



# **Parliamentary Service Amendment (Independent Parliamentary Workplace Complaints Mechanism) Determination 2021**

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We, Senator the Hon Scott Ryan, President of the Senate, and the Hon Tony Smith MP, Speaker of the House of Representatives, make the following determination.

Dated 23 September 2021

Senator the Hon Scott Ryan  
President of the Senate

The Hon Tony Smith MP  
Speaker of the House of Representatives

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## 1 Name

This instrument is the *Parliamentary Service Amendment (Independent Parliamentary Workplace Complaints Mechanism) Determination 2021*.

## 2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	24 September 2021

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under subsection 71(1) of the *Parliamentary Service Act 1999*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Parliamentary Service Determination 2013*

#### **1 At the end of Part 10A**

Add:

#### **112B Commissioner’s functions—*independent parliamentary workplace complaints mechanism***

- (1) For the purposes of paragraph 40(1)(d) of the Act, the following functions are conferred on the Commissioner:
  - (a) to establish and maintain a mechanism for:
    - (i) reviewing, and making recommendations in relation to, complaints about serious incidents involving MOP(S) Act employees, parliamentarians, or both, in the course of their work; and
    - (ii) providing support to current or former MOP(S) Act employees and parliamentarians in relation to such serious incidents and other matters relating to work health and safety in the course of performing duties as a MOP(S) Act employee or parliamentarian;
  - (b) to provide for education of current MOP(S) Act employees and parliamentarians, and for informing current or former MOP(S) Act employees and parliamentarians, in relation to:
    - (i) the mechanism; and
    - (ii) serious incidents involving MOP(S) Act employees, parliamentarians, or both, in the course of their work; and
    - (iii) other matters relating to work health and safety in the course of performing duties as a MOP(S) Act employee or parliamentarian;
  - (c) to take steps to assure the independence, confidentiality and quality of the practices and processes that comprise the mechanism or relate to the provision of information;
  - (d) if a complaint is upheld following review—to receive a report of the review;
  - (e) if a report of a review makes recommendations to a parliamentarian—to engage with the parliamentarian in relation to implementing the recommendations;
  - (f) if recommendations made to a parliamentarian are not implemented—to refer the report to the relevant Presiding Officer, in accordance with any procedure that applies under the mechanism (which, if the relevant House of the Parliament has determined a procedure, must be the procedure determined by that House).
- (2) For the purposes of subparagraph (1)(a)(i), the mechanism is not to provide for review of a complaint:
  - (a) about a serious incident that occurred before 18 May 2019; or
  - (b) made after the person who is the subject of the complaint has ceased to be a MOP(S) Act employee or parliamentarian; or

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(c) made by a person about a serious incident that occurred while the person was a parliamentarian, if the person has ceased to be a parliamentarian since the incident occurred.

(3) Paragraph (2)(c) applies regardless of whether the person later becomes a parliamentarian again, or later becomes a MOP(S) Act employee.

(4) In this determination:

***MOP(S) Act employee*** means a person employed under Part III or IV of the *Members of Parliament (Staff) Act 1984*.

***parliamentarian*** means a Senator or a Member of the House of Representatives.

***serious incident*** means:

- (a) sexual assault; or
- (b) assault; or
- (c) sexual harassment; or
- (d) harassment; or
- (e) a person being bullied at work (within the meaning of the *Fair Work Act 2009*); or
- (f) an incident of a person behaving unreasonably towards another person in a way that creates a risk to work health or safety.

## **2 Schedule 1**

Insert:

***MOP(S) Act employee*** has the meaning given by subclause 112B(4).

***parliamentarian*** has the meaning given by subclause 112B(4).

***serious incident*** has the meaning given by subclause 112B(4).