

**LEGISLATIVE COUNCIL**

**Inspector of Custodial Services Bill 2012**

**First Print**

**Proposed amendments**

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- No. 1 Page 5, clause 6 (1). Insert after line 12:
- (e) to investigate and attempt to resolve complaints made by any person relating to the administration of a custodial centre,
  - (f) to encourage the mediation and informal resolution of complaints relating to the administration of a custodial centre,

- No. 2 Page 5, clause 6. Insert after line 33:
- (3) The functions of the Inspector relating to the investigation of complaints may be exercised on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to the Inspector or in response to a reference by the Ombudsman, the Independent Commission Against Corruption or any other agency.

- No. 3 Page 6. Insert after line 22:

**9 Limitations on Inspector's functions**

- (1) The Inspector cannot exercise functions in relation to the following matters:
  - (a) a matter that is the subject of an inquiry under section 230 of the *Crimes (Administration of Sentences) Act 1999*,
  - (b) a complaint about the conduct of a public authority that is listed in Schedule 1 to the *Ombudsman Act 1974* as being excluded from the operation of that Act,
  - (c) a complaint about a decision, procedure or member of the State Parole Authority or the Serious Offenders Review Council (within the meaning of the *Crimes (Administration of Sentences) Act 1999*).
- (2) Subsection (1) (b) does not affect the powers of the Inspector in relation to the recommendation of disciplinary action or criminal prosecution against custodial centre staff members.
- (3) If the Inspector receives a complaint that would fall within the charter of an investigation unit within the Department, the

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Inspector must refer the complaint to the investigation unit unless directed to deal with the complaint by the Minister.

- (4) Nothing in subsection (3) prevents the Inspector from:
- (a) monitoring the way in which a complaint is dealt with by an investigation unit within the Department, or
  - (b) recommending that the Minister direct investigation of a complaint by the Inspector or another investigative body, or
  - (c) requiring a copy of any report by any investigation unit within the Department and making recommendations with respect to the report.

**10 Discretion of Inspector to investigate complaints**

- (1) The Inspector may decide not to investigate a complaint or to discontinue the investigation of a complaint for any reason that the Inspector considers appropriate.
- (2) Without limiting subsection (1), the Inspector may decide not to investigate a complaint or may discontinue the investigation of a complaint if the Inspector considers that:
  - (a) the complaint is frivolous, vexatious or not in good faith, or
  - (b) the subject-matter of the complaint is trivial, or
  - (c) the conduct complained of occurred at too remote a time to justify investigation, or
  - (d) there is or was available to the complainant an alternative and satisfactory means of redress, or
  - (e) the complainant has no interest or an insufficient interest in the conduct complained of.
- (3) This section does not apply to any matter that is referred to the Inspector for investigation or other action under Part 5 of the *Independent Commission Against Corruption Act 1988*.

No. 4 Page 7, clause 10. Insert after line 9:

- (3) The Inspector must not investigate a matter on complaint or on the Inspector's own initiative if the matter could be the subject of a complaint under the *Ombudsman Act 1974* until the Inspector has entered into arrangements with the Ombudsman under this section.