



TASMANIA

**PUBLIC INTEREST DISCLOSURES (MEMBERS
OF PARLIAMENT) ACT 2023**

No. 15 of 2023

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**PUBLIC INTEREST DISCLOSURES (MEMBERS
OF PARLIAMENT) ACT 2023**

No. 15 of 2023

An Act to amend the *Public Interest Disclosures Act 2002* to require disclosures in relation to members of Parliament to be made to the Ombudsman or Integrity Commission, and to allow disclosures in relation to staff of members of Parliament to be made to the Integrity Commission

[Royal Assent 31 August 2023]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Public Interest Disclosures (Members of Parliament) Act 2023*.

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2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Public Interest Disclosures Act 2002** is referred to as the Principal Act.

4. Section 7 amended (Persons to whom disclosures may be made)

Section 7 of the Principal Act is amended as follows:

(a) by omitting subsection (4) and substituting the following subsection:

(4) A disclosure that relates to a member of Parliament who –

(a) is a member of the Legislative Council, is to be made to the President of the Legislative Council, the Ombudsman or the Integrity Commission; or

(b) is a member of the House of Assembly, is to be made to the Speaker of the House of Assembly,

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the Ombudsman or the
Integrity Commission.

- (b) by inserting in subsection (5E) “or the
Integrity Commission” after
“Ombudsman”.

5. Section 29CA inserted

After section 29C of the Principal Act, the
following section is inserted in Part 4A:

**29CA. Action by Integrity Commission if disclosure
relates to member of Parliament**

- (1) Subject to subsection (2), if a disclosure
is made to the Integrity Commission in
accordance with Part 2 or is referred to
the Integrity Commission under
section 29B, the Integrity Commission
may, if the disclosure relates to a
member of Parliament who –
- (a) is a member of the Legislative
Council – refer the disclosure to
the President of the Legislative
Council to be dealt with as if it
were a disclosure made to the
President of the Legislative
Council in accordance with
Part 2; or
- (b) is a member of the House of
Assembly – refer the disclosure
to the Speaker of the House of
Assembly to be dealt with as if it

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were a disclosure made to the Speaker of the House of Assembly in accordance with Part 2.

- (2) The Integrity Commission may only refer a disclosure under subsection (1) with the consent of the person who made the disclosure, unless the person did not provide with the disclosure information that enables the person to be contacted.
- (3) The Integrity Commission is not required to take any further action in relation to a disclosure made by a person to the Integrity Commission in accordance with Part 2 or referred to the Integrity Commission under section 29B, if –
 - (a) the disclosure relates to a member of Parliament; and
 - (b) the Integrity Commission is satisfied that it is not appropriate for the Integrity Commission –
 - (i) to deal with the disclosure under the *Integrity Commission Act 2009*; or
 - (ii) to refer the disclosure to the Ombudsman or a public body under section 29A(b) or 29C(b); and

- (c) the consent of the person to a referral of the disclosure under subsection (2) has not been obtained –
 - (i) within a reasonable period after the Integrity Commission requested consent from the person; or
 - (ii) because the person did not provide with the disclosure information that enables the person to be contacted.
- (4) Nothing in this section is to be taken to limit the application of section 29A(b), or section 29C(b), to a disclosure that is made in relation to a member of Parliament.

6. Section 29D amended (Notice of referral)

Section 29D(2) of the Principal Act is amended by inserting “or section 29CA” after “section 29C”.

7. Section 36 inserted

After section 35 of the Principal Act, the following section is inserted in Division 2:

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36. Referral to Ombudsman of disclosures in relation to members of Parliament

If a person makes a disclosure to the President of the Legislative Council or the Speaker of the House of Assembly in accordance with Part 2, the President or the Speaker may refer the disclosure to the Ombudsman.

8. Section 37 amended (Determination by Ombudsman)

Section 37 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “under this Division” and substituting “under section 36”;
- (b) by omitting from subsection (2) “the public body that referred the disclosure under this Division” and substituting “the person who referred the disclosure under section 36”.

9. Section 42A inserted

After section 42 of the Principal Act, the following section is inserted in Division 2:

42A. Referral of public interest disclosures in relation to members of Parliament

- (1) The Ombudsman may, if a disclosed matter relates to a member of Parliament who –
- (a) is a member of the Legislative Council – refer the disclosed matter to the President of the Legislative Council to investigate; or
 - (b) is a member of the House of Assembly – refer the disclosed matter to the Speaker of the House of Assembly to investigate –

if the Ombudsman considers it appropriate to do so and the person who made the disclosure to which the disclosed matter relates consents to the referral, unless the person did not provide with the disclosure information that enables the person to be contacted.

- (2) The Ombudsman is not required to investigate a disclosed matter if –
- (a) the disclosed matter relates to a member of Parliament; and
 - (b) the Ombudsman is satisfied that the disclosed matter cannot be appropriately dealt with under this Act; and

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- (c) the consent of the person to a referral of the disclosed matter under subsection (1) has not been obtained –
 - (i) within a reasonable period after the Ombudsman requested consent from the person; or
 - (ii) because the person did not provide with the disclosure, to which the disclosed matter relates, information that enables the person to be contacted.

10. Section 46 amended (Notice of investigation)

Section 46(2) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “(other than a member of Parliament)” after “public officer”;
- (b) by inserting the following paragraph after paragraph (a):
 - (ab) if the disclosed matter relates to –
 - (i) a member of the House of Assembly, the Speaker of the House; or

- (ii) a member of the Legislative Council, the President of the Council;
or

11. Section 53 amended (Consultation and comment)

Section 53 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “(other than a member of Parliament)” after “public officer”;
- (b) by inserting the following paragraph after paragraph (a):
 - (ab) in the case of a public officer who is –
 - (i) a member of the House of Assembly, the Speaker of the House; and
 - (ii) a member of the Legislative Council, the President of the Council;
or

12. Section 56 amended (Report on investigation)

Section 56(2) of the Principal Act is amended as follows:

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- (a) by inserting in paragraph (a) “(other than a member of Parliament)” after “public officer”;
- (b) by inserting the following paragraph after paragraph (a):
 - (ab) in the case of a public officer who is –
 - (i) a member of the House of Assembly, the Speaker of the House; and
 - (ii) a member of the Legislative Council, the President of the Council; or

13. Part 8 repealed

Part 8 of the Principal Act is repealed.

14. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.

*[Second reading presentation speech made in:–
House of Assembly on 7 September 2022
Legislative Council on 18 October 2022]*