter in accordance with section 36A(3) of the Act (as in force immediately before the commencement of section 5), nothing prevents the Commissioner deciding to investigate the matter in accordance with the Act as amended by this Act.