



# **Inspector-General of Taxation Act 2003**

**No. 28, 2003**

## **Compilation No. 6**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Inspector-General of Taxation Act 2003* that shows the text of the law as amended and in force on 1 May 2015 (the **compilation date**).

This compilation was prepared on 1 May 2015.

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 ComLaw ([www.comlaw.gov.au](http://www.comlaw.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 series page on ComLaw 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.

### 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 series page on ComLaw 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 provide for the appointment of an Inspector-General of Taxation, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Inspector-General of Taxation Act 2003*.

### **2 Commencement**

This Act commences on the day after it receives the Royal Assent.

### **3 Objects of this Act**

The objects of this Act are to:

- (a) improve the administration of taxation laws for the benefit of all taxpayers, tax practitioners and other entities; and
- (b) provide independent advice to the government on the administration of taxation laws; and
- (c) investigate complaints by taxpayers, tax practitioners or other entities about the administration of taxation laws; and
- (d) investigate administrative action taken under taxation laws, including systemic issues, that affect taxpayers, tax practitioners or other entities.

### **4 Definitions**

In this Act:

*ATO official* means:

- (a) the Commissioner; or
- (b) a Second Commissioner of Taxation; or

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- (c) a Deputy Commissioner of Taxation; or
- (d) a person engaged under the *Public Service Act 1999*, or an employee or officer of an authority of the Commonwealth, performing duties in the Australian Taxation Office; or
- (e) a person engaged on behalf of the Commonwealth by another ATO official to provide services related to the administration of taxation laws; or
- (f) a person who:
  - (i) is a member of a body established for the sole purpose of assisting the Commissioner in the administration of an aspect of taxation laws; and
  - (ii) receives, or is entitled to receive, remuneration (but not merely allowances) from the Commonwealth in respect of his or her membership of the body.

**Commissioner** means the Commissioner of Taxation.

**CSC** (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**entity** has the same meaning as in the *Income Tax Assessment Act 1997*.

**Inspector-General** means the Inspector-General of Taxation referred to in section 6.

**Inspector-General's staff** means:

- (a) the staff referred to in subsection 36(1); and
- (b) any employees or officers whose services are made available as referred to in subsection 36(3); and
- (c) any consultants engaged under subsection 36(4).

**investigation into a complaint** means an investigation under paragraph 7(1)(a).

**investigation into a systemic issue** means an investigation under paragraph 7(1)(c) or (d).

**tax administration action** means action that the Inspector-General can investigate under paragraph 7(1)(a) or (b).

**taxation law** has the same meaning as in the *Income Tax Assessment Act 1997*.

**tax file number** has the same meaning as in the *Income Tax Assessment Act 1997*.

**tax official** means:

- (a) an ATO official; or
- (b) a Board member of the Tax Practitioners Board; or
- (c) an APS employee assisting the Tax Practitioners Board as described in section 60-80 of the *Tax Agent Services Act 2009*; or
- (d) a person engaged on behalf of the Commonwealth by another tax official (other than an ATO official) to provide services related to the administration of taxation laws; or
- (e) a person who:
  - (i) is a member of a body established for the sole purpose of assisting the Tax Practitioners Board in the administration of an aspect of taxation laws; and
  - (ii) receives, or is entitled to receive, remuneration (but not merely allowances) from the Commonwealth in respect of his or her membership of the body.

**taxpayer** means a person or other entity who is, was, or may become, liable to pay tax under any taxation law.

**Tax Practitioners Board** means the Tax Practitioners Board established by section 60-5 of the *Tax Agent Services Act 2009*.

## **5 Geographical application of this Act**

This Act applies both within and outside Australia and extends to every external Territory.

**Part 2** Establishment and functions of the Inspector-General of Taxation

**Division 1** Establishment of the Inspector-General of Taxation

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**Part 2—Establishment and functions of the  
Inspector-General of Taxation**

**Division 1—Establishment of the Inspector-General of  
Taxation**

**6 Inspector-General of Taxation**

There is to be an Inspector-General of Taxation.



## **Division 2—Functions of the Inspector-General**

### **7 Functions of the Inspector-General**

- (1) The functions of the Inspector-General are as follows:
- (a) to investigate action affecting a particular entity that:
    - (i) is taken by a tax official; and
    - (ii) relates to administrative matters under a taxation law; and
    - (iii) is the subject of a complaint by that entity to the Inspector-General;
  - (b) to investigate other action that:
    - (i) is taken by a tax official; and
    - (ii) relates to administrative matters under a taxation law;
  - (c) to investigate systems established by the Australian Taxation Office, or Tax Practitioners Board, to administer taxation laws, including systems for dealing or communicating:
    - (i) with the public generally; or
    - (ii) with particular people or organisations;in relation to administrative matters under those laws;
  - (d) to investigate systems established by taxation laws, but only to the extent that the systems deal with administrative matters;
  - (e) to investigate action that is the subject of a part of a complaint:
    - (i) transferred to the Inspector-General by the Ombudsman under paragraph 6D(4)(b) of the *Ombudsman Act 1976*; or
    - (ii) that the Ombudsman advises, under paragraph 10(1)(b) of this Act, does not need to be transferred under subsection 10(1) of this Act;
  - (f) to report on those investigations.

Note: Paragraphs (a) and (b) can cover action under a taxation law, and action relating to action under a taxation law.

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Example: A taxpayer seeks compensation under an administrative scheme because of action by a tax official during the course of an audit that caused the taxpayer detriment. The Inspector-General can investigate the action that caused the detriment, and any action by a tax official under the scheme.

- (2) However, these functions do not include investigating:
- (a) rules imposing or creating an obligation to pay an amount under a taxation law; and
  - (b) rules dealing with the quantification of such an amount.

**8 Conducting investigations on Inspector-General's own initiative**

- (1) The Inspector-General may conduct an investigation under paragraph 7(1)(b), (c) or (d) on his or her own initiative.

Note: For example, the Inspector-General may conduct an investigation into a systemic issue that has been drawn to his or her attention by taxpayers, tax practitioners, the Auditor-General or the Ombudsman.

- (2) The Inspector-General must conduct an investigation under paragraph 7(1)(c) or (d) if so directed by the Minister.
- (3) The Inspector-General may be requested to conduct an investigation under paragraph 7(1)(c) or (d) by:
- (a) the Minister; or
  - (b) the Commissioner or the Tax Practitioners Board; or
  - (c) a resolution of either House, or of both Houses, of the Parliament; or
  - (d) a resolution of a Committee of either House, or of both Houses, of the Parliament.

However, the Inspector-General is not required to comply with the request.

**9 Discretion not to investigate certain complaints**

The Inspector-General may, in his or her discretion:

- (a) decide not to conduct an investigation into a complaint; or
- (b) if he or she has started such an investigation—decide not to continue investigating the action complained about;

if the Inspector-General is of the opinion that:

- (c) the complaint is frivolous or vexatious or was not made in good faith; or
- (d) the complainant does not have a sufficient interest in the subject matter of the complaint; or
- (e) an investigation, or further investigation, of the action is not warranted having regard to all the circumstances; or
- (f) the complainant has not yet raised the complaint with the Commissioner or the Tax Practitioners Board (as applicable); or
- (g) the action came to the complainant's knowledge more than 12 months before the complaint was made; or
- (h) the complainant has not exercised a right to cause the action to which the complaint relates to be reviewed by a court or by a tribunal constituted by or under a law of the Commonwealth.

## **10 Transferring complaints to the Ombudsman**

- (1) The Inspector-General must transfer the following to the Ombudsman:
  - (a) a complaint made to the Inspector-General that is wholly about action other than tax administration action, unless the Ombudsman advises otherwise;
  - (b) if part of a complaint made to the Inspector-General is not about tax administration action—that part of the complaint, unless the Ombudsman advises otherwise.
- (2) For a complaint made to the Inspector-General that is only partly about tax administration action, the Inspector-General:
  - (a) must consult the Ombudsman about the complaint or about complaints of that kind; and
  - (b) may transfer to the Ombudsman the part of the complaint that is about tax administration action if the Inspector-General is satisfied that the whole complaint could be more appropriately or effectively dealt with by the Ombudsman.

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- (3) The Inspector-General must, for each complaint (or part of a complaint) transferred to the Ombudsman:
- (a) notify the complainant in writing of that transfer; and
  - (b) give the Ombudsman any related information or documents (other than tax file numbers) that are:
    - (i) in the Inspector-General's possession; or
    - (ii) under the Inspector-General's control.
- (4) For the purposes of the *Ombudsman Act 1976* (other than subsection 6D(2), (3) or (4) of that Act), a complaint (or part of a complaint) transferred under this section is taken to be a complaint made to the Ombudsman under that Act.

Note: A similar provision for transferring to the Inspector-General complaints made to the Ombudsman is contained in section 6D of the *Ombudsman Act 1976*. Subsection 6D(6) of that Act deems transferred complaints to be complaints made to the Inspector-General under this Act.

- (5) This section does not apply to a complaint if:
- (a) the Inspector-General transfers the complaint under subsections 6(9) and (10), or section 6C, of the *Ombudsman Act 1976*; or
  - (b) subsection 6(17) of that Act applies in relation to the complaint.

(Each of the above provisions of the *Ombudsman Act 1976* is that provision as it applies because of section 15 of this Act).

## Division 3—Powers and duties of the Inspector-General

### 15 Certain provisions of the *Ombudsman Act 1976* apply

Each of the following provisions of the *Ombudsman Act 1976* also applies in relation to the Inspector-General with the modifications set out in the following table:

- (a) subsections 3(1), to the extent that it provides for the definitions of *Agency Head*, *authorized person*, *Commonwealth service provider*, *disclosable conduct* and *law enforcement agency*;
- (b) subsections 3(2) to (6) and subsection 3(7);
- (c) sections 3BA, 3C and 3D;
- (d) subsections 5(2), (3) and (3A);
- (e) section 5A;
- (f) subsections 6(5), (9) to (11) and (16) to (19);
- (g) sections 6C, 7 and 7A;
- (h) section 8, other than paragraphs (7A)(b) and (10)(ba) to (d) and subsections (8), (9), (10B), (10C) and (12);
- (i) sections 9 to 19, other than subsections 16(4) and (5);
- (j) sections 35AA to 37.

<b>How each of those provisions applies in relation to the Inspector-General</b>		
<b>Item</b>	<b>The provision applies as if a reference in that provision to:</b>	<b>were a reference to:</b>
1	the Ombudsman	the Inspector-General
2	an investigation under the <i>Ombudsman Act 1976</i>	an investigation under this Act
3	a complaint under the <i>Ombudsman Act 1976</i>	a complaint under this Act
4	any of the following: (a) a Department; (b) a prescribed authority;	the entity identified under section 16 of this Act

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**Division 3** Powers and duties of the Inspector-General

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**How each of those provisions applies in relation to the Inspector-General**

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<b>Item</b>	<b>The provision applies as if a reference in that provision to:</b>	<b>were a reference to:</b>
	(c) a Department or a prescribed authority	
5	another person who is not a Department or prescribed authority	another person who is not: (a) a Department of State; or (b) an authority of the Commonwealth
6	either of the following: (a) principal officer of a Department or prescribed authority; (b) Secretary of a Department	either of the following: (a) Commissioner; (b) Chair of the Tax Practitioners Board
7	an officer of a Department or prescribed authority (that is not a reference to the principal officer)	tax official
8	officer within the meaning of section 35 of the <i>Ombudsman Act 1976</i>	either of the following: (a) the Inspector-General; (b) a member of the Inspector-General's staff
9	paragraph 5(1)(b) of the <i>Ombudsman Act 1976</i>	paragraph 7(1)(b) of this Act
10	enactment	either of the following: (a) Act; (b) instrument made under an Act
11	in the <i>Ombudsman Act 1976</i>	either of the following: (a) in the <i>Ombudsman Act 1976</i> ; (b) in this Act.
12	any of the following: (a) the Minister administering the <i>Ombudsman Act 1976</i> ; (b) the Minister administering the Department; (c) the responsible Minister;	the Minister administering this Act

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**How each of those provisions applies in relation to the Inspector-General**

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<b>Item</b>	<b>The provision applies as if a reference in that provision to:</b>	<b>were a reference to:</b>
	(d) the Prime Minister	
13	either of the following: (a) a report under Division 2 of Part II of the <i>Ombudsman Act 1976</i> ; (b) a report under that Act	either of the following: (a) a report under that Act; (b) a report under this Act
14	section 35 (other than subsection (5) of that section)	section 37 of this Act

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Note: The above references in provisions of the *Ombudsman Act 1976* are described in substance, rather than form. For example, table item 2 will apply to the phrase “an investigation under this Act” wherever it appears in any of those provisions.

## **16 References to a Department or a prescribed authority**

- (1) For the purposes of table item 4 in section 15, if the relevant investigation relates to action taken by an ATO official or to the Australian Taxation Office, the reference described in that item applies as if it were a reference to the Commissioner, or the Australian Taxation Office, (as the context requires).
- (2) For other investigations under this Act, the reference described in table item 4 in section 15 applies as if it were a reference to the Tax Practitioners Board.

## **17 Further modifications to how some of those provisions apply**

- (1) Despite subsection 8(2) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), an investigation into a systemic issue need not be conducted in private.
- (2) Despite paragraph 9(1)(a) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), a person may furnish information under that paragraph in a way otherwise than by writing signed by the person.

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- (3) Despite section 15, 16 or 17 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), the Inspector-General must not recommend changes to taxation laws in a report under that section.

Note: The Inspector-General can include such recommendations in reports under section 18.

- (4) Despite subsection 36(1) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), the penalty set out at the foot of that subsection applies as if it were imprisonment for 6 months in the case of a refusal or failure relating to an investigation into a systemic issue.

**18 Reports recommending improvements to taxation laws**

- (1) After completing an investigation under this Act, the Inspector-General may make a written report to the Minister:
- (a) identifying a taxation law under which the action being investigated was taken; and
  - (b) setting out any recommendations for how that taxation law might be improved; and
  - (c) setting out the reasons for those recommendations.

The report may set out other matters.

- (2) The Minister must cause a copy of the report to be made publicly available before the end of the 25th sitting day of the House of Representatives after the day the Minister receives the report.



## **Part 3—Administrative provisions about the Inspector-General and staff**

### **28 Appointment**

*Appointment by Governor-General on full-time basis*

- (1) The Inspector-General is to be appointed by the Governor-General by written instrument. The appointment is to be on a full-time basis.

*Obligation to fill vacancy as soon as practicable*

- (2) Whenever a vacancy occurs in the office of Inspector-General, an appointment must be made to the office as soon as practicable.

*Period of appointment*

- (3) The Inspector-General holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

*Terms and conditions not covered by this Act*

- (4) The Inspector-General 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.

### **29 Acting appointment**

The Minister may appoint a person to act as the Inspector-General:

- (a) during a vacancy in the office of Inspector-General (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Inspector-General is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

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

### **30 Remuneration**

- (1) The Inspector-General 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 Inspector-General is to be paid the remuneration that is prescribed.
- (2) The Inspector-General is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **31 Leave**

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

### **32 Engaging in other paid work**

The Inspector-General must not engage in paid employment outside the duties of his or her office without the Minister's approval.

### **34 Resignation**

The Inspector-General may resign his or her appointment by giving the Governor-General a written resignation.

**35 Termination of appointment***Obligation to terminate on certain grounds*

- (1) The Governor-General must terminate the appointment of the Inspector-General if the Inspector-General:
  - (a) becomes bankrupt; or
  - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - (c) compounds with his or her creditors; or
  - (d) assigns his or her remuneration for the benefit of his or her creditors; or
  - (e) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (f) fails to comply with section 32 (engaging in other paid work); or
  - (g) 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.

*Discretion to terminate for misbehaviour or physical or mental incapacity*

- (2) Subject to subsections (3), (4) and (5), the Governor-General may terminate the appointment of the Inspector-General on the ground of misbehaviour or physical or mental incapacity.
- (3) If the Inspector-General:
  - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
  - (b) has not reached his or her maximum retiring age (within the meaning of that Act);his or her appointment cannot be terminated on the ground of physical or mental incapacity unless CSC has given a certificate under section 54C of that Act.

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- (4) If the Inspector-General:
- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
  - (b) is under 60 years of age;
- his or her appointment cannot be terminated on the ground of physical or mental incapacity unless CSC has given a certificate under section 13 of that Act.
- (5) If the Inspector-General:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
  - (b) is under 60 years of age;
- his or her appointment cannot be terminated on the ground of physical or mental incapacity unless CSC has given an approval and certificate under section 43 of that Act.

### 36 Staff and consultants

#### *Staff engaged under the Public Service Act*

- (1) The staff required to assist the Inspector-General in the performance of the Inspector-General's functions are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
- (a) the Inspector-General and the APS employees so assisting the Inspector-General together constitute a Statutory Agency; and
  - (b) the Inspector-General is the Head of that Statutory Agency.

#### *Secondments and similar arrangements*

- (3) The Inspector-General may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) for the services of employees or officers of the Agency to be made available to the Inspector-General.

*Consultants*

- (4) The Inspector-General may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the Inspector-General. The terms and conditions of the engagement of a person are such as are determined by the Inspector-General.

**36A Application of the finance law**

For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):

- (a) the following group of persons is a listed entity:
- (i) the Inspector-General;
  - (ii) the Inspector-General's staff; and
- (b) the listed entity is to be known as the Inspector-General of Taxation; and
- (c) the Inspector-General is the accountable authority of the listed entity; and
- (d) the persons referred to in paragraph (a) are officials of the listed entity; and
- (e) the purposes of the listed entity include the functions of the Inspector-General referred to in section 7.

## Part 4—Information management

### Division 1—Secrecy

#### 37 Secrecy

##### *Definitions*

- (1) In this section:

***person to whom this section applies*** means a person who is or was:

- (a) the Inspector-General; or
- (b) a member of the Inspector-General's staff.

***protected document*** means a document that:

- (a) is obtained or made by a person to whom this section applies in the course of, or because of, the person's functions, powers or duties under or in relation to this Act; and
- (b) contains information relating to an entity's affairs.

***protected information*** means information that:

- (a) is disclosed to, or obtained by, a person to whom this section applies in the course of, or because of, the person's functions, powers or duties under or in relation to this Act; and
- (b) relates to an entity's affairs.

*Protected information may be recorded or disclosed only for purposes of this Act*

- (2) A person to whom this section applies commits an offence if:

- (a) the person:
  - (i) makes a copy or other record of any protected information or of all or part of any protected document; or
  - (ii) discloses any protected information to another person or to a court or tribunal; or

- (iii) produces all or part of a protected document to another person or to a court or tribunal; and
- (b) in doing so, the person is not acting in the course of performing or exercising functions, powers or duties under or in relation to this Act.

Penalty: Imprisonment for 2 years.

*Courts generally cannot require protected information to be disclosed etc.*

- (3) A person to whom this section applies cannot be required to:
  - (a) disclose any protected information to a court or tribunal; or
  - (b) produce all or part of a protected document to a court or tribunal;unless that disclosure or production is necessary for the purpose of carrying into effect the provisions of this Act.

## **Division 2—Powers relating to tax file numbers**

### **37B Requesting a person's tax file number**

- (1) The Inspector-General may request, but not require, a person making a complaint covered by paragraph 7(1)(a) to quote the person's tax file number to the Inspector-General.
- (2) The Inspector-General may provide the person's tax file number to the Commissioner for the purposes of an investigation by the Inspector-General into the complaint.

### **37C Investigations under this Act**

The Commissioner may quote a person's tax file number to the Inspector-General for the purposes of an investigation by the Inspector-General into a complaint by the person that is covered by paragraph 7(1)(a).



## Part 5—Other matters

### 38 Reporting breaches of duty or misconduct

If the Inspector-General forms the opinion either before, during or after conducting an investigation:

- (a) that a person who is or was a tax official has engaged in misconduct; and
- (b) that the evidence is of sufficient weight to justify the Inspector-General doing so;

the Inspector-General must report the evidence to:

- (c) if the person is or was the Commissioner—the Minister; or
- (d) otherwise—the Commissioner.

### 39 Victimisation

*Actually causing detriment to another person*

- (1) A person (the **first person**) commits an offence if:
  - (a) the first person engages in conduct; and
  - (b) the first person's conduct causes any detriment to another person (the **second person**); and
  - (c) the first person intends that his or her conduct cause detriment to the second person; and
  - (d) the detriment is caused without the consent of the second person; and
  - (e) the first person engages in his or her conduct because the second person or a third person:
    - (i) gave, or may give, information when requested or required to do so under section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act); or
    - (ii) produced, or may produce, a document when requested or required to do so under that section; or

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- (iii) attended, or may attend, to answer questions when requested or required to do so under that section; or
- (iv) answered, or may answer, questions while attending to answer questions when requested or required to do so under that section; or
- (v) is the subject of a report under this Act, or the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), that relates to an investigation under this Act.

Penalty: Imprisonment for 6 months.

*Threatening to cause detriment to another person*

- (2) A person (the **first person**) commits an offence if:
- (a) the first person makes to another person (the **second person**) a threat to cause any detriment to the second person or to a third person; and
  - (b) the first person:
    - (i) intends the second person to fear that the threat will be carried out; or
    - (ii) is reckless as to causing the second person to fear that the threat will be carried out; and
  - (c) the first person makes the threat because a person:
    - (i) gave, or may give, information when requested or required to do so under section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act); or
    - (ii) produced, or may produce, a document when requested or required to do so under that section; or
    - (iii) attended, or may attend, to answer questions when requested or required to do so under that section; or
    - (iv) answered, or may answer, questions while attending to answer questions when requested or required to do so under that section; or
    - (v) is the subject of a report under this Act, or the *Ombudsman Act 1976* (as it applies because of

section 15 of this Act), that relates to an investigation under this Act.

Penalty: Imprisonment for 6 months.

- (3) For the purposes of subsection (2), a *threat* may be:
  - (a) express or implied; or
  - (b) conditional or unconditional.
- (4) In a prosecution for an offence against subsection (2), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

#### **40 Protection from liability for Minister, Inspector-General etc.**

- (1) This section applies to the following persons (*protected persons*):
  - (a) the Minister;
  - (b) the Inspector-General;
  - (c) a person acting under the Inspector-General's authority.
- (2) A protected person is not liable to civil proceedings for loss, damage or injury of any kind suffered by another person as a result of the performance or exercise, in good faith, of the protected person's functions, powers or duties under or in relation to this Act or the *Ombudsman Act 1976* (as it applies because of section 15 of this Act).

#### **41 Annual report**

- (1) The annual report prepared by the Inspector-General and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include details of any directions given by the Minister under subsection 8(2) of this Act during the period.
- (2) The report must also include:
  - (a) the number of complaints received by the Inspector-General under this Act during the period; and
  - (b) the number of investigations under paragraph 7(1)(a) or (b):

## Section 42

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- (i) started during the period; and
- (ii) completed during the period; and
- (c) the number of investigations into systemic issues:
  - (i) started during that period; and
  - (ii) completed during that period; and
- (d) the number of times when the Inspector-General has made a requirement of a person under section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act) during the period; and
- (e) details of the circumstances in which each of those requirements under section 9 of that Act was made.

### 42 Delegation of certain powers by the Inspector-General

- (1) The Inspector-General may, in writing, delegate any of the following powers to a member of the Inspector-General's staff:
  - (a) the Inspector-General's powers under the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), except for the Inspector-General's powers under sections 15 to 19 of that Act;
  - (b) the Inspector-General's powers under subsections 36(3) and (4) of this Act to make arrangements and engage consultants (including determining the terms and conditions of their engagement).
- (2) In exercising powers under a delegation, a delegate must comply with any written directions of the Inspector-General.

### 43 Regulations

#### *General power to make regulations*

- (1) 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.

*Regulations about fees and allowances for expenses*

- (2) Without limiting subsection (1), the regulations may provide for a person who attends before the Inspector-General, or a member of the Inspector-General's staff, the *Ombudsman Act 1976* (as it applies because of section 15 of this Act) to be paid, in relation to that attendance, fees and allowances for expenses fixed by, or calculated in accordance with, the regulations.

## Endnotes

Endnote 1—About the endnotes

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## 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

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

### 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.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.

**Endnote 2—Abbreviation key**

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

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Inspector-General of Taxation Act 2003	28, 2003	15 Apr 2003	16 Apr 2003 (s 2)	
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Sch 1 (items 77–80): 23 June 2008 (s 2(1) item 4)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 723–725) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 5, 12)	Sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 102, 103): 1 July 2011 (s 2(1) item 2)	—
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 3 (items 9, 10): 29 June 2013 (s 2(1) item 16)	Sch 3 (item 10)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (item 51), Sch 9 (items 178–188) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 14 (items 1– 4)



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015	21, 2015	19 Mar 2015	Sch 2 (items 1–32, 44– 46): 1 May 2015 (s 2(1) item 3)	Sch 2 (items 44– 46)

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 3 .....	am No 21, 2015
s 4 .....	am No 58, 2011, No 21, 2015
<b>Part 2</b>	
<b>Division 2</b>	
Division 2 .....	rs No 21, 2015
s 7 .....	rs No 21, 2015
s 8 .....	rs No 21, 2015
s 9 .....	rs No 21, 2015
s 10 .....	rs No 21, 2015
s 11 .....	rep No 21, 2015
s 12 .....	rep No 21, 2015
s 13 .....	rep No 21, 2015
s 14 .....	rep No 21, 2015
<b>Division 3</b>	
Division 3 .....	rs No 21, 2015
s 15 .....	rs No 21, 2015
s 16 .....	rs No 21, 2015
s 17 .....	rs No 21, 2015
s 18 .....	rs No 21, 2015
s 19 .....	rep No 21, 2015
s 20 .....	rep No 21, 2015
s 21 .....	rep No 21, 2015
Division 4 .....	rs No 21, 2015
s 22 .....	am No 62, 2014
	rep No 21, 2015
s 23 .....	am No 62, 2014
	rep No 21, 2015

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 24 .....	am No 62, 2014 rep No 21, 2015
s 25 .....	am No 62, 2014 rep No 21, 2015
s 26 .....	am No 62, 2014 rep No 21, 2015
s 27 .....	am No 62, 2014 rep No 21, 2015
<b>Part 3</b>	
s 29 .....	am No 46, 2011; No 103, 2013
s 33 .....	rep No 62, 2014
s 35 .....	am No 26, 2008; No 58, 2011; No 62, 2014
s 36A .....	ad No 62, 2014
<b>Part 4</b>	
Part 4 heading.....	rs No 21, 2015
<b>Division 1</b>	
Division 1 heading.....	ad No 21, 2015
s 37 .....	am No 21, 2015
<b>Division 2</b>	
Division 2 .....	ad No 21, 2015
s 37B .....	ad No 21, 2015
s 37C .....	ad No 21, 2015
<b>Part 5</b>	
Part 5 heading.....	ad No 21, 2015
s 38 .....	am No 21, 2015
s 39 .....	am No 62, 2014, No 21, 2015
s 40 .....	am No 21, 2015
s 41 .....	rs No 62, 2014, No 21, 2015
s 42 .....	rs No 21, 2015
s 43 .....	am No 21, 2015
s 44 .....	rep No 21, 2015

**Endnotes**

Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Schedule 1 .....	rep No 21, 2015