



# **Parliamentary Workplace Support Service Act 2023**

**No. 72, 2023**

**An Act to establish the Parliamentary Workplace  
Support Service, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# **Parliamentary Workplace Support Service Act 2023**

**No. 72, 2023**

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**An Act to establish the Parliamentary Workplace  
Support Service, and for related purposes**

*[Assented to 20 September 2023]*

The Parliament of Australia enacts:

## Part 1—Preliminary

### 1 Short title

This Act is the *Parliamentary Workplace Support Service Act 2023*.

### 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
Provisions	Commencement	Date/Details
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the first day of the first calendar month to start after the end of that period.	1 October 2023 (F2023N00347)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Objects of this Act

The objects of this Act are:

- (a) to support safe and respectful workplaces for parliamentarians, MOPS employees and other Commonwealth parliamentary workplace participants; and



- (b) to support positive cultural change in those workplaces; and
- (c) to provide centralised human resources support to parliamentarians and MOPS employees.

#### **4 Simplified outline of this Act**

This Act establishes the Parliamentary Workplace Support Service.

The functions of the PWSS include:

- (a) its human resources functions; and
- (b) its support function; and
- (c) its complaint resolution function; and
- (d) its policy development function; and
- (e) its education and training functions; and
- (f) its review function; and
- (g) to monitor, review and evaluate certain matters; and
- (h) to prepare and publish reports.

Parliamentarians must comply with certain training requirements, consultation requirements and requests for information under this Act. A failure to comply may result in details of the non-compliance being published in a public report.

The PWSS has a Chief Executive Officer who is responsible for its management and for ensuring it performs its functions.

This Act also establishes:

- (a) the Parliamentary Workplace Support Service Advisory Board, to advise the CEO on matters relevant to the PWSS or CEO; and
- (b) the Parliamentary Workplace Support Service Consultative Committee, to enable parliamentarians and MOPS employees to be consulted on matters relevant to the PWSS.

## 5 Definitions

In this Act:

**CEO** means the Chief Executive Officer of the Parliamentary Workplace Support Service.

**Commonwealth entity** has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

**Commonwealth judicial officer** means:

- (a) a Justice of the High Court; or
- (b) a judge or justice of a court created by the Parliament.

**Commonwealth parliamentary workplace** means:

- (a) a place in the precincts (within the meaning of the *Parliamentary Precincts Act 1988*); or
- (b) premises provided or paid for under the *Parliamentary Business Resources Act 2017*; or
- (c) any other place where a Commonwealth parliamentary workplace participant performs duties as a Commonwealth parliamentary workplace participant.

**Commonwealth parliamentary workplace participant** means:

- (a) a core participant; or
- (b) a non-core participant.

**core participant** means:

- (a) a parliamentarian; or
- (b) a MOPS employee; or
- (c) a Parliamentary Service employee; or
- (d) an APS employee whose predominant place of work as an APS employee is a place covered by paragraph (a) or (b) of the definition of **Commonwealth parliamentary workplace** in this section; or
- (e) a person employed by the Commonwealth as a driver to provide the car-with-driver transport service known as COMCAR, to the extent the person's duties relate to parliamentarians; or

(f) a designated worker.

Note: *APS employee* is defined in the *Acts Interpretation Act 1901*.

**designated worker** means a worker (within the meaning of the *Work Health and Safety Act 2011*) who:

- (a) carries out work in any capacity for a business or undertaking of the Commonwealth constituted by the provision of support to a parliamentarian; and
- (b) carries out the work mentioned in paragraph (a) predominantly at a place covered by paragraph (a) or (b) of the definition of **Commonwealth parliamentary workplace** in this section; and
- (c) is not a parliamentarian, MOPS employee, Parliamentary Service employee, APS employee or a person covered by paragraph (e) of the definition of **core participant** in this section.

**election period**: see subsection 6(3).

**independent member** means a member of the PWSS Consultative Committee who is not a parliamentarian or a MOPS employee.

**mandatory education or training program**: see paragraph 18(2)(a).

**mandatory policy or procedure**: see subsection 17(3).

**member** of the PWSS Advisory Board includes the Chair of the PWSS Advisory Board.

**Minister**: see section 6A.

**MOPS employee** means a person who is employed under the *Members of Parliament (Staff) Act 1984*.

**non-core participant** means a person, other than a core participant, who performs work (whether or not paid work) predominantly at a place covered by paragraph (a) or (b) of the definition of **Commonwealth parliamentary workplace** in this section.

**paid work** means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

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**parliamentarian**: see section 6.

**Parliamentary party** means a political party (within the meaning of the *Commonwealth Electoral Act 1918*) at least one member of which is a member of the Parliament of the Commonwealth.

**Parliamentary Service employee** has the same meaning as in the *Parliamentary Service Act 1999*.

**personal information** has the same meaning as in the *Privacy Act 1988*.

**public report** means a report under section 22 that is published by the PWSS on its website.

**PWSS** means the Parliamentary Workplace Support Service established by section 12.

**PWSS Advisory Board** means the Parliamentary Workplace Support Service Advisory Board established by section 42.

**PWSS Consultative Committee** means the Parliamentary Workplace Support Service Consultative Committee established by section 57.

**PWSS rules** means rules made under section 69.

**relevant conduct** is conduct engaged in by a person that consists of any of the following:

- (a) sexual assault;
- (b) assault;
- (c) sexual harassment;
- (d) harassment;
- (e) another person being bullied at work (within the meaning of the *Fair Work Act 2009*);
- (f) unreasonable behaviour towards another person that creates a risk to work health or safety;
- (g) conduct that breaches a code of conduct, or a part of a code of conduct, that is prescribed by the PWSS rules.

**staff of the PWSS** means the staff described in section 38.

**vacancy**, in relation to the office of a member of the PWSS Advisory Board, has a meaning affected by section 7.

## 6 Meaning of parliamentarian

- (1) For the purposes of this Act, **parliamentarian** means:
- (a) a senator; or
  - (b) a member of the House of Representatives; or
  - (c) a Minister of State who is not a senator or member of the House of Representatives; or
  - (d) a person who is taken to be the President of the Senate under the *Parliamentary Presiding Officers Act 1965* and who is not a senator or member of the House of Representatives; or
  - (e) a person who is taken to be the Speaker of the House of Representatives under the *Parliamentary Presiding Officers Act 1965* and who is not a senator or member of the House of Representatives; or
  - (f) a person not covered by any of paragraphs (a) to (e) or (g) who is covered by subsection (2) at a particular time; or
  - (g) a person not covered by any of paragraphs (a) to (f) who held the office of Prime Minister.
- (2) A person is covered by this subsection at a particular time if:
- (a) the person was a senator or member of the House of Representatives immediately before an election period; and
  - (b) the person is a candidate at the election to which the election period relates; and
  - (c) the time is within the election period.
- (3) In this section:
- election period**, in relation to an election (within the meaning of the *Commonwealth Electoral Act 1918*), means the period:
- (a) commencing on the day of issue of the writ for the election; and
  - (b) ending on the day of the declaration of the poll in the election.

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**6A References to the Minister**

Despite section 19 of the *Acts Interpretation Act 1901*, a reference to “the Minister” in a provision of this Act or the PWSS rules at a particular time is a reference to:

- (a) the Special Minister of State, if there is a Minister identified by that title at that time; or
- (b) otherwise—the Minister, or any of the Ministers, administering the provision at that time.

Note: A reference to a Minister in paragraph (a) or (b) of this section may include a reference to a person acting for or on behalf of the Minister (see subsection 19(4) of the *Acts Interpretation Act 1901*).

**7 Vacancy in the office of a member of the PWSS Advisory Board**

For the purposes of a reference in:

- (a) this Act to a vacancy in the office of a member of the PWSS Advisory Board; or
- (b) the *Acts Interpretation Act 1901* to a vacancy in the membership of a body;

there are taken to be 4 offices of members of the PWSS Advisory Board in addition to the Chair of the PWSS Advisory Board.

**8 Crown to be bound**

This Act binds the Crown in right of the Commonwealth.

**9 Extension to external Territories**

This Act extends to every external Territory.

**10 Extra-territorial operation**

This Act extends to acts, omissions, matters and things outside Australia, whether or not in a foreign country.

## **Part 2—Parliamentary Workplace Support Service**

### **Division 1—Simplified outline of this Part**

#### **11 Simplified outline of this Part**

This Part establishes the Parliamentary Workplace Support Service.

The functions of the PWSS include:

- (a) its human resources functions; and
- (b) its support function; and
- (c) its complaint resolution function; and
- (d) its policy development function; and
- (e) its education and training functions; and
- (f) its review function; and
- (g) to monitor, review and evaluate certain matters; and
- (h) to prepare and publish reports.

The PWSS may prepare reports about matters relating to the functions of the PWSS or CEO. The PWSS must prepare a report each financial year about certain matters, including:

- (a) gender and diversity characteristics of parliamentarians and MOPS employees; and
- (b) gender equality in relation to remuneration for parliamentarians and MOPS employees; and
- (c) the employment of MOPs employees; and
- (d) the prevention of, and responses to, relevant conduct.

Parliamentarians must comply with certain training requirements, consultation requirements and requests for information under this Act. A failure to comply may result in details of the non-compliance being published in a public report.

## **Division 2—Establishment and functions of the PWSS**

### **12 Parliamentary Workplace Support Service**

- (1) The Parliamentary Workplace Support Service is established by this section.

Note 1: The PWSS does not have a legal identity separate from the Commonwealth.

Note 2: In this Act, ***PWSS*** means the Parliamentary Workplace Support Service—see section 5.

- (2) The PWSS consists of:
- (a) the CEO; and
  - (b) the staff of the PWSS referred to in section 38; and
  - (c) persons whose services are made available to the PWSS under section 39.
- (3) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
- (a) the PWSS is a listed entity; and
  - (b) the CEO is the accountable authority of the PWSS; and
  - (c) the persons referred to in subsection (2) are officials of the PWSS; and
  - (d) the purposes of the PWSS include:
    - (i) the functions of the PWSS referred to in section 13; and
    - (ii) the functions of the CEO referred to in section 27.

### **13 Functions of the PWSS**

The PWSS has the following functions:

- (a) its human resources functions (under section 14);
- (b) its support function (under section 15);
- (c) its complaint resolution function (under section 16);
- (d) its policy development function (under section 17);
- (e) its education and training functions (under section 18);
- (f) its review function (under section 19);



- (g) to monitor, review and evaluate:
  - (i) the matters covered by paragraphs 22(2)(a) to (f); and
  - (ii) other matters relating to any of its other functions;
- (h) to prepare and publish reports as mentioned in Division 3;
- (i) to make resources and facilities available to the PWSS Advisory Board and the PWSS Consultative Committee;
- (j) to assist the CEO in the performance of the CEO's functions;
- (k) such other functions as are conferred on the PWSS by this Act or by any other law of the Commonwealth;
- (l) to do anything incidental to, or conducive to, the performance of the above functions.

Note: This subsection does not prevent another Commonwealth entity from performing a function that falls within the functions of the PWSS (including its human resources functions).

#### **14 Human resources functions**

The PWSS has the following human resources functions:

- (a) to advise and assist current and former parliamentarians in connection with their employment of MOPS employees, or their engagement of designated workers;
- (b) to advise and assist current and former parliamentarians in connection with their obligations under:
  - (i) policies and procedures determined by the PWSS under section 17; and
  - (ii) codes of conduct relating to parliamentarians that are prescribed by the PWSS rules;
- (c) to advise and assist current and former MOPS employees in connection with their employment as MOPS employees, including in connection with their obligations under:
  - (i) policies and procedures determined by the PWSS under section 17; and
  - (ii) codes of conduct relating to MOPS employees that are prescribed by the PWSS rules;
- (d) to advise and assist current and former designated workers in connection with their engagement as designated workers,

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- including in connection with their obligations under policies and procedures determined by the PWSS under section 17;
- (e) without limiting paragraphs (a), (b), (c) and (d)—to provide human resources services to parliamentarians, MOPS employees and designated workers in connection with the following:
- (i) the employment of MOPS employees;
  - (ii) the engagement of designated workers;
  - (iii) work health and safety matters that arise in connection with the duties of parliamentarians, MOPS employees or designated workers.

**15 Support function**

- (1) The support function of the PWSS is to provide support services to current and former Commonwealth parliamentary workplace participants under subsection (2).
- (2) The PWSS may provide support services in relation to alleged relevant conduct to a person who is a current or former Commonwealth parliamentary workplace participant in accordance with the following table:

<b>Support services</b>			
<b>Item</b>	<b>If, at the time the alleged conduct was engaged in, the person was...</b>	<b>the PWSS may provide support services to the person if the alleged conduct...</b>	<b>and occurred...</b>
1	a core participant	was engaged in by, or affected, the person	in the course of the person performing duties as a core participant
2	a non-core participant	was engaged in by a core participant and affected the person	in the course of the core participant performing duties as a core participant
3	a non-core participant	was engaged in by, or	(a) in the course of the

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**Support services**

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Item	If, at the time the alleged conduct was engaged in, the person was...	the PWSS may provide support services to the person if the alleged conduct...	and occurred...
		affected, the person	person performing duties as a non-core participant; and (b) at a place covered by paragraph (a) or (b) of the definition of <i>Commonwealth parliamentary workplace</i> in section 5

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- (3) For the purposes of this section, the provision of support services includes the provision of early intervention services.

**16 Complaint resolution function**

- (1) The complaint resolution function of the PWSS is to provide services to current and former Commonwealth parliamentary workplace participants under subsection (2) to facilitate the independent resolution of complaints involving alleged relevant conduct.
- (2) The PWSS may provide services to facilitate the independent resolution of complaints involving alleged relevant conduct to both of the following parties:
- (a) one or more current or former Commonwealth parliamentary workplace participants who are alleged to have engaged in relevant conduct (the *first party*);
  - (b) one or more current or former Commonwealth parliamentary workplace participants who are affected by the alleged relevant conduct (the *second party*);
- in accordance with the following table:

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<b>Complaint resolution services</b>			
<b>Item</b>	<b>If, at the time the alleged conduct was engaged in, the first party was...</b>	<b>and the second party was...</b>	<b>the PWSS may provide the services in relation to...</b>
1	a core participant	a core participant or a non-core participant	alleged relevant conduct engaged in in the course of the first party performing duties as a core participant
2	a non-core participant	a core participant or a non-core participant	alleged relevant conduct engaged in: (a) in the course of the first party performing duties as a non-core participant; and (b) at a place covered by paragraph (a) or (b) of the definition of <i>Commonwealth parliamentary workplace</i> in section 5

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- (3) It is not a function of the PWSS under this section to:
- (a) investigate a complaint; or
  - (b) make a finding of fact; or
  - (c) arbitrate any matter.

However, paragraph (a) does not prevent the PWSS from seeking information for the purposes of providing a service mentioned in subsection (2).

- (4) For the purposes of this section, the provision of services to facilitate the independent resolution of complaints includes the provision of early intervention services.

## 17 Policy development function

- (1) The policy development function of the PWSS is to determine policies and procedures:
  - (a) relating to workforce strategies for the employment of MOPS employees; or
  - (b) for the purposes of supporting parliamentarians to discharge their obligations in relation to the employment of MOPS employees; or
  - (c) relating to work health and safety matters that arise in connection with the duties of parliamentarians, MOPS employees or designated workers; or
  - (d) for the purposes of supporting Commonwealth parliamentary workplaces to be safe and respectful.
- (2) It is not a function of the PWSS under subsection (1) to determine a policy or procedure:
  - (a) that applies only to a specified Commonwealth parliamentary workplace participant; or
  - (b) for the terms or conditions of employment of a MOPS employee.
- (3) A policy or procedure determined under subsection (1) may declare that it is a ***mandatory policy or procedure***.
- (4) A parliamentarian must comply with a requirement of a mandatory policy or procedure that applies to the parliamentarian.

Note: The PWSS may take action in relation to a parliamentarian who fails to comply with such a requirement: see Division 4.
- (5) A mandatory policy or procedure must be determined by the CEO, by legislative instrument.
- (6) Before the CEO determines a mandatory policy or procedure:
  - (a) the CEO must consult the PWSS Consultative Committee about the proposed mandatory policy or procedure; and
  - (b) the CEO must have referred the proposed mandatory policy or procedure to the PWSS Advisory Board under section 44; and
  - (c) one of the following must have occurred:

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- (i) the PWSS Advisory Board was taken to have approved the proposed mandatory policy or procedure under subsection (4) of that section;
  - (ii) the PWSS Advisory Board has notified the CEO that it has decided to approve the proposed mandatory policy or procedure.
- (7) The PWSS must publish a policy or procedure determined under this section on its website.

**18 Education and training functions**

- (1) The PWSS has the following education and training functions:
- (a) to provide and arrange for education of, and for informing, Commonwealth parliamentary workplace participants about:
    - (i) the functions of the PWSS; and
    - (ii) work health and safety matters that arise in connection with the duties of parliamentarians, MOPS employees or designated workers; and
    - (iii) codes of conduct, prescribed by the PWSS rules, relating to parliamentarians, MOPS employees or other persons at a place covered by paragraph (a) of the definition of *Commonwealth parliamentary workplace* in section 5; and
    - (iv) for parliamentarians and MOPS employees—matters relating to the employment of MOPS employees or establishing and maintaining safe and respectful workplaces;
  - (b) without limiting paragraph (a)—to provide, or arrange for the provision of, education or training programs to parliamentarians and MOPS employees about matters referred to in that paragraph;
  - (c) to develop and maintain, and make information available in relation to, a learning and professional development program for MOPS employees.
- (2) The CEO may, by legislative instrument, determine:

- (a) that a specified education or training program provided under paragraph (1)(b) is a ***mandatory education or training program***; and
  - (b) requirements for the completion of a mandatory education or training program.
- (3) A parliamentarian must comply with a requirement determined under paragraph (2)(b) that applies to the parliamentarian.
- Note: The PWSS may take action in relation to a parliamentarian who fails to comply with such a requirement: see Division 4.
- (4) The CEO must not determine under subsection (2) that an education or training program is a mandatory education or training program only for a specified parliamentarian or MOPS employee.
- (5) Before the CEO determines a mandatory education or training program or requirements for completing such a program:
- (a) the CEO must consult the PWSS Consultative Committee about the proposed program or requirements; and
  - (b) the CEO must have referred the proposed program or requirements to the PWSS Advisory Board under section 44; and
  - (c) one of the following must have occurred:
    - (i) the PWSS Advisory Board was taken to have approved the proposed program or requirements under subsection (4) of that section;
    - (ii) the PWSS Advisory Board has notified the CEO that it has decided to approve the proposed program or requirements.

## **19 Review function**

- (1) The review function of the PWSS is:
- (a) to review complaints made to the PWSS about alleged relevant conduct under subsection (2); and
  - (b) to make recommendations in relation to alleged relevant conduct following such review.

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- (2) The PWSS may review a complaint made to the PWSS about alleged relevant conduct engaged in by one or more current or former Commonwealth parliamentary workplace participants (the *first party*) that affects one or more other current or former Commonwealth parliamentary workplace participants (the *second party*) in accordance with the following table:

<b>Review of complaints about alleged relevant conduct</b>			
<b>Item</b>	<b>If, at the time the alleged conduct was engaged in, the first party was...</b>	<b>and the second party was...</b>	<b>the PWSS may review the complaint if...</b>
1	a parliamentarian or MOPS employee	a parliamentarian, MOPS employee or Parliamentary Service employee	the conduct was engaged in in the course of either the first party or second party performing duties as a parliamentarian, MOPS employee or Parliamentary service employee (as the case requires)
2	a non-core participant	a parliamentarian, MOPS employee or Parliamentary Service employee	the conduct was engaged in: (a) in the course of either the first party or second party performing duties as a non-core participant, parliamentarian, MOPS employee or Parliamentary service employee (as the case requires); and (b) at a place covered by paragraph (a) of the definition of <i>Commonwealth</i>



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**Review of complaints about alleged relevant conduct**

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<b>Item</b>	<b>If, at the time the alleged conduct was engaged in, the first party was...</b>	<b>and the second party was...</b>	<b>the PWSS may review the complaint if...</b>
			<i>parliamentary workplace</i> in section 5

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- (3) If the PWSS upholds a complaint following a review under subsection (2), the PWSS must prepare a report of the review.

Note: The rules of procedural fairness will apply in relation to a review.

- (4) If the report includes a recommendation for a parliamentarian, the PWSS must engage with the parliamentarian in relation to implementing the recommendation.

- (5) If a recommendation made to a parliamentarian is not implemented, the PWSS must give a copy of the report to:

(a) if the parliamentarian is a senator—the President of the Senate; or

(b) if the parliamentarian is a member of the House of Representatives—the Speaker of the House of Representatives;

in accordance with any procedure that has been determined by the Senate or the House of Representatives (as the case requires).

- (6) This section does not limit section 15 or 16.

Note: The PWSS must have regard to certain matters before disclosing information obtained in the course of performing its functions under this section: see subsection 61(6).

## **20 Independence of the PWSS**

Subject to this Act and other laws of the Commonwealth, the PWSS:

- (a) has discretion in the performance or exercise of the functions or powers of the PWSS; and

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(b) is not subject to direction by any person in relation to the performance or exercise of those functions or powers.

**21 PWSS has privileges and immunities of the Crown**

The PWSS has the privileges and immunities of the Crown in right of the Commonwealth.

## **Division 3—Reports by the PWSS**

### **22 Reports by the PWSS**

- (1) The PWSS may prepare reports about matters relating to the functions of the PWSS or CEO.
- (2) Without limiting subsection (1), at least once each financial year, the PWSS must prepare a report that contains information relating to the following:
  - (a) gender and diversity characteristics of parliamentarians and MOPS employees;
  - (b) gender equality in relation to remuneration for parliamentarians and MOPS employees;
  - (c) the employment of persons under the *Members of Parliament (Staff) Act 1984* and the engagement of designated workers;
  - (d) progress in the prevention of, and responses to, alleged relevant conduct that is engaged in:
    - (i) in the course of a core participant performing duties as a core participant; or
    - (ii) at places covered by paragraph (a) or (b) of the definition of ***Commonwealth parliamentary workplace*** in section 5;
  - (e) the culture and performance of workplaces covered by paragraph (a) or (b) of the definition of ***Commonwealth parliamentary workplace*** in section 5;
  - (f) work health and safety matters connected with the duties of parliamentarians, MOPS employees and designated workers.
- (3) The PWSS rules may prescribe details about a matter mentioned in any of paragraphs (2)(a) to (f) that must or must not be included in a report required by subsection (2).
- (4) The PWSS must publish a report required by subsection (2), and may publish any other report under this section, on its website.

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- (5) Before the PWSS publishes a report under this section on its website, the PWSS must give each of the following persons (a ***Presiding Officer***) a copy of the report:
- (a) the President of the Senate;
  - (b) the Speaker of the House of Representatives.
- (6) A Presiding Officer of a House of the Parliament must cause a copy of the report to be presented to that House as soon as practicable after the Presiding Officer receives the copy under subsection (5).
- (7) The PWSS must not publish the report before a copy of the report has been presented to a House of the Parliament in accordance with subsection (6).
- (8) This section does not limit section 46 of the *Public Governance, Performance and Accountability Act 2013* (annual report for Commonwealth entities).
- (9) A report under this section must not include personal information (subject to section 23).
- Note: Information that is de-identified (within the meaning of the *Privacy Act 1988*) is not personal information.
- (10) To avoid doubt, a report under this section is not a periodic report for the purposes of section 34C of the *Acts Interpretation Act 1901*.

## **Division 4—Taking action against parliamentarians for certain non-compliance**

### **23 Including details of certain non-compliance by parliamentarians in a public report**

- (1) This section applies if a parliamentarian:
  - (a) fails to comply with a request for information under subsection 64(1) within the period specified in the request; or
  - (b) fails to comply with a provision of the *Members of Parliament (Staff) Act 1984* that requires the parliamentarian to consult with the PWSS before terminating the employment of a MOPS employee; or
  - (c) fails to comply with a requirement determined under paragraph 18(2)(b) (completion of mandatory training or education program) that applies to the parliamentarian.
- (2) The CEO may determine that the PWSS will include details about the failure in a public report.
- (3) If the parliamentarian is a member of a Parliamentary party, the CEO must inform the Leader of the party of the CEO's determination before the public report is given to the President of the Senate and the Speaker of the House of Representatives under subsection 22(5).
- (4) In considering whether details should be included in a public report, the CEO may have regard to any relevant matter and must have regard to the following:
  - (a) the nature of the failure and the circumstances in which it occurred;
  - (b) the reason (if any) given by the parliamentarian for the failure;
  - (c) any previous failure by the parliamentarian of a kind covered by subsection (1);
  - (d) the consequences of the failure;

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- (e) if the failure relates to a person other than the parliamentarian—whether the inclusion of the details would identify the other person;
- (f) any submissions made under subsection (5) or (7) in relation to the failure.

*Consultation with parliamentarians*

- (5) Before the CEO makes a determination under subsection (2), the CEO must give the parliamentarian a written notice:
  - (a) stating that the CEO is proposing for the PWSS to include details about the failure in a public report; and
  - (b) inviting the parliamentarian to make submissions to the CEO in relation to the proposal within a reasonable period specified in the notice.
- (6) The CEO must give the parliamentarian a written notice informing the parliamentarian of the CEO's decision on the proposal.

*Consultation with other persons*

- (7) If:
  - (a) the failure relates to a person other than the parliamentarian; and
  - (b) the inclusion of details about the failure in a public report could identify the person;then before the CEO makes a determination under subsection (2), the CEO must give the person a written notice:
  - (c) stating that the CEO is proposing for the PWSS to include details about the failure in a public report; and
  - (d) inviting the person to make submissions to the CEO in relation to the proposal within a reasonable period specified in the notice.
- (8) The CEO must give the person a written notice informing the person of the CEO's decision on the proposal.

**24 Notifying parliamentary Leaders of certain non-compliance**

- (1) This section applies if a parliamentarian:
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- (a) fails to comply with a request for information under subsection 64(1) within the period specified in the request; or
  - (b) fails to comply with a provision of the *Members of Parliament (Staff) Act 1984* that requires the parliamentarian to consult with the PWSS before terminating the employment of a MOPS employee; or
  - (c) fails to comply with a requirement of a mandatory policy or procedure that applies to the parliamentarian; or
  - (d) fails to comply with a requirement determined under paragraph 18(2)(b) (completion of mandatory training or education program) that applies to the parliamentarian.
- (2) If the parliamentarian is a member of a Parliamentary party, the CEO must inform the Leader of the party of the failure.

**Part 3** Chief Executive Officer of the PWSS

**Division 1** Introduction

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**Part 3—Chief Executive Officer of the PWSS**

**Division 1—Introduction**

**25 Simplified outline of this Part**

There is to be a Chief Executive Officer of the PWSS.

The CEO's functions are to manage the affairs of the PWSS and to ensure the PWSS performs its functions.

The CEO is to be appointed by the Minister.



## **Division 2—Establishment and functions of the CEO**

### **26 Chief Executive Officer**

There is to be a Chief Executive Officer of the Parliamentary Workplace Support Service.

Note: In this Act, *CEO* means the Chief Executive Officer of the PWSS—see section 5.

### **27 Functions of the CEO**

The functions of the CEO are:

- (a) to manage the affairs of the PWSS; and
- (b) to ensure the PWSS performs its functions; and
- (c) any other functions conferred on the CEO by or under this Act or another law of the Commonwealth.

### **28 Independence of the CEO**

Subject to this Act and other laws of the Commonwealth, the CEO:

- (a) has discretion in the performance or exercise of the functions or powers of the CEO; and
- (b) is not subject to direction by any person in relation to the performance or exercise of those functions or powers.

## Division 3—Appointment of the CEO

### 29 Appointment of CEO

- (1) The CEO is to be appointed by the Minister by written instrument.

Note: The CEO may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) A person must not be appointed as the CEO unless the Minister is satisfied that the person has skills, knowledge or experience in one or more of the following fields:
- (a) parliamentary workplaces;
  - (b) human resources, work health and safety or industrial relations;
  - (c) public administration or corporate governance.
- (3) Before the Minister appoints a person as the CEO, the Minister:
- (a) must consult with the Leader of each Parliamentary party that:
    - (i) does not form part of the Government; and
    - (ii) has at least 5 members who are senators or members of the House of Representatives; and
  - (b) may consult with such other parliamentarians as the Minister considers appropriate.
- (4) The CEO holds office on a full-time basis.
- (5) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (6) The appointment of a person as the CEO is not invalid because of a defect or irregularity in connection with the person's appointment.

### 30 Appointment of acting CEO

- (1) The Minister may, by written instrument, appoint a person to act as the CEO:
- (a) during a vacancy in the office of the CEO (whether or not an appointment has previously been made to the office); or
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- (b) during any period, or during all periods, when the CEO:
  - (i) is absent from duty or Australia; or
  - (ii) is, for any reason, unable to perform the duties of the office.

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

- (2) A person must not be appointed to act as the CEO unless the Minister is satisfied that the person has skills, knowledge or experience in one or more of the following fields:
  - (a) parliamentary workplaces;
  - (b) human resources, work health and safety or industrial relations;
  - (c) public administration or corporate governance.

## **Division 4—Terms and conditions for the CEO**

### **31 Remuneration of the CEO**

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

### **32 Leave of absence of the CEO**

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

### **33 Other employment of the CEO**

The CEO must not engage in paid work outside the duties of the CEO's office without the Minister's approval.

### **34 Resignation of the CEO**

- (1) The CEO may resign the CEO's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

### **35 Termination of appointment of the CEO**

*Misbehaviour, incapacity or unsatisfactory performance*

- (1) The Minister may terminate the appointment of the CEO:
  - (a) for misbehaviour; or
  - (b) if the CEO is unable to perform the duties of the CEO's office because of physical or mental incapacity; or
  - (c) if the performance of the CEO has been unsatisfactory for a significant period of time.

*Bankruptcy etc.*

- (2) The Minister may terminate the appointment of the CEO if:
  - (a) the CEO:
    - (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 the CEO's creditors; or
    - (iv) makes an assignment of the CEO's remuneration for the benefit of the CEO's creditors; or
  - (b) the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) the CEO engages, except with the Minister's approval, in paid work outside the duties of the CEO's office (see section 33); or
  - (d) the CEO 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.

*Consultation before termination*

- (3) Before the Minister terminates the appointment of the CEO under subsection (1) or (2), the Minister:
  - (a) must consult with the Leader of each Parliamentary party that:

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- (i) does not form part of the Government; and
  - (ii) has at least 5 members who are senators or members of the House of Representatives; and
  - (b) may consult with such other parliamentarians as the Minister considers appropriate.
- (4) A failure to comply with paragraph (3)(a) does not affect the validity of a termination.

**36 Other terms and conditions of the CEO**

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

## **Part 4—Staff of the PWSS etc.**

### **37 Simplified outline of this Part**

The staff of the PWSS are to be persons engaged under the *Public Service Act 1999*.

The CEO and the staff together constitute a Statutory Agency for the purposes of the *Public Service Act 1999*.

The PWSS may be assisted by other officers and employees, including officers and employees of Agencies (within the meaning of the *Public Service Act 1999*).

The CEO may engage consultants.

### **38 Staff**

- (1) The staff of the PWSS must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the CEO and the staff of the PWSS together constitute a Statutory Agency; and
  - (b) the CEO is the Head of that Statutory Agency.

### **39 Persons assisting the PWSS**

The PWSS may be assisted:

- (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); or
- (b) by officers and employees of authorities of the Commonwealth; or
- (c) by officers and employees of a State or Territory; or
- (d) by officers and employees of authorities of a State or Territory;

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whose services are made available to the PWSS in connection with the performance of any of its functions.

**40 Consultants**

The CEO may, on behalf of the Commonwealth, engage consultants to assist in the performance of the functions of the PWSS.



## **Part 5—PWSS Advisory Board**

### **Division 1—Introduction**

#### **41 Simplified outline of this Part**

This Part establishes the Parliamentary Workplace Support Service Advisory Board.

The main function of the PWSS Advisory Board is to advise the CEO on the performance of the functions of the PWSS or CEO.

Members of the PWSS Advisory Board are to be appointed by the Minister.

## **Division 2—Establishment and functions of the PWSS Advisory Board**

### **42 Parliamentary Workplace Support Service Advisory Board**

The Parliamentary Workplace Support Service Advisory Board is established by this section.

Note: In this Act, *PWSS Advisory Board* means the Parliamentary Workplace Support Service Advisory Board—see section 5.

### **43 Functions of the PWSS Advisory Board**

- (1) The functions of the PWSS Advisory Board are:
  - (a) to advise the CEO in relation to the performance of the functions of the PWSS or CEO; and
  - (b) to consider in accordance with section 44:
    - (i) proposed mandatory policies or procedures; and
    - (ii) proposed mandatory education or training programs, and proposed requirements for completing those programs; and
  - (c) such other functions as are conferred on the PWSS Advisory Board by this Act or by any other law of the Commonwealth.
- (2) However, it is not a function of the PWSS Advisory Board to:
  - (a) direct the activities of the PWSS; or
  - (b) give or seek advice or information about, or in relation to, a particular person or case.
- (3) The PWSS Advisory Board may give advice as mentioned in subsection (1):
  - (a) on the PWSS Advisory Board's own initiative; or
  - (b) at the request of the CEO.
- (4) The PWSS Advisory Board may invite representatives of the PWSS to attend a meeting of the PWSS Advisory Board.

**44 PWSS Advisory Board must approve or reject certain proposals**

- (1) The PWSS Advisory Board must approve or reject any of the following referred to the PWSS Advisory Board by the CEO:
  - (a) proposed mandatory policies or procedures;
  - (b) proposed mandatory education or training programs, and proposed requirements for completing those programs.

*Decision to approve or reject*

- (2) The PWSS Advisory Board must make a decision under subsection (1) within:
  - (a) 14 calendar days after the referral; or
  - (b) if, within the first 14 calendar days after the referral, the PWSS Advisory Board notifies the CEO that it requires additional time to consider the referral—44 calendar days after the referral.
- (3) As soon as practicable after making the decision, the PWSS Advisory Board must give the CEO written notice of the decision.
- (4) The PWSS Advisory Board is taken to have approved:
  - (a) a proposed mandatory policy or procedure; or
  - (b) a proposed mandatory education or training program; or
  - (c) proposed requirements for completing a mandatory education or training program;if the PWSS Advisory Board does not give notice under subsection (3) within the period specified in paragraph (2)(a) or (b) as the case requires.

## **Division 3—Membership of the PWSS Advisory Board**

### **45 Membership of the PWSS Advisory Board**

- (1) The PWSS Advisory Board consists of the following members:
  - (a) a Chair;
  - (b) at least 3, and not more than 4, other members.
- (2) At least 2 members of the PWSS Advisory Board must be women.
- (3) At least one member of the PWSS Advisory Board must be:
  - (a) a former Commonwealth judicial officer; or
  - (b) a former judge of the Supreme Court of a State or Territory.

### **46 Appointment of members of the PWSS Advisory Board**

- (1) A member of the PWSS Advisory Board is to be appointed by the Minister by written instrument.

Note: A member of the PWSS Advisory Board may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.
- (2) A person is not eligible for appointment as a member of the PWSS Advisory Board unless the Minister is satisfied that the person has skills, knowledge or experience in one or more of the following fields:
  - (a) parliamentary workplaces;
  - (b) human resources, work health and safety or industrial relations;
  - (c) public administration or corporate governance.
- (3) In appointing a person as a member of the PWSS Advisory Board, the Minister must have regard to the desirability of ensuring that there is a balance of skills, knowledge and experience in the fields listed in subsection (2) among members of the PWSS Advisory Board.
- (4) However, subsections (2) and (3) do not apply to the appointment of a person as required by subsection 45(3).

- (5) Before the Minister appoints a person as the Chair, or as a member, of the PWSS Advisory Board, the Minister:
  - (a) must consult with the Leader of each Parliamentary party that:
    - (i) does not form part of the Government; and
    - (ii) has at least 5 members who are senators or members of the House of Representatives; and
  - (b) may consult with such other parliamentarians as the Minister considers appropriate.
- (6) A member of the PWSS Advisory Board holds office on a part-time basis.
- (7) The appointment of a person as a member of the PWSS Advisory Board is not invalid because of a defect or irregularity in connection with the person's appointment.

#### **47 Period of appointment for members of the PWSS Advisory Board**

A member of the PWSS Advisory Board holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

#### **48 Acting members of the PWSS Advisory Board**

##### *Acting Chair of the PWSS Advisory Board*

- (1) The Minister may, by written instrument, appoint a person to act as the Chair of the PWSS Advisory Board:
  - (a) during a vacancy in the office of the Chair of the PWSS Advisory Board (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chair of the PWSS Advisory Board:
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

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

**Part 5** PWSS Advisory Board

**Division 3** Membership of the PWSS Advisory Board

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*Acting member of the PWSS Advisory Board (other than the Chair)*

- (2) The Minister may, by written instrument, appoint a person to act as a member of the PWSS Advisory Board (other than the Chair of the PWSS Advisory Board):
- (a) during a vacancy in the office of a member of the PWSS Advisory Board (other than the Chair of the PWSS Advisory Board), whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when a member of the PWSS Advisory Board (other than the Chair of the PWSS Advisory Board):
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

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

## **Division 4—Terms and conditions for members of the PWSS Advisory Board**

### **49 Remuneration**

- (1) A member of the PWSS Advisory Board is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, a member of the PWSS Advisory Board is to be paid the remuneration that is prescribed by the PWSS rules.
- (2) A member of the PWSS Advisory Board is to be paid the allowances that are prescribed by the PWSS rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **50 Disclosure of interests**

- (1) A member of the PWSS Advisory Board must give written notice to the Minister of any direct or indirect pecuniary interest that the member has or acquires and that conflicts or could conflict with the proper performance of the member's duties.
- (2) A member of the PWSS Advisory Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the PWSS Advisory Board must disclose the nature of the interest to a meeting of the PWSS Advisory Board.
- (3) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (4) The disclosure must be recorded in the minutes of the meeting.
- (5) Unless the PWSS Advisory Board otherwise determines, the member:
  - (a) must not be present during any deliberation by the PWSS Advisory Board on the matter; and
  - (b) must not take part in any decision of the PWSS Advisory Board with respect to the matter.

**Part 5** PWSS Advisory Board

**Division 4** Terms and conditions for members of the PWSS Advisory Board

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- (6) For the purposes of making a determination under subsection (5), the member:
  - (a) must not be present during any deliberation of the PWSS Advisory Board 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 PWSS Advisory Board.

**51 Leave of absence**

- (1) The Minister may grant leave of absence to the Chair of the PWSS Advisory Board on the terms and conditions as to remuneration or otherwise that the Minister determines.
- (2) The Chair of the PWSS Advisory Board may grant leave of absence to a member of the PWSS Advisory Board on the terms and conditions that the Chair determines.

**52 Resignation**

- (1) A member of the PWSS Advisory Board may resign the member's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

**53 Termination of appointment**

- (1) The Minister may terminate the appointment of a member of the PWSS Advisory Board:
  - (a) for misbehaviour; or
  - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The Minister may terminate the appointment of a member of the PWSS Advisory Board if:
  - (a) the member:



- (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 the member's creditors; or
- (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
- (b) the member fails, without reasonable excuse, to comply with section 50 (disclosure of interests); or
- (c) the member is absent, except on leave of absence, from 3 consecutive meetings of the PWSS Advisory Board.

*Consultation before termination*

- (3) Before the Minister terminates the appointment of a member of the PWSS Advisory Board under subsection (1) or (2), the Minister:
  - (a) must consult with the Leader of each Parliamentary party that:
    - (i) does not form part of the Government; and
    - (ii) has at least 5 members who are senators or members of the House of Representatives; and
  - (b) may consult with such other parliamentarians as the Minister considers appropriate.
- (4) A failure to comply with paragraph (3)(a) does not affect the validity of a termination.

**54 Other terms and conditions**

A member of the PWSS Advisory Board holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

**Part 5** PWSS Advisory Board

**Division 5** PWSS Advisory Board procedures

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**Division 5—PWSS Advisory Board procedures**

**55 PWSS Advisory Board procedures**

- (1) The PWSS rules may prescribe matters relating to the operation of the PWSS Advisory Board.
- (2) If no PWSS rules are in force for the purposes of subsection (1), the PWSS Advisory Board may operate in the way it determines.

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## **Part 6—PWSS Consultative Committee**

### **56 Simplified outline of this Part**

This Part establishes the Parliamentary Workplace Support Service Consultative Committee.

Generally, the functions of the PWSS Consultative Committee are:

- (a) to discuss matters that are relevant to parliamentarians and MOPS employees in so far as those matters relate to the functions of the PWSS; and
- (b) to communicate views about those matters to the PWSS.

The PWSS Consultative Committee is to consist of members who are parliamentarians, MOPS employees or independent members.

The PWSS rules may make provision for the appointment of members of the PWSS Consultative Committee, and other matters.

### **57 Parliamentary Workplace Support Service Consultative Committee**

The Parliamentary Workplace Support Service Consultative Committee is established by this section.

Note: In this Act, *PWSS Consultative Committee* means the Parliamentary Workplace Support Service Consultative Committee—see section 5.

### **58 Functions of the PWSS Consultative Committee**

- (1) The functions of the PWSS Consultative Committee are:
  - (a) to discuss matters of relevance to parliamentarians and MOPS employees in so far as those matters relate to the functions of the PWSS; and
  - (b) without limiting paragraph (a):
    - (i) to consider proposed policies and procedures developed by the PWSS for the purposes of section 17; and

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- (ii) to consider each proposed mandatory policy or procedure, each proposed mandatory education or training program, and proposed requirements for completing those programs; and
  - (c) to communicate views about the matters mentioned in paragraphs (a) and (b) to the PWSS.
- (2) It is not a function of the PWSS Consultative Committee to:
  - (a) direct the activities of the PWSS; or
  - (b) give or seek advice or information about, or in relation to, a particular person or case.
- (3) The PWSS Consultative Committee may invite representatives of the PWSS to attend a meeting of the committee for the purposes of paragraph (1)(c).

**59 Membership of the PWSS Consultative Committee etc.**

*Membership*

- (1) The PWSS Consultative Committee consists of the following members:
  - (a) a Chair, who must be an independent member;
  - (b) one other member who is an independent member;
  - (c) an equal number of:
    - (i) members who are parliamentarians; and
    - (ii) members who are MOPS employees.

Note: In this Act, *independent member* means a member of the PWSS Consultative Committee who is not a parliamentarian or a MOPS employee—see section 5.

*PWSS rules may provide for matters relating to the PWSS Consultative Committee*

- (2) The PWSS rules may make provision for or in relation to the PWSS Consultative Committee, including for or in relation to the following:
  - (a) operation and procedures of the committee;
  - (b) membership of the committee (subject to subsection (1));

- (c) appointment of members;
- (d) terms of appointment of members;
- (e) remuneration of independent members;
- (f) resignation of members;
- (g) disclosure of interests by members;
- (h) termination of appointment of members;
- (i) leave of absence of members;
- (j) deputies of members.

*Independent members*

- (3) PWSS rules made for the purposes of subsection (2) must require that, in appointing a person (the **appointee**) as an independent member, the person making the appointment must have regard to the independence of the appointee from:
  - (a) parliamentarians; and
  - (b) MOPS employees; and
  - (c) registered political parties (within the meaning of the *Commonwealth Electoral Act 1918*); and
  - (d) the PWSS and the PWSS Advisory Board.

*Other matters relating to appointments*

- (4) PWSS rules made for the purposes of subsection (2) must require that, in appointing a person as a member of the PWSS Consultative Committee, the person making the appointment must have regard to the desirability of ensuring that:
  - (a) there is representation among members of the PWSS Consultative Committee by the following:
    - (i) persons who represent the views of the Government;
    - (ii) persons who represent the views of Parliamentary parties that do not form part of the Government and have at least 5 members who are senators or members of the House of Representatives;
    - (iii) persons who do not represent the views of the Government or Parliamentary parties to which subparagraph (ii) applies; and

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- (b) the PWSS Consultative Committee is comprised of members of different genders.

*Minister must consult CEO before making PWSS rules*

- (5) Before making PWSS rules for the purposes of subsection (2), the Minister must consult the CEO on the proposed PWSS rules.

## **Part 7—Information sharing**

### **Division 1—Introduction**

#### **60 Simplified outline of this Part**

This Part enables:

- (a) the PWSS to disclose information to a Commonwealth entity or an individual who holds an office or appointment under a law of the Commonwealth; and
- (b) a Commonwealth entity or such an individual to disclose information to the PWSS.

However, that information may only be disclosed or used if it is reasonably necessary for the performance of functions, or the exercise of powers, of the PWSS, the entity or the individual.

The PWSS may request some Commonwealth entities to give the PWSS information for the purposes of a public report.

The CEO may enter into arrangements with other Commonwealth entities or individuals relating to the disclosure and use of information.

The PWSS may request a parliamentarian or MOPS employee to give the PWSS specified information. A failure by a parliamentarian to comply with the request may result in the non-compliance being published in a public report.

**Division 2—Information sharing between the PWSS and other Commonwealth entities etc.**

**61 Information sharing between the PWSS and other Commonwealth entities etc.**

*Authorisation to disclose information*

- (1) The PWSS may disclose information (including personal information) to:
  - (a) another Commonwealth entity; or
  - (b) an individual who holds any office or appointment under a law of the Commonwealth;if the disclosure is reasonably necessary to assist the entity or individual to:
  - (c) perform any of the functions or activities of the entity or individual; or
  - (d) exercise any of the powers of the entity or individual.
- (2) A Commonwealth entity, or an individual who holds any office or appointment under a law of the Commonwealth, may disclose information (including personal information) to the PWSS if the disclosure is reasonably necessary to assist:
  - (a) the PWSS to perform any of its functions or exercise any of its powers; or
  - (b) the CEO to perform any of the CEO's functions or exercise any of the CEO's powers.
- (3) To avoid doubt, a parliamentarian does not hold an office or appointment under a law of the Commonwealth for the purposes of paragraph (1)(b) or subsection (2).
- (4) Information may be disclosed under subsection (1) or (2) on the initiative, or at the request, of the PWSS, Commonwealth entity or individual (as the case requires).
- (5) Subsections (1) and (2) do not apply to a disclosure of information if:



- (a) the disclosure would, apart from this section, constitute an offence against a law of the Commonwealth; and
  - (b) that law does not contain an exception or defence for a disclosure authorised by a law of the Commonwealth.
- (6) Before disclosing information under subsection (1) that was obtained by the PWSS in the course of performing its review function under section 19, the PWSS must have regard to whether the disclosure would be likely to result in harm to an individual to whom the information relates (other than mere damage to the individual's reputation).

*Authorisation to use information*

- (7) Information disclosed to the PWSS, another Commonwealth entity or an individual under subsection (1) or (2) may be used by the PWSS, entity or individual for the purposes of performing the functions, or exercising the powers, of the PWSS, entity or individual (as the case requires).

Note: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

## **62 Giving information to PWSS for certain reports**

- (1) The PWSS may, in writing, request a person covered by subsection (2) to give the PWSS, within a specified period, specified information (including personal information) for the purposes of the PWSS preparing a report required by subsection 22(2).
- (2) This subsection covers the following persons:
- (a) the Secretary of the Department;
  - (b) a Secretary (within the meaning of the *Parliamentary Service Act 1999*);
  - (c) if a Commonwealth entity is specified in the PWSS rules for the purposes of this paragraph—the Head (however described) of the Commonwealth entity;
  - (d) if an office or appointment under a law of the Commonwealth is specified in the PWSS rules for the

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purposes of this paragraph—the individual holding that office or appointment.

- (3) A person covered by subsection (2) must comply with a request given to the person under subsection (1) unless doing so would constitute an offence against a law of the Commonwealth.
- (4) The PWSS may:
  - (a) use the information for the following purposes:
    - (i) preparing a report required by subsection 22(2);
    - (ii) monitoring and reviewing matters relating to any of its functions; and
  - (b) disclose the information in a report required by subsection 22(2) (subject to sections 22 and 63).

Note 1: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Note 2: Subsection 22(9) provides that a report under section 22 must not include personal information (subject to section 23).

**63 CEO may make arrangements for sharing information**

- (1) The CEO may make an arrangement, in writing, with:
  - (a) the Head (however described) of a Commonwealth entity; or
  - (b) an individual who holds any office or appointment under a law of the Commonwealth;relating to:
  - (c) the disclosure of information to, or by, the PWSS under subsection 61(1) or (2) or 62(3); or
  - (d) the use by the PWSS, the other Commonwealth entity or individual of information disclosed under any of those subsections.
- (2) Without limiting subsection (1), an arrangement made under that subsection may make provision for the confidentiality of information disclosed in accordance with the arrangement.
- (3) The PWSS must ensure that an arrangement made under subsection (1) is published on its website.

- (4) An arrangement made under subsection (1) is not a legislative instrument.
- (5) If an arrangement under subsection (1) is in force, then:
  - (a) the disclosure to, or by, the PWSS of information to which the arrangement applies is not authorised under subsection 61(1) or (2) or 62(3); and
  - (b) the use of information to which the arrangement applies is not authorised under subsection 61(7) or 62(4);if the disclosure or use of the information would contravene the arrangement.

### **Division 3—Requesting information from parliamentarians and MOPS employees**

#### **64 Requesting information from parliamentarians**

- (1) The PWSS may, in writing, request a parliamentarian to give the PWSS, within a specified period, specified information (including personal information):
  - (a) that relates to any of the following matters in relation to a person who is or was a MOPS employee employed by, or a designated worker engaged by, the parliamentarian:
    - (i) the person's name;
    - (ii) whether the person is or was a MOPS employee or a designated worker;
    - (iii) matters relating to when, and the circumstances in which, the person was employed as a MOPS employee or engaged as a designated worker;
    - (iv) matters relating to when, and the circumstances in which, the person ceased to be employed as a MOPS employee or engaged as a designated worker; or
  - (b) that relates to work health and safety matters arising in connection with the duties of parliamentarians or MOPS employees; or
  - (c) that is reasonably necessary for the purposes of providing a service under section 16 (complaint resolution function) to a person who is or was a MOPS employee employed by, or a designated worker engaged by, the parliamentarian.
- (2) Paragraph (1)(c) does not apply if the alleged relevant conduct referred to in section 16 was engaged in by the parliamentarian.
- (3) The period specified in the request must be reasonable in the circumstances.
- (4) The request must include details about the effect of Division 4 of Part 2 (taking action against parliamentarians for certain non-compliance).

- (5) A parliamentarian must comply with a request under subsection (1) within the period specified in the request, and may comply with any other request by the PWSS for information (including personal information), unless doing so would constitute an offence against a law of the Commonwealth.

Note: This subsection constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

- (6) This section does not limit the power of the PWSS to request information from a parliamentarian or any other person.

### **65 Requesting information from MOPS employees**

- (1) The PWSS may, in writing, request a MOPS employee to give the PWSS, within a specified period, specified information (including personal information) that relates to:
- (a) any of the functions or powers of the PWSS; or
  - (b) any of the functions or powers of the CEO.

- (2) The period specified in the request must be reasonable in the circumstances.

- (3) A MOPS employee may comply with a request under subsection (1) within the period specified in the request, and may comply with any other request by the PWSS for information (including personal information), unless doing so would constitute an offence against a law of the Commonwealth.

Note: This subsection constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

- (4) This section does not limit the power of the PWSS to request information from a MOPS employee or any other person.

## Part 8—Miscellaneous

### 66 Simplified outline of this Part

<p>This Part deals with miscellaneous matters, such as the making of the PWSS rules.</p>
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### 67 Effect of this Act on parliamentary privileges and immunities

To avoid doubt, this Act does not affect the law relating to the powers, privileges and immunities of any of the following:

- (a) each House of the Parliament;
- (b) the members of each House of the Parliament;
- (c) the committees of each House of the Parliament and joint committees of both Houses of the Parliament.

### 68 Review of operation of this Act

- (1) The Minister must cause a review of the operation of this Act and the PWSS rules to be commenced within one year after the commencement of the first session of each Parliament that commences after the commencement of this section.
- (2) The persons undertaking the review must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

### 69 PWSS rules

- (1) The Minister may, by legislative instrument, make rules (the **PWSS rules**) prescribing matters:
  - (a) required or permitted by this Act to be prescribed by the PWSS rules; or

- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the PWSS rules may not do the following:
- (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
  - (e) directly amend the text of this Act.

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*[Minister's second reading speech made in—  
House of Representatives on 10 August 2023  
Senate on 11 September 2023]*

(94/23)

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