South Australia

Children and Young People (Safety and Support) Bill 2024

Amendment No 1 [Bonaros–1]—

Clause 3, page 13, line 6 [clause 3(1), definition of at risk of harm]—

Delete "and at risk of significant harm"

Amendment No 2 [Bonaros–1]—

Clause 3, page 15, line 25 [clause 3(1), definition of significant harm]—

Delete the definition

Amendment No 3 [Bonaros–1]—

Clause 4, page 17, line 17 [heading to clause 4]—

Delete "and significant harm"

Amendment No 4 [Bonaros–1]—

Clause 4, page 17, lines 21 to 27 [clause 4(2)]—

Delete subclause (2)

Amendment No 5 [Bonaros–1]—

Clause 5, page 17, line 31 [heading to clause 5]—

Delete "and at risk of significant harm"

Amendment No 6 [Bonaros–1]—

Clause 5, page 17, line 38 to page 18, line 23 [clause 5(2)]—

Delete subclause (2)

Amendment No 7 [Bonaros–1]—

Clause 5, page 18, lines 28 and 29 [clause 5(5)]—

Delete "or significant harm (as the case may be)"

Amendment No 8 [Bonaros–1]—

Clause 18, page 26, line 36 [clause 18(3)(a)]—

Delete "significant"

Amendment No 9 [Bonaros–1]—

Heading to Part 7, page 61, line 2—

Delete "or significant harm"

Amendment No 10 [Bonaros–1]—

Heading to Part 7 Division 1, page 61, line 4—

Delete "significant"

Amendment No 11 [Bonaros–1]—

Clause 72, page 61, line 13 [heading to clause 72]—

Delete "significant"

Amendment No 12 [Bonaros–1]—

Clause 72, page 61, line 16 [clause 72(1)(a)]—

Delete "significant"

Amendment No 13 [Bonaros–1]—

Clause 78, page 67, line 8 [Clause 78(1)]—

Delete "may" and substitute:

must

Amendment No 14 [Bonaros–1]—

Clause 83, page 69, line 12 [clause 83(1)(a)]—

Delete "significant" and substitute:

serious

Amendment No 15 [Bonaros–1]—

Clause 83, page 69, line 14 [clause 83(1)(b)]—

Delete "significant harm or further significant" and substitute:

serious harm or further serious

Amendment No 16 [Bonaros–1]—

Clause 83, page 69, line 24 [clause 83(2)(a)]—

Delete "significant" and substitute:

serious

Amendment No 17 [Bonaros–1]—

Clause 83, page 70, lines 30 and 31 [clause 83(9)]—

Delete "significant harm, or further significant" and substitute:

serious harm or further serious

Amendment No 18 [Bonaros–1]—

Clause 83, page 70 after line 31—

Insert:

(10) In this section—

serious harm—

(a) includes cumulative harm that amounts, or would amount if it continued, to serious harm; but

(b) does not include harm of a trivial or insignificant nature.

Amendment No 19 [Bonaros–1]—

Clause 84, page 70, line 39 [clause 84(1)(c)]—

Delete "fifth" and substitute:

third

Amendment No 20 [Bonaros–1]—

Clause 112, page 84, after line 17 [clause 112(1)]—

Insert:

(ja) an order relating to the placement (including removing a child or young person from a particular placement) of a child or young person who is in the custody, or under the guardianship, of the Chief Executive;

(jb) an order providing for contact arrangements (however described) in respect of a child or young person placed under the guardianship, or in the custody of, the Chief Executive or another person under this Act or a repealed Act;

Amendment No 21 [Bonaros–1]—

Clause 114, page 85, lines 14 to 28—

This clause will be opposed

Amendment No 22 [Bonaros–1]—

Clause 125, page 88, lines 29 to 38—

This clause will be opposed

Amendment No 23 [Bonaros–1]—

Clause 139, page 96, after line 20—

Insert:

(5a) To the extent that a determination of contact arrangements in respect of a child or young person under this section is inconsistent with an order of the Court—

(a) the determination is, to the extent of the inconsistency, void and of no effect; and

(b) the Chief Executive must vary, substitute or revoke the determination such that the contact arrangements are consistent with the order of the Court.

Amendment No 24 [Bonaros–1]—

Clause 141, page 97, line 12 [clause 141(2)(a)]—

Delete "14" and substitute:

60

Amendment No 25 [Bonaros–1]—

Clause 141, page 98, after line 10 —

Insert:

(9a) However, nothing in this section authorises the panel to affirm, vary or substitute a determination in a manner that is inconsistent with an order of the Court.

Amendment No 26 [Bonaros–1]—

Clause 172, page 116, line 6 [clause 172(1)]—

Delete "30" and substitute:

60

Amendment No 27 [Bonaros–1]—

Clause 198, page 126, lines 34 and 35 [clause 198(1)]—

Delete subclause (1) and substitute:

(1) A person who is aggrieved by a decision of the Chief Executive, a child protection officer or a panel of members of the Contact Arrangements Review Panel under this Act may apply to the Chief Executive for an internal review of the decision under this section.

Amendment No 28 [Bonaros–1]—

Clause 198, page 127, line 1 [clause 198(2)(b)]—

Delete "30" and substitute:

60

Amendment No 29 [Bonaros–1]—

Clause 198, page 127, line 1 [clause 198(2)(b)]—

Delete "prescribed"

Amendment No 30 [Bonaros–1]—

Clause 198, page 127, after line 5—

Insert:

(3a) An internal review on an application under subsection (1) must be completed within 30 days after the application is made (and, if the internal review is not completed within that period, the decision will be taken to have been confirmed).

Amendment No 31 [Bonaros–1]—

Clause 198, page 127, line 7 [clause 198(4)]—

Delete "prescribed"

Amendment No 32 [Bonaros–1]—

Clause 198, page 127, after line 10—

Insert:

(5a) For the purposes of this section, a reference to a decision will be taken to include a reference to—

(a) a refusal or failure to make a decision; and

(b) a determination.

Amendment No 33 [Bonaros–1]—

Clause 198, page 127, lines 12 to14 [clause 198(6), definition of prescribed decision]—

Delete the definition

Amendment No 34 [Bonaros–1]—

Clause 198, page 127, lines 15 to 24 [clause 198(6), definition of prescribed person]—

Delete the definition

Amendment No 35 [Bonaros–1]—

Heading to Part 17 Division 2, page 127, line 25—

Delete "made under section 198 etc" and substitute:

under Act

Amendment No 36 [Bonaros–1]—

Clause 199, page 127, line 26 [heading to clause 199]—

Delete "made under section 198 etc" and substitute:

under Act

Amendment No 37 [Bonaros–1]—

Clause 199, page 127, lines 30 and 31 [clause 199(1)(a) and (b)]—

Delete paragraphs (a) and (b) and substitute:

(a) a decision of the Chief Executive or a child protection officer under this Act;

(b) a decision of a recognised Aboriginal or Torres Strait Islander entity, or a member of a recognised Aboriginal or Torres Strait Islander entity, in respect of a function delegated to the entity or member under this Act;

(c) a decision of a panel of members of the Contact Arrangements Review Panel under Part 12 Division 3;

(d) any other decision under this Act prescribed by the regulations.

Amendment No 38 [Bonaros–1]—

Clause 199, page 127, lines 32 to 34 [clause 199(2)]—

Delete subclause (2)

Amendment No 39 [Bonaros–1]—

Clause 199, page 127, lines 37 to 39 [clause 199(4)]—

Delete "made within 28 days after the applicant receives notice of the outcome of the internal review under section 198 (or such longer period as SACAT may allow)." and substitute:

made—

(a) in the case where an internal review under section 198 has been completed—within 60 days after the applicant receives notice of the outcome of the internal review; or

(b) in the case where an internal review under section 198 has not been completed within the period specified in section 199(3a)—within 60 days after the expiry of that period; or

(c) in the case where an internal review under section 198 has not been sought—within 60 days after the applicant is given notice of the decision,

(or such longer period as SACAT may allow).

Amendment No 40 [Bonaros–1]—

Schedule 1, page 139, line 24 to page 141—

Delete Schedule 1

Amendment No 41 [Bonaros–1]—

Schedule 2, page 142, after line 25 [Schedule 2 Part 5]—

Insert:

5A—Amendment of section 3—Interpretation

Section 3(1)—after the definition of ***Child Development Council*** insert:

Children and Young People's Ombudsman means the person for the time being holding or acting in the office of Children and Young People's Ombudsman under Part 4A;

Amendment No 42 [Bonaros–1]—

Schedule 2, page 142, after line 33 [Schedule 2 Part 5]—

Insert:

7A—Insertion of Part 4A

After section 29 insert:

Part 4A—Children and Young Person's Ombudsman

Division 1—Preliminary

39A—Interpretation

In this Part—

child protection complaint means—

(a) a complaint relating to the operation of the *Children and Young People (Safety and Support) Act 2025*; or

(b) any other complaint, or complaint of a class, prescribed by the regulations;

Department has the same meaning as in the *Children and Young People (Safety and Support) Act 2025*;

in care has the same meaning as in the *Children and Young People (Safety and Support) Act 2025*.

Division 2—Children and Young Person's Ombudsman

39B—Children and Young Person's Ombudsman

(1) There is to be a Children and Young Person's Ombudsman.

(2) The Children and Young Person's Ombudsman is independent of direction or control by the Crown or any Minister or officer of the Crown.

(3) The Children and Young Person's Ombudsman is not a Public Service employee.

39C—Appointment of Children and Young Person's Ombudsman

(1) The Children and Young Person's will be appointed by the Governor on conditions, and for a term (not exceeding 7 years), determined by the Governor and specified in the instrument of appointment.

(2) A person appointed to be the Children and Young Person's Ombudsman is, at the end of a term of appointment, eligible for reappointment but cannot hold office for terms (including any term as acting Children and Young Person's Ombudsman) that exceed 10 years in total.

(3) The Governor may, by regulation, establish a scheme for the recruitment of the Children and Young Person's Ombudsman (and recruitment of the Children and Young Person's Ombudsman must comply with that scheme).

(4) A person may only be appointed to be the Children and Young Person's Ombudsman if, following referral by the Minister of the proposed appointment to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*—

(a) the appointment has been approved by the Committee; or

(b) the Committee has not, within 7 days of the referral, or such longer period as is allowed by the Minister, notified the Minister in writing that it does not approve the appointment.

(5) Despite the *Parliamentary Committees Act 1991*, the Statutory Officers Committee must not report on, or publish material in relation to, matters referred to the Committee under subsection (4) except to the extent allowed by the Minister (but this subsection does not derogate from section 15I(2) of the *Parliamentary Committees Act 1991*).

(6) If the Children and Young Person's Ombudsman was, immediately before their appointment, employed in the Public Service, the Children and Young Person's Ombudsman retains existing and accruing rights in respect of leave.

(7) The Children and Young Person's Ombudsman must not, without the consent of the Minister, engage in any remunerated employment or activity apart from official duties.

(8) The Governor may, on the address of both Houses of Parliament, remove the Children and Young Person's Ombudsman from office.

(9) The Governor may suspend the Children and Young Person's Ombudsman from office (with, or without, pay) for—

(a) contravention of a condition of appointment; or

(b) misconduct or conduct that may bring the office of Children and Young Person's Ombudsman into disrepute; or

(c) failure or incapacity to carry out official duties satisfactorily.

(10) If the Governor suspends the Children and Young Person's Ombudsman from office, a full statement of the reason for the suspension must be laid before both Houses of Parliament within 7 days after the suspension if Parliament is then in session or, if not, within 7 days after the commencement of the next session of Parliament.

(11) If, at the end of 20 sitting days after the statement is laid before Parliament, neither House of Parliament has presented an address to the Governor requiring the Children and Young Person's Ombudsman to be restored to office, the Children and Young Person's Ombudsman is removed from office.

(12) If within 20 sitting days after the statement is laid before Parliament either House of Parliament presents an address to the Governor requiring the Children and Young Person's Ombudsman to be restored to office, the Children and Young Person's Ombudsman is restored to office.

(13) The office of Children and Young Person's Ombudsman becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Governor; or

(d) is nominated for election as a member of an Australian Parliament; or

(e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(f) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or

(g) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(h) becomes a prohibited person within the meaning of the *Child Safety (Prohibited Persons) Act 2016*; or

(i) is removed from office by the Governor under this section.

(14) Except as is provided by this section, the Children and Young Person's Ombudsman may not be removed or suspended from office, nor will the office of the Children and Young Person's Ombudsman become vacant.

(15) The Children and Young Person's Ombudsman is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

39D—Acting Children and Young Person's Ombudsman

(1) If for any reason—

(a) the Children and Young Person's Ombudsman is temporarily unable to perform official duties; or

(b) the office of the Children and Young Person's Ombudsman is temporarily vacant,

the Governor may, by notice published in the Gazette, appoint a person to act in the office of the Children and Young Person's Ombudsman and a person so appointed has, while so acting, all the powers, functions and duties of the Children and Young Person's Ombudsman.

(2) A person who is a Public Service employee may be appointed under this section to act in the office of the Children and Young Person's Ombudsman while remaining a Public Service employee for a term not exceeding 3 months and may, on the expiration of that term, be reappointed (provided that the terms of appointment do not exceed 6 months in aggregate in any period of 12 months).

(3) Subject to this Act, the terms and conditions of appointment and employment (including the salary and allowances) of the person appointed under subsection (1) shall be as determined, from time to time, by the Governor.

39E—Functions

The functions of the Children and Young Person's Ombudsman are—

(a) to receive, assess and investigate or otherwise deal with complaints made under this Part;

(b) to assess and investigate or otherwise deal with complaints relating to the child and young person's protection system referred to the Children and Young Person's Ombudsman under this or any other Act;

(c) to evaluate the practices, policies and procedures of the Department with a view to improving the ways in which complaints relating to the child and young person's protection system are received and dealt with;

(d) to assist the State authorities to identify and deal with inappropriate or improper administrative acts in relation to the child and young person's protection system;

(e) to perform other functions conferred on the Children and Young Person's Ombudsman by this or any other Act.

39F—Delegation

(1) Subject to this section, the Children and Young Person's Ombudsman may delegate a function under this Act (other than a prescribed function) to any person or body that is, in the Children and Young Person's Ombudsman opinion, competent to perform or exercise the relevant function or power.

(2) A delegation under this section—

(a) must be in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent the delegator from acting in any matter.

(3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

39G—Staff and resources

The Minister must provide the Children and Young Person's Ombudsman with the staff and other resources that the Children and Young Person's Ombudsman reasonably needs for carrying out their functions.

39H—Employees

(1) The Children and Young Person's Ombudsman may engage employees on terms and conditions determined by the Children and Young Person's Ombudsman.

(2) The employees are not Public Service employees but will, for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*, be taken to be public sector employees employed by the Children and Young Person's Ombudsman.

39I—Use of staff etc of Public Service

The Children and Young Person's Ombudsman may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

Division 3—Complaints about child and young person's protection system

39J—Complaints system

(1) The Children and Young Person's Ombudsman must establish a system for the receipt of complaints about the child and young person's protection system.

(2) The system must permit the making of complaints relating to matters that are (in the opinion of the Children and Young Person's Ombudsman) sensitive, complex or of significant public interest to be made in person to an officer of the Ombudsman.

(3) The system must ensure that the Children and Young Person's Ombudsman gives consideration to the motives of a complainant and that complaints that are apparently made in bad faith, for an improper purpose, are vexatious or that otherwise amount to an abuse of the complaints system are not received for consideration by the Children and Young Person's Ombudsman.

39K—Who may make complaints

(1) A complaint about the child and young person's protection system may be made by—

(a) a child or young person who is in care; or

(b) a parent or guardian of a child or young person who is in care; or

(c) an approved carer, or other person, with whom a child or young person is placed under the *Children and Young People (Safety and Support) Act 2025*; or

(d) any other person directly affected by the acts to which the complaint relates; or

(e) any other person who, in the opinion of the Children and Young Person's Ombudsman, has sufficient interest in the child and young person's protection system.

(2) If the person by whom a complaint might have been made has died or is unable to make the complaint personally, the complaint may be made by a person who is, in the Children and Young Person's Ombudsman's opinion, a suitable representative of that person.

(3) A complaint in respect of an act that could, apart from this subsection, be made by a person may, with the consent of that person, be made on behalf of that person by a member of either House of Parliament and with the consent of that person that member may act on behalf of that person in relation to the complaint.

(4) A complaint may be made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* despite the fact that they are not directly affected by the acts to which the complaint relates.

(5) Despite a provision of this or any other Act prohibiting or restricting, or authorising the imposition of prohibitions or restrictions on, the disclosure of information, a person who has the care or custody of another person must not refuse or fail to take all steps necessary to facilitate such communication by that other person as may be necessary or appropriate to the making of a complaint under this Part.

Maximum penalty: $2 000.

39L—Time within which complaints may be made

(1) Subject to this section, a complaint must be made within 6 months after the day on which the complainant first had notice of the matters alleged in the complaint (or such longer period as may be allowed by the Children and Young Person's Ombudsman).

(2) For the purposes of this section a complainant will be presumed to have had notice of the matters alleged in the complaint at the time they might reasonably be expected to have had such notice.

(3) This section does not apply in relation to a complaint made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under this Act.

39M—Obstruction of complaint

A person must not—

(a) prevent another person from making a complaint under this Part; or

(b) hinder or obstruct another person in making a complaint under this Part.

Maximum penalty: $10 000.

39N—Assessment of complaint or referred matter

(1) On receipt by the Children and Young Person's Ombudsman of a complaint, or a matter referred to the Children and Young Person's Ombudsman, the complaint or matter must be assessed as to whether—

(a) it raises an issue that should be investigated under this Part; or

(b) it raises an issue or issues that should be referred to a law enforcement agency, another inquiry agency or any other appropriate person or body; or

(c) it is trivial, vexatious or frivolous, it has previously been dealt with by an inquiry agency or State authority and there is no reason to reexamine it or there is other good reason why no action should be taken in respect of it,

and a determination made as to whether or not action should be taken to investigate or refer the complaint or matter.

(2) The Children and Young Person's Ombudsman may, for the purpose of assessing a complaint or matter, by written notice, require a specified person or body (whether or not the person or body is a State authority, or an officer or employee of a State authority)—

(a) to produce a specified document or a document relating to a specified matter; or

(b) to produce a written statement of information about a specified matter or to answer specified questions, within a specified period and in a specified form, verified if the written notice so requires by statutory declaration.

(3) A person must not refuse or fail to comply with a requirement of a notice under subsection (2).

Maximum penalty: $10 000.

(4) If a State authority refuses or fails to comply with a notice under subsection (2), the Chief Executive may, after consultation with the State authority—

(a) report the refusal or failure to the Minister and to the Minister responsible for the State authority; and

(b) include details of the refusal or failure in the annual report of the Department.

(5) In this section—

inquiry agency means—

(a) the Independent Commission Against Corruption; or

(b) the Ombudsman.

Division 4—Investigations

39O—Matters subject to investigation

(1) Subject to this Part, the Children and Young Person's Ombudsman may investigate any matter relating to the child and young person's protection system.

(2) The Children and Young Person's Ombudsman may undertake such an investigation either on receipt of a complaint, referral of a matter, or on their own initiative.

(3) Despite any other provision of this Act, if the Children and Young Person's Ombudsman becomes aware that—

(a) the matter is the subject of an ongoing investigation under the *Independent Commission Against Corruption Act 2012*; or

(b) the matter is the subject of an ongoing criminal investigation; or

(c) the matter is, or is to be, the subject of a coronial inquiry; or

(d) a person has been or is to be charged with a criminal offence in relation to the matter,

the Children and Young Person's Ombudsman may not proceed to investigate or otherwise deal with the matter under this Part until such investigation or inquiry has been completed or the proceedings for the offence have been disposed of, withdrawn or permanently stayed.

(4) The Children and Young Person's Ombudsman must not investigate a matter where—

(a) the complainant is provided with a right of appeal, reference or review to a court, tribunal or body under this or any other Act or law in relation to the matter; or

(b) the complainant had a remedy by way of legal proceedings,

unless the Children and Young Person's Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy or that it is in the public interest to continue the investigation under this Part.

(5) The ability to lay a complaint for disciplinary action against a person is to be disregarded for the purposes of subsection (4).

39P—Parliament may refer matter for investigation

(1) Subject to this section, either House of Parliament, or any committee of either of those Houses, or a joint committee of both Houses of Parliament, may refer to the Children and Young Person's Ombudsman, for investigation and report, any matter that is within the jurisdiction of the Children and Young Person's Ombudsman and which that House or committee considers should be investigated by the Children and Young Person's Ombudsman.

(2) The Children and Young Person's Ombudsman must carry out an investigation into a matter referred to them under this section and, following that investigation, must submit a report on the matter to—

(a) if the matter was referred to the Children and Young Person's Ombudsman by the Legislative Council or a committee of the Legislative Council—the President of the Legislative Council;

(b) if the matter was referred to the Children and Young Person's Ombudsman by the House of Assembly or a committee of the House of Assembly—the Speaker of the House of Assembly;

(c) if the matter was referred to the Children and Young Person's Ombudsman by a joint committee of both Houses of Parliament—the President of the Legislative Council and the Speaker of the House of Assembly.

(3) If—

(a) the person affected by an administrative act is provided in relation to that act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or

(b) the person affected by an administrative act had a remedy by way of legal proceedings; or

(c) 12 months have elapsed since the person affected by an administrative act had notice of the administrative act,

the matter is not to be referred to the Children and Young Person's Ombudsman by a House of Parliament or committee under this section unless the House or committee resolves that, in all the circumstances of the case, the matter warrants investigation by the Children and Young Person's Ombudsman despite the availability of that appeal, reference, review or remedy or the passage of time since the person affected had notice of the matter.

39Q—Administrative audits

(1) If the Children and Young Person's Ombudsman considers it to be in the public interest to do so, the Children and Young Person's Ombudsman may conduct a review of the administrative practices and procedures of a prescribed State authority.

(2) The provisions of this Part apply in relation to a review under subsection (1) as if it were an investigation of a matter under this Part, subject to such modifications as may be necessary, or as may be prescribed.

39R—Conciliation

(1) The Children and Young Person's Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation.

(2) The Children and Young Person's Ombudsman may, in attempting conciliation under this section, act personally or through some other person.

(3) The Children and Young Person's Ombudsman may, if satisfied that the subject of a complaint has been properly resolved by conciliation under this section, determine that the complaint should not be investigated or further investigated under this Part.

39S—Procedure on investigations

(1) The Children and Young Person's Ombudsman must, before proceeding with an investigation under this Part, inform the principal officer of the relevant State authority of the decision to proceed with such an investigation.

(2) Every investigation under this Part must be conducted in private.

(3) The Children and Young Person's Ombudsman—

(a) is not required to hold a hearing for the purposes of an investigation;

(b) may obtain information from such persons and in such manner as the Children and Young Person's Ombudsman thinks fit;

(c) may determine whether any person to whom an investigation relates may have legal or other representation.

(4) Before making a report affecting a State authority the Children and Young Person's Ombudsman must allow the principal officer of the State authority a reasonable opportunity to comment on the subject matter of the report.

(5) Subject to this Act, the procedure to be adopted in relation to an investigation will be as determined by the Children and Young Person's Ombudsman.

39T—Children and Young Person's Ombudsman to have powers of Royal Commission

For the purposes of an investigation under this Part, the Children and Young Person's Ombudsman has the powers of a commission as defined in the *Royal Commissions Act 1917* and that Act applies as if—

(a) the Children and Young Person's Ombudsman were a commission as so defined; and

(b) the subject matter of the investigation were set out in a commission of inquiry issued by the Governor under that Act.

39U—Proceedings on completion of investigation

(1) If, on completion of an investigation, the Children and Young Person's Ombudsman is of the opinion—

(a) that the subject matter of the investigation should be referred back to the appropriate State authority for further consideration; or

(b) that action can be, and should be, taken to rectify, or mitigate or alter the effects of, the act to which the investigation related; or

(c) that the practice in accordance with which the act was done should be varied; or

(d) that any law in accordance with which or on the basis of which the action was taken should be amended or repealed; or

(e) that the reason for any act should be given; or

(f) that any other steps should be taken,

the Children and Young Person's Ombudsman must report that opinion and the reasons for it to the principal officer of the State authority and may make such recommendations as the Children and Young Person's Ombudsman thinks fit.

(2) The Children and Young Person's Ombudsman must send a copy of any report or recommendation made under subsection (1) to the responsible Minister.

(3) The State authority in relation to which a recommendation is made under subsection (1) must, at the request of the Children and Young Person's Ombudsman, report to the Children and Young Person's Ombudsman within a time allowed in the request on what steps have been taken to give effect to the recommendation and, if no such steps have been taken, the reason for the inaction.

(4) If it appears to the Children and Young Person's Ombudsman that appropriate steps have not been taken to give effect to a recommendation made under this section, the Children and Young Person's Ombudsman may make a report on the matter (containing a copy of the earlier report and the recommendation) to the Premier.

(5) Where the Children and Young Person's Ombudsman reports to the Premier under subsection (4), the Children and Young Person's Ombudsman may forward copies of the report to the Speaker of the House of Assembly and the President of the Legislative Council with a request that they be laid before their respective Houses.

39V—Report on investigation

The Children and Young Person's Ombudsman may, if of the opinion that it is in the public interest to do so, cause a report on an investigation, or a statement about an investigation, or a decision not to investigate or to discontinue an investigation, to be published in such manner as the Children and Young Person's Ombudsman thinks fit.

39W—Report to complainant

(1) The Children and Young Person's Ombudsman must inform the complainant of the result of an investigation relating to the complaint.

(2) If—

(a) a complaint is investigated; and

(b) the Children and Young Person's Ombudsman makes a recommendation under this Part in relation to the subject matter of the complaint; and

(c) the Children and Young Person's Ombudsman is of the opinion that reasonable steps have not been taken to implement the recommendation within a reasonable time,

the Children and Young Person's Ombudsman may inform the complainant of that opinion and may make any further comments on the matter that appear appropriate in the circumstances.

Division 5—Miscellaneous

39X—Reviews

(1) The Inspector appointed under Schedule 4 of the *Independent Commission Against Corruption Act 2012* must conduct the following reviews in accordance with this section:

(a) annual reviews examining the operations of the Children and Young Person's Ombudsman during each financial year;

(b) reviews relating to any relevant complaints received by the Inspector.

(2) Without limiting the matters that may be the subject of a review, the Inspector—

(a) must, in the case of an annual review, consider the following in relation to the financial year to which the review relates:

(i) whether the powers under this Part were exercised in an appropriate manner (including whether undue prejudice to the reputation of any person was caused);

(ii) whether the practices and procedures of the Children and Young Person's Ombudsman were effective and efficient;

(iii) whether the Children and Young Person's Ombudsman carried out their functions under this Part in a manner that was likely to assist in the proper exercise of administrative powers in the State, and in furthering the objects of the *Children and Young People (Safety and Support) Act 2025*; and

(b) may examine any particular exercises of power by the Children and Young Person's Ombudsman; and

(c) may make any recommendations that the Inspector thinks fit.

(3) For the purpose of conducting a review under this section, the Inspector (and any person assisting the Inspector) has the same powers as the Inspector has in conducting a review under the *Independent Commission Against Corruption Act 2012*.

(4) Before commencing an annual review, the Inspector must publish a notice calling for public submissions to be made (within a specified period of not less than 1 month and in a manner specified in the notice) in relation to the operations of the Children and Young Person's Ombudsman during the financial year to which the annual review is to relate.

(5) A notice under subsection (4) must be published on the Inspector's website and in the Gazette and may be published in any additional manner determined by the Inspector.

(6) The Children and Young Person's Ombudsman must ensure that the Inspector is provided with such information as the Inspector may require for the purpose of conducting a review.

(7) On completing a review, or at any time during a review, the Inspector may do any of the following:

(a) refer a matter to a law enforcement agency for further investigation and potential prosecution;

(b) refer a matter to an inquiry agency or a State authority for further investigation and potential disciplinary action against a public officer for whom the State authority is responsible;

(c) if the Inspector finds that undue prejudice to the reputation of any person was caused by the Children and Young Person's Ombudsman, the Inspector may—

(i) publish any statement or material that the Inspector thinks will help to alleviate that prejudice; or

(ii) recommend that the Children and Young Person's Ombudsman pay an amount of compensation to the person.

(8) Before referring a matter under subsection (7), the Inspector must notify the Children and Young Person's Ombudsman of the proposed referral unless the Inspector is of the opinion that it would be inappropriate to do so in the circumstances of the case.

(9) On referral of a matter to a State authority, the Inspector may disclose to the State authority any evidence or information that the Inspector has in respect of the matter.

(10) Subject to subsection (11), a report on an annual review must—

(a) specify how many relevant complaints were made during the financial year to which the report relates; and

(b) specify how many reviews were conducted by the Inspector in relation to relevant complaints during the financial year to which the report relates; and

(c) describe the types of relevant complaints made during the financial year to which the report relates (in terms of the type of conduct being complained of) and specify how many complaints of each such type were made and describe the outcome of those complaints.

(11) The Inspector—

(a) must, in preparing a report on a review, consider the effect of the proposed report on any complaint, referral, report, assessment or investigation under this Part; and

(b) must not include information in a report if publication of the information would constitute an offence against section 66, or against the *Children and Young People (Safety and Support) Act 2025*.

(12) A report on a review must be delivered to the President of the Legislative Council and the Speaker of the House of Assembly—

(a) in the case of an annual review examining the operations of the Children and Young Person's Ombudsman and relevant complaints received during a financial year—on or before 30 September in the following financial year; or

(b) in any other case—as soon as practicable after completion of the review.

(13) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after receiving a report, lay it before their respective Houses.

39Y—Annual report and other public reports

(1) The Children and Young Person's Ombudsman must, before 30 September in each year, prepare a report on the work of the Children and Young Person's Ombudsman's office during the preceding financial year.

(2) The Children and Young Person's Ombudsman may, at any time, prepare a report setting out—

(a) recommendations, formulated in the course of the performance of their functions, for the amendment or repeal of a law; or

(b) findings or recommendations resulting from completed investigations; or

(c) other matters arising in the course of the performance of the Children and Young Person's Ombudsman's functions that the Children and Young Person's Ombudsman considers to be in the public interest to disclose.

(3) The Children and Young Person's Ombudsman must not prepare a report under this section setting out findings or recommendations resulting from a completed investigation that identifies any person involved in the particular matter or matters the subject of the investigation unless—

(a) the person consents; or

(b) the Children and Young Person's Ombudsman is satisfied (after complying with subsection (4)) that the public interest in identifying the person outweighs any potential damage to the person's reputation or other damage to the person.

(4) If the Children and Young Person's Ombudsman proposes to identify any person in a report, the Children and Young Person's Ombudsman must, using whatever procedure the Children and Young Person's Ombudsman may determine, be satisfied that the person has been consulted in relation to that proposal, is aware of the context in which they are to be identified in the report and has had an opportunity to make representations to the Children and Young Person's Ombudsman in relation to the proposal.

(5) A copy of a report under this section must be provided—

(a) in the case of a report of a kind referred to in subsection (2)(b)—to the State authority that is the subject of a finding or recommendation and to the responsible Minister for the State authority; and

(b) in any case—to the Minister, the President of the Legislative Council and the Speaker of the House of Assembly.

(6) The President of the Legislative Council and the Speaker of the House of Assembly must lay a report received under this section before their respective Houses—

(a) in the case of an annual report under subsection (1)—on the first sitting day after receiving the report; or

(b) in the case of any other report—on the first sitting day after 28 days have passed after receiving the report.

Amendment No 43 [Bonaros–1]—

Schedule 2, page 142, after line 33 [Schedule 2 Part 5]—

Insert:

7A—Amendment of section 59—No obligation to maintain secrecy

Section 59—delete "Guardian or the Committee" and substitute:

Guardian, the Committee or the Children and Young Person's Ombudsman

7B—Amendment of section 64—Obstruction

Section 64—delete "Committee or the Council" and substitute:

Committee, the Council or the Children and Young Person's Ombudsman

7C—Amendment of section 68—Protections, privileges and immunities

Section 68(1)—after "Council" insert:

, the Children and Young Person's Ombudsman