

LEGISLATIVE ASSEMBLY

Ageing and Disability Commissioner Bill 2019

First print

Proposed amendments

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- No. 1      **Application of Act to all persons with disability**  
Pages 2 and 3, clause 4, lines 37, 38 and 42 on page 2 and lines 1, 3, 5, 9, 13, 23 and 24 on page 3. Omit “adult with disability” and “adults with disability” wherever occurring. Insert instead “person with disability” and “persons with disability”, respectively.
- No. 2      **Application of Act to all persons with disability**  
Page 3, clause 4 (3) (b), line 15. Omit “an adult with disability”. Insert instead “a person with disability”.
- No. 3      **Application of Act to all persons with disability**  
Page 3, clause 4 (3) (b), lines 19, 21 and 22. Omit “adults” wherever occurring. Insert instead “persons”.
- No. 4      **Application of Act to all persons with disability**  
Page 3, clause 4 (4), line 25. Omit “the adult”. Insert instead “the person”.
- No. 5      **Application of Act to all persons with disability**  
Pages 6 and 7, clauses 12 and 13, lines 5, 6, 10, 15, 17, 21, 25, 34 and 37 on page 6 and lines 4, 23, 31, 32, 34–36, 45 and 46 on page 7. Omit “an adult with disability” and “adults with disability” wherever occurring. Insert instead “a person with disability” and “persons with disability”, respectively.
- No. 6      **Application of Act to all persons with disability**  
Pages 6 and 7, clauses 12 and 13, lines 11, 13, 35 and 38 on page 6 and lines 24 and 25 on page 7. Omit “the adult” wherever occurring. Insert instead “the person”.
- No. 7      **Application of Act to all persons with disability**  
Page 9, clause 17, lines 19 and 26. Omit “an adult with disability” wherever occurring. Insert instead “a person with disability”.
- No. 8      **Application of Act to all persons with disability**  
Page 9, clause 17 (3), line 42. Omit “adult with disability”. Insert instead “person with disability”.

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No. 9      **Application of Act to all persons with disability**  
Page 9, clause 17 (3), line 43. Omit “adult concerned, examine the adult”. Insert instead “person concerned, examine the person”.

No. 10      **Referral of criminal matters**  
Page 7, clause 13. Insert after line 19:  
(9) If the Commissioner is of the opinion that a report, or part of a report, may provide evidence of the commission of a criminal offence, the Commissioner must refer the report, or the part of the report, to the Commissioner of Police or the Director of Public Prosecutions.

No. 11      **Public inquiries**  
Page 8, Division 2 of Part 3, line 35. Insert “**and public inquiries**” after “**Investigations**”.

No. 12      **Penalty for failing to comply with direction of Commissioner**  
Page 9, clause 16 (2), line 7. Insert “or imprisonment for 12 months, or both” after “50 penalty units”.

No. 13      **Public inquiries**  
Page 10. Insert after line 13:

**19 Public inquiries**

- (1) For the purposes of an investigation of a report, the Commissioner may conduct a public inquiry, if the Commissioner is of the opinion that a public inquiry is in the public interest, having regard to:
  - (a) the seriousness of the allegation of abuse, neglect or exploitation, and
  - (b) the wishes of any person with disability or older adult to whom the report relates, and
  - (c) the privacy of the persons who will be affected by a public inquiry.
- (2) For the purpose of conducting a public inquiry under this section, the Commissioner has the functions, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923*.
- (3) The provisions of the *Royal Commissions Act 1923* (except section 13 and Division 2 of Part 2) apply, with necessary modifications, to a public inquiry and to any witness or person summoned by or appearing before the public inquiry or providing material to the inquiry, but section 11 (2) of that Act shall have effect subject to subsection (4).
- (4) Nothing in this section requires any person to give any statement of information, answer any question or disclose any document if the person can claim privilege not to do so.
- (5) A witness summoned by or appearing before the Commissioner is to be paid such amount as the Commissioner determines, but not exceeding the amount that would be payable to a witness that is a Crown witness subpoenaed by the Crown to give evidence.
- (6) For the purpose of conducting a public inquiry under this section, the Commissioner is not bound by the rules of evidence and may be informed on any matter in issue at the public inquiry in such manner as the Commissioner considers appropriate.
- (7) The Commissioner may give directions as to the procedure to be followed at or in connection with the inquiry.

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- (8) The Commissioner may appoint an Australian legal practitioner to assist the Commissioner for the purposes of an inquiry held by the Commissioner and the Australian legal practitioner may appear before the inquiry.
- (9) In this section:  
*disclosure* of a document includes the provision of copies of the document, the granting of access to the document or the disclosure of the contents of the document.  
*document* includes a part of a document.  
*privilege* means privilege based on a claim by a person that evidence or other information about a matter or document:
- (a) might tend to incriminate the person or make the person liable to any forfeiture or penalty, or
  - (b) could not be required to be adduced in proceedings before a New South Wales court by reason of the operation of Part 3.10 (Privileges) of Chapter 3 of the *Evidence Act 1995*.

No. 14      **Annual report**

Page 14, clause 24. Insert after line 9:

- (3) An annual report by the Commissioner must include information about the number of referrals made by the Commissioner under section 13 and the outcome of each referral.

No. 15      **Application of Act to all persons with disability**

Page 15, clause 27, lines 5 and 9. Omit “adults with disability” wherever occurring. Insert instead “persons with disability”.

No. 16      **Penalty for disclosure of information**

Page 15, clause 29, line 41. Insert “or imprisonment for 12 months, or both” after “50 penalty units”.

No. 17      **Penalty for obstructing Commissioner**

Page 16, clause 30, line 4. Insert “or imprisonment for 12 months, or both” after “50 penalty units”.