

Ombudsman Amendment (Prescribed Authorities) Regulations 2024

Supplementary Explanatory Statement

Issued by the Authority of the Attorney-General

Ombudsman Act 1976

Ombudsman Amendment (Prescribed Authorities) Regulations 2024

Purpose of the Supplementary Explanatory Statement

This supplementary explanatory statement amends and supplements the initial explanatory statement to the Relevant Instrument in accordance with subsection 15J(1)(c) of the *Legislation Act 2003*. It does so in response to recommendations made by the Parliamentary Joint Committee on Human Rights, in its *Report 2 of 2025*, concerning the Statement of Compatibility in the explanatory statement.

Amendment to the explanatory statement for the Relevant Instrument

Statement of Compatibility with Human Rights

After the paragraph with the wording:

However, substantive avenues remain for a person to seek an effective remedy where their rights are affected by actions of the NACC Inspector. Decisions by the NACC Inspector under Subdivision B of Division 4 of Part 10 (reporting on NACC corruption investigations and NACC complaint investigations), including any findings or recommendations made by the NACC Inspector, remain reviewable under the *Administrative Decisions (Judicial Review) Act 1977*. Further, a person is able to seek judicial review under the *Judiciary Act 1903* or in the High Court's original jurisdiction.

Insert a new paragraph with the wording:

The NACC Inspector has immunity from civil liability for all acts or omissions done in good faith in the performance or exercise (or purported performance or exercise) of their functions, duties or powers under the *National Anti-Corruption Commission Act 2022* (NACC Act). Persons assisting the NACC Inspector have immunity from civil liability for all acts or omissions done in good faith for the purposes of assisting the NACC Inspector. However, as the Revised Explanatory Memorandum to the National Anti-Corruption Commission Bill 2022 makes clear, this immunity is conferred only on the relevant individuals and not the Commonwealth. It would therefore be open to an affected person to seek a remedy from the Commonwealth, but not from the Inspector or a person assisting the Inspector where they have acted in good faith.

After the paragraph starting with the words 'The NACC Inspector would remain subject to oversight by the Parliamentary Joint Committee on the NACC', insert new paragraphs with the wording:

The explicit removal of the ability for individuals to make complaints about the NACC Inspector to the Ombudsman is intended to ensure legislative clarity concerning the independence of the NACC Inspector and the relationship between different oversight and integrity agencies. The Ombudsman and NACC Inspector have complimentary jurisdiction over complaints concerning the NACC.

Given the explicit designation of the NACC Inspector as an ‘independent officer of the Parliament’ by section 182 of the NACC Act, and to guarantee the NACC Inspector’s role as an independent officer of the Parliament, it is appropriate that the NACC Inspector only be subject to oversight by the Parliament and the Judiciary. This provides clarity and certainty on the avenues for making a complaint and ensures the efficient use of Commonwealth resources.

Similar to the Auditor-General, as an independent officer of the Parliament, the NACC Inspector is empowered to fulfil duties on behalf of the Parliament. The NACC Inspector is empowered to investigate NACC corruption issues, investigate complaints of maladministration or officer misconduct relating to the NACC and audit the NACC’s operations for compliance with Commonwealth laws. It is not intended that the Ombudsman should investigate these independent functions.