



# **Parliamentary Workplace Support Service (Consequential Amendments and Transitional Provisions) Act 2023**

**No. 71, 2023**

**An Act to deal with consequential and transitional  
matters arising from the enactment of the  
*Parliamentary Workplace Support Service Act 2023*,  
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**An Act to deal with consequential and transitional  
matters arising from the enactment of the  
*Parliamentary Workplace Support Service Act 2023*,  
and for related purposes**

*[Assented to 20 September 2023]*

The Parliament of Australia enacts:

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*No. 71, 2023*

*Parliamentary Workplace Support Service (Consequential  
Amendments and Transitional Provisions) Act 2023*

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## 1 Short title

This Act is the *Parliamentary Workplace Support Service (Consequential Amendments and Transitional Provisions) Act 2023*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	20 September 2023
2. Schedules 1 and 2	At the same time as the <i>Parliamentary Workplace Support Service Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	
3. Schedule 3	The day after the end of the period of 2 years beginning on the day the <i>Parliamentary Workplace Support Service Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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### 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of the *Parliamentary Service Determination 2013* amended or inserted by this Act, and any other provisions of that instrument, may be amended or repealed by an instrument made under section 83 of the *Parliamentary Service Act 1999* (see subsection 13(5) of the *Legislation Act 2003*).

## Schedule 1—Consequential amendments

### *Archives Act 1983*

#### **1 Subsection 3(1) (paragraph (ba) of the definition of open access period)**

After “Independent Review document”, insert “or a PWSS document”.

#### **2 Subsection 3(1)**

Insert:

***PWSS document*** means:

- (a) a document given to, or received by, any of the following bodies in connection with the performance of the body’s functions:
    - (i) the Parliamentary Workplace Support Service;
    - (ii) the Parliamentary Workplace Support Service Advisory Board;
    - (iii) the Parliamentary Workplace Support Service Consultative Committee; or
  - (b) a document brought into existence by any of the bodies mentioned in paragraph (a); or
  - (c) a document transferred to the Parliamentary Workplace Support Service under item 4 of Schedule 2 to the *Parliamentary Workplace Support Service (Consequential Amendments and Transitional Provisions) Act 2023*;
- but does not include a document relating to the administration of any of the bodies mentioned in paragraph (a).

#### **3 Subsection 3(7) (note)**

Repeal the note, substitute:

- Note: The following have different open access periods:
- (a) Cabinet notebooks (see section 22A);
  - (b) records containing Census information (see section 22B);
  - (c) Independent Review documents and PWSS documents (see section 22C).



**4 Section 22C (at the end of the heading)**

Add “and PWSS documents”.

**5 Subsection 22C(1)**

After “Independent Review document”, insert “or a PWSS document”.

**6 After subsection 22C(2)**

Insert:

- (2A) Subsection (1) applies in relation to a PWSS document, whether the document is brought into existence before, on or after the commencement of this subsection.

**7 Subsection 22C(3)**

After “Independent Review document”, insert “or a PWSS document”.

***Freedom of Information Act 1982***

**8 After subsection 7(2AA)**

Insert:

- (2AAA) The following bodies are taken not to be prescribed authorities for the purposes of this Act:
- (a) the Parliamentary Workplace Support Service;
  - (b) the Parliamentary Workplace Support Service Advisory Board;
  - (c) the Parliamentary Workplace Support Service Consultative Committee.

**9 After subsection 7(2DB)**

Insert:

- (2DC) A Minister and an agency are exempt from the operation of this Act in relation to the following documents (regardless of when the documents were brought into existence):
- (a) a document given to, or received by, a body listed in subsection (2AAA) in connection with the performance of the body’s functions;

(b) a document brought into existence by a body listed in subsection (2AAA).

(2DD) A Minister and an agency are not exempt under paragraph (2DC)(a) from the operation of this Act in relation to documents created other than in connection with the performance of the functions of a body listed in subsection (2AAA) to which a right of access otherwise exists or existed under this Act.

### ***Parliamentary Service Determination 2013***

#### **10 Clause 112B**

Repeal the clause.

#### **11 Schedule 1**

Repeal the following definitions:

- (a) definition of *Commonwealth parliamentary workplace*;
- (b) definition of *Commonwealth parliamentary workplace participant*;
- (c) definition of *MOP(S) Act employee*;
- (d) definition of *parliamentarian*;
- (e) definition of *serious incident or misconduct*.

## **Schedule 2—Application and transitional provisions**

### **1 Definitions**

- (1) In this Schedule:
- PWSS Act* means the *Parliamentary Workplace Support Service Act 2023*.
- (2) A term used in this Schedule that is defined for the purposes of the PWSS Act has the same meaning in this Schedule as it has in that Act.

### **2 PWSS may perform functions regardless of when alleged relevant conduct occurs**

The PWSS may perform a function under section 15, 16 or 19 of the PWSS Act in relation to alleged relevant conduct that occurs before, on or after the commencement of this item.

### **3 Transfer to the PWSS of complaints made before commencement under the existing PWSS mechanism**

- (1) This item applies if:
- (a) a complaint was made before the commencement of this item under the existing PWSS mechanism in relation to alleged relevant conduct (within the meaning of the PWSS Act); and
  - (b) the PWSS would have the power to review the complaint under subsection 19(2) of the PWSS Act if it were made to the PWSS on or after that commencement; and
  - (c) before that commencement, either:
    - (i) the complaint had started to be reviewed under the existing PWSS mechanism (whether or not the review had been completed); or
    - (ii) a decision had not been made under that mechanism whether to review the complaint.
- (2) The PWSS must deal with the complaint on and after that commencement as if the complaint had been made to the PWSS under section 19 of the PWSS Act, subject to subitems (3) to (5).

- (3) Any steps taken under the existing PWSS mechanism for the purposes of according a person procedural fairness in relation to the complaint are taken, on and after that commencement, to have been taken by the PWSS.
- (4) If, before that commencement:
- (a) a review of the complaint conducted under the existing PWSS mechanism had been completed; and
  - (b) a decision was made under the existing PWSS mechanism about whether the complaint is upheld;
- then:
- (c) the decision is taken, on and after that commencement, to have been made by the PWSS; and
  - (d) if the complaint was upheld:
    - (i) any report of the review completed before that commencement is taken, on and after that commencement, to have been prepared by the PWSS under subsection 19(3) of the PWSS Act; and
    - (ii) any recommendation made before that commencement under the existing PWSS mechanism in relation to the complaint is taken, on and after that commencement, to have been made by the PWSS.
- (5) If a report to which subparagraph (4)(d)(i) applies includes a recommendation to a parliamentarian, then:
- (a) the PWSS must engage with the parliamentarian under subsection 19(4) of the PWSS Act on and after that commencement in relation to implementing the recommendation; and
  - (b) any engagement by the Parliamentary Service Commissioner with the parliamentarian before that commencement in relation to implementing the recommendation is taken to have been carried out by the PWSS; and
  - (c) if the recommendation is not implemented—the PWSS must under subsection 19(5) of the PWSS Act give a copy of the report to the President of the Senate or the Speaker of the House of Representatives (as the case requires).
- (6) In this item:
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**existing PWSS mechanism** means the mechanism established by the Parliamentary Service Commissioner in accordance with paragraph 112B(1)(a) of the *Parliamentary Service Determination 2013*, as in force at any time before the commencement of this item.

#### **4 Transfer of records**

- (1) Records and documents covered by subitem (2) or (3) are to be transferred to the PWSS after the commencement of this item.
- (2) This subitem covers records or documents that were:
  - (a) in the possession of the agency (within the meaning of the *Public Service Act 1999*) known as the Australian Public Service Commission immediately before the commencement of this item; and
  - (b) given to, received by, or brought into existence by, that agency for the dominant purpose of the performance of a function that:
    - (i) was conferred on the Parliamentary Service Commissioner by subclause 112B(1) of the *Parliamentary Service Determination 2013* before that commencement; and
    - (ii) is to be performed by the PWSS after that commencement.
- (3) This subitem covers records or documents that were:
  - (a) in the possession of the Finance Department immediately before the commencement of this item; and
  - (b) given to, received by, or brought into existence by, that Department for the dominant purpose of the performance of a function that is to be performed by the PWSS after that commencement.
- (4) In this item:

**Finance Department** means the Department administered by the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

## 5 Confidential information

- (1) This item applies to any confidential information given to a person before the commencement of this item for the purpose of the performance of a function that:
  - (a) was conferred on the Parliamentary Service Commissioner by subclause 112B(1) of the *Parliamentary Service Determination 2013* before that commencement; and
  - (b) is to be performed by the PWSS after that commencement.
- (2) The information is taken, immediately after that commencement, to have been given to the PWSS.

## 6 Reports by the PWSS

- (1) Subsection 22(2) of the PWSS Act applies in relation to financial years starting on or after 1 July 2024, subject to subitem (2).
- (2) Paragraph 22(2)(d) of the PWSS Act applies in relation to financial years starting on or after 1 July 2025.

Note: Paragraph 22(2)(d) of the PWSS Act covers information relating to progress in the prevention of, and responses to, alleged relevant conduct.

## 7 Use and disclosure of information

Part 7 of the PWSS Act applies in relation to the use or disclosure of information by a person on or after the commencement of this item, whether the information was obtained by, or disclosed to, the person before, on or after that commencement.

## **Schedule 3—Repeal of review function**

### ***Parliamentary Workplace Support Service Act 2023***

#### **1 Section 4**

Omit:

(f) its review function; and

#### **2 Section 11**

Omit:

(f) its review function; and

#### **3 Paragraph 13(f)**

Repeal the paragraph.

#### **4 Section 19**

Repeal the section.

#### **5 Subsection 61(6)**

After “section 19”, insert “(as in force immediately before the repeal of that section by Schedule 3 to the *Parliamentary Workplace Support Service (Consequential Amendments and Transitional Provisions) Act 2023*)”.

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[*Minister’s second reading speech made in—  
House of Representatives on 10 August 2023  
Senate on 11 September 2023*]

(98/23)

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