

Deliverable 2 – Guidance document

WCG018-00102

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Assurance Audit Process – Cover page
A New Tax System (Goods and Services Tax) Act 1999

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>A New Tax System (Goods and Services Tax) Act 1999</i>	1 October 2023	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance People and Culture

**Assurance Audit Process – Legislative Framework Summary
A New Tax System (Goods and Services Tax) Act 1999**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 72-5	<p>S72-5 states that a supply to an associate without consideration may be a taxable supply if:</p> <ul style="list-style-type: none"> the associate is not registered or required to be registered; and the associate acquires the thing otherwise than for a solely creditable purpose – a creditable purpose is for the purpose of an entity carrying out its functions. <p>The value of the supply is deemed to be its GST exclusive market value (S72-10).</p> <p>Under S72-95, Commonwealth government entities are deemed to be ‘associates’ of other Commonwealth government entities.</p>	<p>The ACQSC should be aware that if it supplies goods or services to another government entity without requiring payment for the supply, then in some situations, this supply may attract the payment of GST.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>There may also be financial and reputational consequences.</p>
Section 177-1(1)	<p>Section 177-1(1) states that Commonwealth entities are not liable to pay GST under the Act, however these entities should:</p> <ul style="list-style-type: none"> be notionally liable to pay GST payable under this Act; be notionally entitled to input tax credits arising under this Act; and notionally have adjustments arising under this Act. <p>This section states that the Finance Minister may give directions give effect to this section.</p>	<p>The ACQSC should ensure that it monitors the Department of Finance’s website for any directions issued that give effect to this section and require it to pay GST.</p>	<p>As above.</p>
Part 4-2 Division 81	<p>Under Division 81 of the Act and the associated regulations, certain government charges are either prescribed as attracting GST, or being excluded from the payment of GST.</p>	<p>The ACQSC should ensure that it complies with Division 81 and the associated regulations in charging GST on its taxes, fees or other charges.</p> <p>The ATO has published guidance on the application of Division 81, including the types of charges that attract, or are exempt from GST Payments to government agencies under Division 81 Australian Taxation Office (ato.gov.au).</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Administrative Appeals Tribunal Act 1975

Version control

Legislation	Version	Last reviewed	Linkage to the ACQSC environment	Work Units/Areas most impacted
Primary legislation				
<i>Administrative Appeals Tribunal Act 1975</i>	22 May 2024	5 August 2024	[For the ACQSC to fill in]	Legal Services
Subordinate legislation				
<i>Administrative Appeals Tribunal Regulation 2015</i>	26 July 2019	5 August 2024	[For the ACQSC to fill in]	Legal Services
<i>Administrative Appeals Tribunal (Code of Practice) Determination 2017</i>	2 January 2018	5 August 2024	[For the ACQSC to fill in]	Legal Services

Assurance Audit Process – Legislative Framework Summary
Administrative Appeals Tribunal Act 1975¹

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<i>Administrative Appeals Tribunal Act 1975</i>			
Section 27A	<p>A person who makes a reviewable decision must take reasonable steps to notify the person whose interests are affected by the decision, in writing:</p> <ul style="list-style-type: none"> • of the making of the decision, and • of the right of the person to have the decision reviewed. 	<p>The ACQSC should ensure there are clear guidelines provided to decision-makers setting out which decisions are reviewable, who the affected person(s) is, and the relevant notification requirements when making the decision.</p> <p>For example, see section 74J of the <i>Aged Care Quality and Safety Commission Act 2018 (ACQSC Act)</i> which provides a comprehensive list of reviewable decisions and the affected person for the decision.</p>	<p>Failure to provide adequate written notice of a decision will not affect the validity of the decision, however it can cause financial, legal and reputational risks to the ACQSC if people are not appropriately notified of the outcome of decisions that affect them and they subsequently bring an application for review before the Tribunal.</p> <p>All Australian Public Servants are also required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>
Section 27B	<p>The Attorney-General may, by legislative instrument, determine a Code of Practice for the purpose of facilitating the operation of section 27 (see above).</p> <p>A decision-maker, when notifying the affected person of their decision, must have regard to any such Code of Practice that is then in force.</p>	<p>The ACQSC should ensure its decision-makers are informed of any such Code of Practice issued by the Attorney General and make amendments to its internal guidelines accordingly.</p> <p>(see below <i>Administrative Appeals Tribunal (Code of Practice) Determination 2017</i>).</p>	<p>As above, in addition to criticism by the Attorney-General for not complying with any such Code of Practice.</p>
Section 28	<p>A person who makes a reviewable decision must provide a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision, <u>within 28 days</u> of receiving a request from the person affected by the decision (hereinafter, the applicant).</p> <p>If a decision-maker believes the applicant is not entitled to a statement of reasons, they must give notice in writing to the applicant <u>within 28 days</u>.</p>	<p>The ACQSC may wish to prepare and circulate a template statement of reasons document to its decision-makers as a preventative measure against adverse findings by the Tribunal as to the adequacy of their reasons.</p> <p>In addition, a guidance manual for the ACQSC legal officers may assist in managing reviewable decisions before the Tribunal and in particular deadlines the ACQSC must comply with.</p>	<p>Failure to meet prescribed deadlines may cause financial, legal and reputational risks to the ACQSC if matters are not handled appropriately.</p>

¹ Note the *Administrative Review Tribunal Act 2024* which establishes the Administrative Review Tribunal (ART) commences in October 2024. This will replace the AAT and its functions.

	<p>A decision-maker is not required to comply with the request for a statement of reasons unless the Tribunal decides that the applicant was entitled to be given the statement. If this occurs, the decision-maker must prepare and provide to the applicant a written statement of reasons <u>within 28 days</u> after the Tribunal decision was given.</p> <p>If the Tribunal makes a declaration (following an application by the applicant) that the statement of reasons is inadequate, the decision-maker must give to the applicant a statement containing further and better particulars in relation to the matters specified in the declaration within <u>28 days</u> after the day the declaration was made.</p>		
Section 33	In a proceeding before the Tribunal for a review of a decision, the decision maker must use their best endeavours to assist the Tribunal to make its decision.	The ACQSC should ensure that its decision-makers and internal legal team are aware of their requirements to act as model litigants for the purposes of the <i>Legal Services Directions 2017</i> (the Directions).	As above, and if there has been a possible or apparent breach of the Directions the ACQSC is required to notify the Attorney-General or the Office of Legal Services Coordination (OLSC) and advise of any corrective steps that will be undertaken in response to the breach.
Section 34A	The parties to a proceeding referred to an alternative dispute resolution process must act in good faith in relation to the conduct of the alternative resolution process.	As above.	As above.
Section 37	<p>A decision-maker must lodge with the Tribunal, <u>within 28 days</u> after receiving notice of the application for review, a copy of:</p> <ul style="list-style-type: none"> • a statement setting out the findings on material questions of fact, referred to the evidence or other material on which those findings were based and giving the reasons for the decision, and • every other document in the decision-makers possession, or under their control, relevant to the review of the decision by the Tribunal. <p>A decision-maker must comply with any direction issued by the Tribunal to provide documents required under this section.</p>	<p>The ACQSC should ensure it maintains a comprehensive and accurate record keeping system to assist with internal searches for all relevant documents within its possession that are required to be provided to the Tribunal.</p> <p>A guidance manual for the ACQSC legal officers may assist in managing reviewable decisions before the Tribunal and in particular deadlines the ACQSC must comply with.</p>	As above.

<p>Section 38AA</p>	<p>A decision-maker has an ongoing obligation to the Tribunal to lodge any and all material documents they are required to provide as soon as practicable after obtaining possession.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 42D</p>	<p>If a decision is remitted to the decision-maker by the Tribunal, the decision-maker must reconsider the decision and either:</p> <ul style="list-style-type: none"> • affirm the decision, or • vary the decision, or • set aside the decision and make a new decision, <p>within a time period specified by the Tribunal when remitting the decision, or <u>within 28 days</u> if a time period is not otherwise specified.</p>	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers which may assist in managing reviewable decisions before the Tribunal, in particular deadlines the ACQSC must comply with.</p>	<p>If the ACQSC does not reconsider the decision within the required time period, it is taken to have affirmed the decision under review. When this occurs, the proceeding resumes which may cause financial, legal and reputational risks to the ACQSC if matters are not handled appropriately.</p> <p>All Australian Public Servants are also required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>
<p>Section 44</p>	<p>The ACQSC must lodge an appeal to the Federal Court (if required) by no later than the twenty-eighth day after the day on which a document setting out the terms of the decision of the Tribunal is given.</p>	<p>As above.</p>	<p>Failure to meet the prescribed deadline to file an appeal with the Federal Court will mean the appeal is out of time (unless an extension of time is granted), which may cause financial, legal and reputational risks to the ACQSC if it does not appeal an appealable decision pursuant to the Directions.</p>
<p>Section 61</p>	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> • the person is given a summons to give evidence or produce documents, and • the person fails to comply with the summons. <p>However, this does not apply if complying with the summons might tend to incriminate the person.</p> <p>This section also applies to a directions hearing or an alternative dispute resolution process as if it were a proceeding before the Tribunal.</p>	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers, or other relevant individuals (i.e. decision-makers) who may be required to give evidence in a matter before the Tribunal, setting out the requirement to comply with any summons issued by the Tribunal.</p>	<p>Failure to comply will result in a penalty of imprisonment for 12 months or 60 penalty units, or both.</p>
<p>Section 62</p>	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> • the person appears as a witness before the Tribunal, and • the person has been required to give evidence on oath or affirmation, and • the person fails to comply with the requirement. <p>A person commits an offence if:</p>	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers, or other relevant individuals (i.e. decision-makers) who may be required to give evidence in a matter before the Tribunal, setting out the requirement to give evidence and what it means to swear by an oath or affirmation, and the circumstances where they may refuse to answer a question.</p>	<p>Failure to comply with either obligation will result in a penalty of imprisonment for 12 months or 60 penalty units, or both.</p>

	<ul style="list-style-type: none"> the person appears as a witness before the Tribunal, and the member presiding at the proceeding has required the person to answer a question, and the person fails to answer the question. <p>however, failure to answer a question does not apply if answering the question might tend to incriminate the person.</p> <p>This section also applies to a directions hearing or an alternative dispute resolution process as if it were a proceeding before the Tribunal.</p>		
Section 62A	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> the person appears as a witness before the Tribunal and, the person gives evidence, and the person does so knowing that the evidence is false or misleading. <p>This section also applies to a directions hearing or an alternative dispute resolution process as if it were a proceeding before the Tribunal.</p>	The ACQSC should ensure that all its legal officers and other individuals who are required to appear and give evidence before the Tribunal are aware of the requirement to only give evidence that is true to their knowledge or to the best of their ability.	Failure to comply will result in a penalty of imprisonment for 12 months or 60 penalty units, or both.
Section 62C	A person commits an offence if they engage in conduct that contravenes a non-disclosure order.	The ACQSC should ensure that its legal officers and other individuals involved in the management of a matter before the Tribunal are aware of any non-disclosure orders and the obligation to not contravene the order.	Failure to comply will result in a penalty of imprisonment for 12 months or 60 penalty units, or both.
Section 63	<p>A person commits an offence if they engage in conduct that obstructs or hinders the Tribunal or a member in the performance of the functions of the Tribunal (i.e. contempt of Tribunal).</p> <p>This includes circumstances where a person engages in conduct and, the conduct would, if the Tribunal were a court of record, constitute a contempt of that court.</p>	The ACQSC should ensure that its legal officers and other individuals involved in the management of a matter before the Tribunal are aware of their obligation not to engage in conduct that obstructs or hinders the Tribunal in performing its functions.	Failure to comply with either obligation will result in a penalty of imprisonment for 12 months or 60 penalty units, or both.
Section 68	A document or thing that is required or permitted by the Act or another enactment to be lodged with, or given to, the Tribunal must be lodged or given in accordance with:	The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers, or other relevant individuals (i.e. decision-makers) who may be required to give or lodge documents, or things, in a matter before the Tribunal, setting out	Failure to give or lodge documents as directed may cause financial, legal and reputational risks to the ACQSC if matters are not handled appropriately, particularly if the error causes unnecessary delay to the proceeding.

	<ul style="list-style-type: none"> any direction given by the President under section 18B, or regulations made under the Act or the other enactment. <p>A document or thing that is required or permitted by the Act or another enactment to be given to a person for the purpose of a proceeding before the Tribunal must be given in accordance with:</p> <ul style="list-style-type: none"> any direction given by the President under section 18B, or regulations made under the Act or the other enactment. 	<p>the procedural rules in giving or lodging documents.</p>	
<p>Administrative Appeals Tribunal Regulation 2015</p>			
<p>Section 14</p>	<p>When a person is summoned to give evidence at the request of the ACQSC it must pay the fees and allowances payable to the person.</p>	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers, or the relevant internal finance team, in managing fees and allowances payable.</p>	<p>Failure to pay fees and allowances payable by the ACQSC as directed may cause financial, legal and reputational risks to the ACQSC if such matters are not handled appropriately, particularly if the error causes unnecessary delay to the proceeding.</p>
<p>Section 15</p>	<p>A person who is summoned at the request of the ACQSC must be paid:</p> <ul style="list-style-type: none"> their fees as soon as practicable after the person has attended the Tribunal in accordance with the summons, and their allowances: <ul style="list-style-type: none"> when the person is given the summons, within a reasonable time before the day the person is required to attend the Tribunal in accordance with the summons. 	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers, or the relevant internal finance team, in managing fees and allowances payable, in particular deadlines the ACQSC must comply with.</p>	<p>As above.</p>
<p>Section 16</p>	<p>The ACQSC (if a party to a proceeding) must give the Tribunal an address for documents <u>within 28 days</u> after being given notice of the application.</p> <p>If the ACQSC wishes to change its address for documents, it must tell the Tribunal about the change.</p>	<p>The ACQSC may wish to prepare a guidance manual for the ACQSC legal officers in managing reviewable decisions before the Tribunal, in particular deadlines the ACQSC must comply with.</p>	<p>Failure to provide notification of the ACQSCs address, or change to its address, as directed may cause financial, legal and reputational risks to the ACQSC if matters are not handled appropriately, particularly if the error causes unnecessary delay to the proceeding.</p> <p>All Australian Public Servants are also required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>

Administrative Appeals Tribunal (Code of Practice) Determination 2017

Section 7

A decision-maker must take reasonable steps to ensure that a decision notice in relation to a reviewable decision:

- is written in plain English and is as clear and simple as possible, and
- complies with the requirements as set out below.

A decision notice in relation to a reviewable decision must contain the following:

- information about how an affected person in relation to the reviewable decision may obtain further information about the decision, including:
 - how a person who can provide information in relation to the decision may be contacted; and
 - whether an affected person is able to ask for the reasons for the decision (if those reasons have not already been given) and if so, how an affected person may ask for them; and
 - whether an affected person is able to obtain access to documents or information about the decision under the *Freedom of Information Act 1982* or any other Act and if so, how that access may be obtained;
- whether an affected person is able to seek either or both of the following:
 - internal merits review of the reviewable decision;
 - external merits review of the reviewable decision;
- if an affected person is able to seek review of such a kind—information about the following matters to the extent that it is practicable to provide the information:
 - the nature of that review;
 - whether there are any prerequisites or conditions for seeking that review and if

The ACQSC should ensure its decision-makers are informed of the Code of Practice issued by the Attorney General and make amendments to its internal guidelines regarding decision notices accordingly.

Failure to provide adequate written notice of a decision will not affect the validity of the decision, however it can cause financial, legal and reputational risks to the ACQSC if people are not appropriately notified of the outcome of decisions that affect them and they subsequently bring an application for review before the Tribunal.

All Australian Public Servants are also required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the *Public Service Act 1999*).

	<p>so, what those prerequisites or conditions are;</p> <ul style="list-style-type: none"> ○ how an affected person may seek that review, including whether an application for review needs to be made and if so, how the application is to be made; ○ whether there are any time limits for seeking that review; ○ whether or not a fee is payable for that review and if so, the amount of the fee and when it is payable; ○ whether a full or partial waiver of any such fee may be sought and if so, how that waiver may be sought and on what basis; ○ whether a refund of any such fee may be sought and if so, how the refund may be sought and on what basis; ○ how the person or body (the reviewer) that may conduct that review may be contacted; ○ whether the reviewer is required to conduct the review within a particular period and if so, what that period is; ○ any procedures of the reviewer that the decision-maker considers that an affected person should be made aware of, including whether an affected person may be required to attend hearings; ○ information about how an affected person may make a complaint, ● information about how an affected person may make a complaint in relation to the reviewable decision; ● information about any legal, financial or other forms of advice and assistance (including, but not limited to, translation and interpretation services) that may be available to an affected person; ● any other information that the decision-maker considers appropriate in all the circumstances. 		
<p>Section 8</p>	<p>A decision-maker must publish, on the internet or in any other way the decision-maker considers</p>	<p>The ACQSC should ensure its decision-makers are informed of the Code of Practice issued by the Attorney General and make amendments to its</p>	<p>As above.</p>

	<p>appropriate, a decision notice in relation to a reviewable decision if:</p> <ul style="list-style-type: none"> • one or more of the affected persons in relation to the reviewable decision are not readily identifiable; or • there is a large number of affected persons in relation to the reviewable decision; or • the cost of giving a decision notice to each affected person in relation to the reviewable decision would be substantial. <p>This does not prevent the decision-maker from also giving a decision notice to an affected person in relation to the reviewable decision.</p>	<p>internal guidelines regarding decision notices accordingly.</p>	
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Assurance Audit Process – Cover page
Administrative Decisions (Judicial Review) Act 1977
Administrative Appeals Tribunal Regulation 2015
Administrative Appeals Tribunal (Code of Practice) Determination 2017

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Administrative Decisions (Judicial Review) Act 1977</i>	19 December 2023	5 August 2024	<i>[For the Commission to fill in]</i>	Legal Services

Assurance Audit Process – Legislative Framework Summary
Administrative Decisions (Judicial Review) Act 1977
Administrative Appeals Tribunal Regulation 2015
Administrative Appeals Tribunal (Code of Practice) Determination 2017

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Section 13</p>	<p>Where a person makes an administrative decision, any person who is entitled to make an application to the Federal Court or the Federal Circuit and Family Court of Australia (Division 2) in relation to the decision may, by notice in writing given to the person who made the decision, request him or her to furnish a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.</p> <p>Where such a request is made, the person who made the decision shall, as soon as practicable, and in any event <u>within 28 days</u>, after receiving the request, provide the statement.</p> <p>Section 13(5) permits refusal to provide a statement of reasons in certain circumstances, including where a statement of reasons has already been provided.</p>	<p>If the ACQSC makes an administrative decision and a person affected by that decision requests a statement of reasons for that decision, the ACQSC must provide its written reasons within 28 days, in accordance with the request. In many circumstances the ACQSC will already provide a statement of reasons for its decisions (eg s 74L(3) of ACQSC Act).</p> <p>The ACQSC may wish to prepare and circulate a template statement of reasons document to its decision-makers as a preventative measure against adverse findings as to the adequacy of their reasons.</p> <p>The ACQSC may also establish a policy which identifies which administrative decisions have templates for decision whereby refusal to provide a statement of reasons can be made under s 13(5)</p>	<p>There may be legal implications for the Commission. For instance, a failure to provide a statement of reasons may establish jurisdictional error such as a failure to consider a relevant consideration to the exercise of the power.</p>

Assurance Audit Process – Cover page
Age Discrimination Act 2004

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Age Discrimination Act 2004</i>	1 January 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Age Discrimination Act 2004

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 14	<p>A person directly discriminates (discriminator) against another person (the aggrieved person) on the ground of age if the discriminator treats the aggrieved person less favourable than, in circumstances that are the same or are not materially different and the discriminator does so because of:</p> <ul style="list-style-type: none"> • the age of the aggrieved person; or • a characteristic that appertains generally to persons of the age of the aggrieved person; or • a characteristic that is generally imputed to persons of the age of the aggrieved person. 	<p>The ACQSC and its employee have an obligation to ensure they are acting in accordance with this legislation and are not treating people less favourably due to age. This is particularly relevant as the ACQSC’s role is to regulate and safeguard the welfare and rights of older Australians. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of inclusive hiring policies and procedures • Regular training and information sessions to promote awareness • Education about indirect and direct age discrimination • Review and update any existing policies addressing age discrimination to ensure compliance with this Act. 	<p>An act that amounts to age discrimination could result in a reputational risk to the ACQSC. This could cause key stakeholders and the public to lose confidence in the ACQSC’s function in safeguarding the welfare and rights of elderly individuals.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is unlawful discrimination. Complainants may progress unresolved AHRC complaints to the Federal Court or the Federal Circuit and Family Court of Australia.</p>
Section 15(1)	<p>A person indirectly discriminates (discriminator) against another person (the aggrieved person) on the ground of age if the discriminator imposes a:</p> <ul style="list-style-type: none"> • condition • requirement; or • practice <p>which is not reasonable in the circumstances is likely to have the effect of disadvantaging persons of the same age as the aggrieved person.</p>	As above.	As above.
Section 18(1)	<p>It is unlawful for the ACQSC to discriminate against a person on the ground of that person’s age:</p> <ul style="list-style-type: none"> • in the arrangements made for the purpose of determining who should be offered employment; or • in determining who should be offered employment; or • in the terms or conditions on which employment is offered. 	<p>The ACQSC has a duty to ensure its employees responsible for recruitment understands what amounts to age discrimination and preventing it in recruitment and hiring practices. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of inclusive hiring policies and procedures • Regular training and information sessions to promote awareness 	<p>An act that amounts to age discrimination could result in a reputational risk to the ACQSC. This could cause key stakeholders and the public to lose confidence in the ACQSC’s function in safeguarding the welfare and rights of elderly individuals.</p> <p>Affected persons may complain to the Australian Human Rights Commission if a decision has been made without regard to the prescribed matters</p>

		<ul style="list-style-type: none"> • Education about indirect and direct age discrimination • Ensuring HR, managers and supervisors have independent training which outlines what needs to be considered when recruiting prospective employees and whether alterations should be made to application processes and employment contracts <p>Internal policy or procedure could be established setting out the matters that must be considered under section 18(5) of the Act when ACQSC is determining whether someone is unable to carry out requirements of the employment due to their age:</p> <ul style="list-style-type: none"> • past training, qualifications and experience relevant to the particular employment • if currently employed—the person’s employment performance • all other relevant factors that it are reasonable to take into account. 	
<p>Section 18(2)</p>	<p>It is unlawful for the ACQSC or a person acting or purporting to act on behalf of the ACQSC to discriminate against an employee on the ground of the other employee’s age:</p> <ul style="list-style-type: none"> (a) in the terms or conditions of employment that the employer affords the employee; or (b) by denying the employee access, or limiting the employee’s access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; or (c) by dismissing the employee; or (d) by subjecting the employee to any other detriment. 	<p>As above.</p>	<p>As above.</p>
<p>Section 20</p>	<p>It is unlawful for a principal to discriminate against a contract worker on the ground of the contract worker’s age:</p> <ul style="list-style-type: none"> (a) in the terms or conditions on which the principal allows the contract worker to work; or (b) by not allowing the contract worker to work or continue to work; or (c) by denying the contract worker access, or limiting the contract worker’s access, to any benefit associated with the work in respect of which the contract with the employer is made; or 		

	(d) by subjecting the contract worker to any other detriment.		
Section 31	It is unlawful for a person who: (a) performs any function or exercises any power under a Commonwealth law or for the purposes of a Commonwealth program; or (b) has any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth program; to discriminate against another person on the ground of the other person’s age in the performance of that function, the exercise of that power or the fulfilment of that responsibility.		
Section 32	It is unlawful for the ACQSC to request or require another person to provide information (whether by way of completing a form or otherwise) if: <ul style="list-style-type: none"> the information is requested or required in connection with, or for the purposes of, the ACQSC or its employees doing a particular act; and it would be unlawful in particular circumstances for the ACQSC, in doing that act, to discriminate against the other person on the ground of the other person’s age; and persons of a different age would not be requested or required to provide the information in circumstances that are the same or not materially different. 	The ACQSC and its employee have an obligation to ensure they are acting in accordance with this legislation and are not treating people less favourably due to age. This is particularly relevant as the ACQSC’s role is to regulate and safeguard the welfare and rights of older Australians. This can be achieved through: <ul style="list-style-type: none"> Implementation of inclusive hiring policies and procedures Regular training and information sessions to promote awareness Education about indirect and direct age discrimination Review and update any existing policies addressing age discrimination to ensure compliance with this Act 	An act that amounts to age discrimination could result in a reputational risk to the ACQSC. This could cause key stakeholders and the public to lose confidence in the ACQSC’s function in safeguarding the welfare and rights of elderly individuals. Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Complaints can also be made to the Australian Human Rights Commission about conduct that is unlawful.
Section 47A and 51	It is unlawful for a person to commit an act of victimisation against another person.	The ACQSC should facilitate regular training sessions to ensure employees understand the potential legal ramifications and consequences of allowing victimisation to persist. Internal policy and procedure should be used to promote education and awareness of what constitutes victimisation and report processes.	If the ACQSC or its employees victimises someone, this could diminish other employees’ confidence in raising concerns around discrimination and may suggest that the ACQSC does not foster an environment that responds to and prevents discrimination. Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence. If an ACQSC employee is found guilty of actual detriment victimisation or the threat of detriment victimisation, they may be liable to six months imprisonment.

<p>Section 50</p>	<p>It is an offence for the ACQSC to publish or display, or causes or permits to be published or displayed, an advertisement or notice that indicates, or could reasonably be understood as indicating, unlawful age discrimination.</p>	<p>The ACQSC should ensure a policy or procedure exists that sets out the requirements as to what can be published and advertised having regard to this obligation.</p> <p>Part of the policy or procedure should include a requirement for the Governance and Risk work unit (or another suitable work unit) to conduct a quality assurance check.</p>	<p>A failure to comply is an offence and the penalty is 10 penalty units.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p>
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Assurance Audit Process – Cover page
Archives Act 1983
Archives Regulations 2018

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Archives Act 1983</i>	22 May 2024	5 August 2024	Information and Records Management Framework, policies	Information and Records Management
Subordinate legislation				
<i>Archives Regulations 2018</i>	21 March 2018	5 August 2024	Information and Records Management Framework, policies	Information and Records Management

Assurance Audit Process – Legislative Framework Summary
Archives Act 1983
Archives Regulations 2018

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Archives Act 1983			
Section 24(1)	A person must not engage in conduct that results in: <ul style="list-style-type: none"> • the destruction or other disposal of a Commonwealth record; or • the transfer of the custody or ownership of a Commonwealth record; or • damage to or alteration of a Commonwealth record. 	The Commission should ensure that it has a records handling policy that educates employees about correct handling of Commonwealth records.	20 penalty units – strict liability applies to the physical element of circumstance of the offence, that the record is a Commonwealth record.
Section 26(1)	A person commits an offence if: <ul style="list-style-type: none"> • a Commonwealth record has been in existence for more than 15 years; and • the person engages in conduct; and • the person’s conduct results in an addition to or an alteration of the record. 	The Commission should ensure that it is keeping track of the age of its records and ensures that it can protect and track records until such a time as they are transferred to the National Archives of Australia.	20 penalty units – strict liability applies to ‘a Commonwealth record has been in existence for more than 15 years.
Section 27(2)	The person responsible for the custody of the record must cause the record to be transferred to the care of the Archives in accordance with arrangements approved by the Archives.	The Commission should ensure that it maintains an open channel of communication with the National Archives of Australia to ensure that records are transferred to its care at the appropriate time.	There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.
Section 27(3)	The record must be transferred: <ul style="list-style-type: none"> (a) if the record ceases to be a current Commonwealth record— as soon as practicable after the record ceases to be a current Commonwealth record; and (b) in any event—within 15 years of the record coming into existence. 	As above.	As above.

Section 31(2)	If the record is in the custody of a Commonwealth institution, the institution must make such arrangements with the Archives as will enable the Archives to be made available for public access subject to the act.	As above.	As above.
Archives Regulations 2018			
Section 9	The Archives may request a Commonwealth institution to give the Archives information relating to Commonwealth records in the institution’s custody. The ACQSC must comply with such a request as soon as is reasonably practicable.	As above.	As above.
Section 11	<p>A Commonwealth institution (such as the ACQSC) must keep, in writing, information relating to:</p> <ul style="list-style-type: none"> • the destruction or other disposal of a Commonwealth record in that institution’s custody; or • the transfer of the custody or ownership of a Commonwealth record in that institution’s custody; or • damage to or alteration of a Commonwealth record in that institution’s custody. 	As above.	As above.
Section 12	If by agreement with the National Archives of Australia a record is temporarily held by the National Archives of Australia and the National Archives of Australia requests permission to destroy the records, the Commission must respond in writing as soon as practicable.	As above.	As above.

Assurance Audit Process – Cover page
Carer Recognition Act 2010

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Carer Recognition Act 2010</i>	18 November 2010	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Other guidance material relevant to the Commission			
<i>Carer Recognition Act 2010 Guidelines</i>	April 2016	<i>[For the Commission to fill in]</i>	Governance & Risk People & Culture

Assurance Audit Process – Legislative Framework Summary
Carer Recognition Act 2010

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 7(1)	Each public service agency is to take all practicable measures to ensure that its employees and agents have an awareness and understanding of the Statement for Australia’s Carers.	Ensure ACQSC’s employees and contractors have an awareness and understanding of the Act and its purpose. For example, by: <ul style="list-style-type: none"> • providing training sessions; and/or • developing information sheets. 	The Act does not create rights or duties that are legally enforceable in judicial or other proceedings. A failure to comply with the Act does not affect the validity of any decision and is not a ground for the review or challenge of any decision. The Commission should consider any reputational issues that may arise as a result of any non-compliance – particularly given it appears the Commission is a public service care agency. Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).
Section 7(2)	Each public service agency’s internal human resources (HR) policies, so far as they may significantly affect an employee’s caring role, are to be developed having due regard to the Statement for Australia’s Carers.	Some examples of what the Commission could do to meet this obligation are: <ul style="list-style-type: none"> • Develop consultation mechanisms with carers when developing and evaluating HR policies and practices that directly impact their caring role; • Collect data about the incidence of employees who are carers; • Develop guidelines for supervisors who have an employee with caring responsibilities; and/or • Reviewing workplace arrangements to ensure flexibility for carers. 	As above.

<p>Section 8(1)</p>	<p>Each public service care agency is to take all practicable measures to ensure that it, and its employees and agents, take action to reflect the principles of the Statement for Australia’s Carers in developing, implementing, providing or evaluating care supports.</p>	<p>Ensure the Commission’s employees and contractors have an awareness and understanding of the Principles in the Statement for Australia’s Carers. For example, by:</p> <ul style="list-style-type: none"> • providing training sessions; and/or • developing information sheets. 	<p>As above.</p>
<p>Section 8(2)</p>	<p>Each public service care agency is to consult carers, or bodies that represent carers, when developing or evaluating care supports.</p>	<p>To meet this obligation, the Commission will need to demonstrate how they have included carers, for example through formal consultations, meetings, or submissions, in the policy development and evaluation process of care supports.</p>	<p>As above.</p>
<p>Section 8(3)</p>	<p>Each public service care agency must prepare a report on its compliance with section 7 and this section in each reporting period. The report must be included in the agency’s annual report for the reporting period.</p> <p>This section applies, in relation to a particular public service care agency, to:</p> <ul style="list-style-type: none"> • the first full reporting period of the agency that starts on or after the commencement of this Act; and • all subsequent reporting periods of the agency. 	<p>The Commission should report on what they have done to achieve the outcomes under each obligation.</p> <p>The Commission must include the report in the agency’s annual report.</p>	<p>The Act does not create rights or duties that are legally enforceable in judicial or other proceedings.</p> <p>A failure to comply with the Act does not affect the validity of any decision and is not a ground for the review or challenge of any decision.</p> <p><u>However</u>, may need to report non-compliance with the PGPA Act to the Finance Minister if the obligation in section 46 of the PGPA Act to prepare annual report has not been complied with.</p>

Assurance Audit Process – Cover page
Copyright Act 1968

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Copyright Act 1968</i>	20 March 2024	5 August 2024	<i>[For the Commission to fill in]</i>	Engagement, Education and Communication

Assurance Audit Process – Legislative Framework Summary
Copyright Act 1968

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 36(1)	Copyright in a literary, dramatic, musical or artistic work is infringed if a person does any act comprised in the copyright without the licence of the copyright owner.	<p>The Commission should ensure that it obtains a licence for the use of the any copyrighted material (including for instance names, logos, literary works and recordings)</p> <p>We note that we have not attempted to summarise the entirety of the Copyright Act provisions regarding what is or is not a breach of copyright across various contexts.</p>	<p>The consequences depend on the nature of the infringement. For instance, the infringement may attract a civil penalty, or if the infringement occurs on a commercial scale, there may be criminal consequences.</p> <p>There are also reputational risks to the Commission.</p>
Section 183	<p>Under section 183, copyright is not infringed by the Commonwealth if the acts are done for the services of the Commonwealth.</p> <p>The Commonwealth must inform the owner of the copyright as soon as possible as taking action under s183, unless it is contrary to the public interest.</p> <p>Guidance for how the notice is to be given is set out in the Copyright Regulations – ideally it should be provided directly to the owner or owner’s agent in Australia (r124).</p>	If the Commission uses copyright material as part of performing services on behalf of the Commonwealth, it should notify the owner of the copyrighted material of the use of that material.	<p>The Act does not outline the consequences of a failure to notify, however, there are likely to be reputational consequences.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>
Section 195AO	A person infringes an author’s right of attribution of authorship in respect of a work if the person does, or authorises the doing of, an attributable act in respect of the work without the identification of the author in accordance with the Act.	The Commission should ensure that it identifies the author of any particular works when using those works.	<p>As above.</p> <p>Consequences may be financial or non-financial (i.e. a legal order to make an apology).</p>
Section 195AP	A person infringes an author’s right not to have authorship of a work falsely attributed if the person does an act of false attribution in respect of the work.	The Commission should ensure that it does not incorrectly identify the author of a work so as to falsely suggest that person produced the work.	As above.

Assurance Audit Process – Cover page
Data Availability and Transparency Act 2022

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Data Availability and Transparency Act 2022</i>	20 October 2023	5 August 2024	Data Framework	Intelligence and Analysis

Assurance Audit Process – Legislative Framework Summary
Data Availability and Transparency Act 2022

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Section 13(1)</p>	<p>An entity (the sharer) is authorised to share data with another entity (the user), either directly or through another entity (the intermediary), if all the following apply:</p> <ul style="list-style-type: none"> • constitutional requirements; • data custodian requirements; • project the sharing is part of is covered by a registered data sharing agreement that is in effect and that meets the requirements of this Act; • sharing is in accordance with the data sharing agreement; • sharer is satisfied that the project is consistent with the data sharing principles; • user is an accredited user and its accreditation is not suspended; • if the data shared with the user includes personal information—the privacy coverage condition in section 16E is met in relation to the user; • if the sharer shares through an intermediary—the intermediary is an Accredited Data Service Provider (ADSP) and its accreditation is not suspended; • if the data shared with the intermediary includes personal information—the privacy coverage condition in section 16E is met in relation to the intermediary. <p>See also the data custodian requirements outlined in section 13(2).</p>	<p>The ACQSC needs to be aware of:</p> <ul style="list-style-type: none"> • the data custodian requirements in section 13(2); • who, as a data custodian, can give authority; and • the constitutional requirements in section 13(4). 	<p>If the ACQSC does not meet these authorisation requirements, civil penalties and offence provisions for unauthorised sharing may apply, pursuant to section 14.</p> <p>If the ACQSC breaches the Act or a data sharing agreement, another entity can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>

<p>Section 13A</p>	<p>The ACQSC is an entity authorised to collect data shared with the user under, or purportedly under, section 13 as part of a project, or to use output of the project, if all the following apply under section 13A:</p> <ul style="list-style-type: none"> the project is covered by a registered data sharing agreement that is in effect and that meets the requirements of this Act; the collection or use is in accordance with the data sharing agreement; the user is satisfied that the project is consistent with the data sharing principles; the user is an accredited user and its accreditation is not suspended; if the data shared with the user includes personal information—the privacy coverage condition in section 16E is met in relation to the user; if the sharing by the sharer is not authorised by section 13— the user does not know and could not reasonably be expected to know that. 	<p>The ACQSC needs to ensure that it meets the requirements of section 13A by ensuring:</p> <ul style="list-style-type: none"> the project is covered by a data sharing agreement that meets the requirements of the Act; data is only collected and used in accordance with the agreement; the user meets the data sharing principles outlined in section 16; and that there is privacy coverage in accordance with section 16E, if required. 	<p>If the ACQSC does not meet these authorisation requirements under sections 13A, 13B or 13C, there are civil penalties and offence provisions that may apply.</p> <p>If the ACQSC breaches the Act or a data sharing agreement, another entity can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>
<p>Section 15(1)</p>	<p>‘Data Sharing Purposes’ are:</p> <ul style="list-style-type: none"> delivery of government services; informing government policy and programs; research and development. <p>Data sharing agreements must specify the agreed data sharing purpose or purposes and agreed incidental purposes (if any) and prohibit collection or use of data for any other purpose, including any precluded purpose.</p>	<p>The ACQSC should ensure that all data collection complies with the Data Sharing Purposes outlined under section 15.</p>	<p>If the ACQSC breaches the Act or a data sharing agreement, another entity can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>
<p>Section 15(2)</p>	<p>The precluded data sharing purposes are as follows:</p> <ul style="list-style-type: none"> an enforcement related purpose; and a purpose that relates to, or prejudices, national security within the meaning of the <i>National Security Information (Criminal and Civil Proceedings) Act 2004</i>. 	<p>As above.</p>	<p>As above.</p>
<p>Section 16(11)</p>	<p>If the ACQSC is sharing data for a project it must be satisfied that it has applied each of the principles outlined in section 16 to the sharing, collection and use of the data.</p>	<p>The ACQSC must apply all the data sharing principles to relevant projects where data is being collected and shared.</p>	<p>If the ACQSC breaches the Act, another entity can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>

		Ensure there is a policy or procedure in place to prompt consideration of the data sharing principles when considering sharing, collecting or using data.	
Section 16A(1)	The ACQSC must not share biometric data (unless the relevant individual consents).	The ACQSC must ensure that personal information is not shared unless an exception applies and it is necessary the personal information be shared.	As above.
Section 16A(2)	If data that includes personal information is shared, the data sharing agreement that covers the sharing must prohibit any accredited entity with or through which it is shared from storing or accessing, or providing access to, the ADSP-enhanced data, or the output, of the project outside Australia.	The ACQSC must ensure its data sharing agreements adequately address the requirements set out in section 16A.	If the ACQSC breaches the Act or a data sharing agreement, another entity or individual can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.
Section 16A(3)	The ACQSC must ensure that if de-identified data is shared, the data sharing agreement that covers the sharing must prohibit the accredited user from taking any action that may have the result that the data ceases to be de-identified.	As above.	As above.
Section 16B(1)	<p>If the ACQSC is conducting data sharing for the purpose of delivering a government service, the data must not include personal information about an individual unless one or more of the following apply:</p> <ul style="list-style-type: none"> the service being delivered is a service mentioned in paragraphs 15(1A)(a) or (b) and is delivered to the individual; the individual consents to the sharing of their personal information; the sharing would be a disclosure authorised under Part VIA of the <i>Privacy Act 1988</i> (dealing with personal information in emergencies and disasters); and the service being delivered is identified in the data sharing agreement for the project; and only the minimum amount of personal information necessary to properly deliver the service is shared. 	<p>If the ACQSC is conducting data sharing for the purpose of delivering a government service, it must not include any personal information about an individual unless exemptions apply.</p> <p>This means the ACQSC needs to check this section for whether exemptions apply.</p> <p>There are different permitted exemptions under section 16B (3) if the ACQSC is sharing data for government policy, programs or research and development.</p>	As above.
Section 16B(8)	If personal information about an individual is to be shared without the consent of the individual for the data sharing purpose of informing government policy	As above.	As above.

	and programs, or research and development, the data sharing agreement must include a statement setting out why sharing the personal information is consistent with this section.		
Section 16C(1)	<p>This obligation applies if ACQSC:</p> <ul style="list-style-type: none"> • is data sharing for the purpose of government policy, programs, or research; and • the project involves a de-identification data service or a secure data service. 	The ACQSC should review and consider whether the data sharing agreement for a project involving complex data integration services complies with section 16C(2).	As above.
Section 16C(2)	The ACQSC must ensure it has a data sharing agreement that covers the project and requires the service to be performed by one of the following pursuant to section 16C(2).	As above.	As above.
Section 16D(1)	<p>This obligation only applies if the ACQSC is:</p> <ul style="list-style-type: none"> • the data sharing purpose of the project is informing government policy and programs or research and development; and • the project involves performing a complex data integration service; and • a decision that section 16D(4) applies to the service has not been made. 	<p>The ACQSC should review and consider whether the data sharing agreement for a project involving complex data integration services complies with section 16D(2).</p> <p>If the ACQSC believes the service to integrate the data is complex refer to section 16D(3) which outlines complex data integration services.</p>	As above.
Section 16D(2)	<p>The data sharing agreement that covers the project must require the service to be performed by one of the following:</p> <ul style="list-style-type: none"> • the data custodian of the data, if the data custodian is not an ADSP but is satisfied that it has the appropriate skills and experience to perform the service; • the data custodian of the data, if the data custodian is an ADSP able to perform such a service consistently with its conditions of accreditation; and • an ADSP able to perform such a service consistently with its conditions of accreditation. 	As above.	As above.
Section 18(2)	A data sharing agreement must not be entered into by an individual on behalf of a data scheme entity unless the individual is an authorised officer of the entity or authorised under subsection 137(4) for the entity.	The ACQSC needs to ensure that all data sharing agreements comply with this provision.	As above.

<p>Section 18(3)</p>	<p>A variation of a data sharing agreement must not be entered into by an individual on behalf of a data scheme entity unless the individual is an authorised officer of the entity or authorised under subsection 137(3) or (4) for the entity.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 19(1A)-(17)</p>	<p>All ACQSC data sharing agreements must meet these requirements pursuant to section 19(1A)-(17) including:</p> <ul style="list-style-type: none"> • the parties to the agreement must be identified in the agreement; • the agreement must describe the project and specify that the Act applies to the project; • the agreement must specify: <ul style="list-style-type: none"> ○ the public sector data that the data custodian is to share; and ○ the output of the project that the data custodian and accredited user agree is to be the final output. • the agreement must: <ul style="list-style-type: none"> ○ specify the data custodian of the source data; and ○ if the agreement appoints a Commonwealth body as data custodian of output of the project —specify the output and explain why the appointment has been made. • the agreement must: <ul style="list-style-type: none"> ○ specify the title of any law that the sharing would contravene but for section 23; ○ specify the data sharing purposes of the project and any incidental purposes; ○ prohibit the accredited user from creating output of the project from creating output of the project; ○ specify how the project will be consistent with the data sharing principles; ○ take into account the additional requirements, if the sharing is being done through an ADSP; ○ prohibit the accredited entities that are party to the agreement from doing anything inconsistent with the conditions of 	<p>Ensure that when drafting and reviewing data sharing agreement, that regard is had to the criteria outlined in section 19(1) – (17) of the Act.</p> <p>The ACQSC may wish to consider developing a checklist to ensure that the data sharing agreement included the matters required.</p>	<p>As above.</p>

	<p>accreditation imposed on or applicable to the entity;</p> <ul style="list-style-type: none"> ○ specify the circumstances in which it may be varied or terminated; ○ the duration (or intervals at which the parties must review it); ○ how the scheme data covered by the agreement is to be dealt with when the agreement ends; ○ any other requirements prescribed by a data code; ○ require the data custodian of the source data to give the Commissioner written notice of the cessation of the agreement. 		
Section 25(2)	<p>The ACQSC is not required as a data custodian to share public sector data.</p> <p>However, a data custodian of public sector data must, within a reasonable period, consider a request for it to share the data, if the request is made:</p> <ul style="list-style-type: none"> • by an accredited user; and • in an approved form (if any), or in writing (if no approved form). 	<p>The ACQSC should ensure it has a readily available policy or guideline which outlines the correct process for when it receives a request for public sector data, in particular any relevant time periods it is required to adhere to under the Act.</p>	As above.
Section 25(3)	<p>The ACQSC (as the data custodian) may refuse the request for any reason (including that the request is unreasonable) but must give the accredited user written notice of the reasons no later than 28 days after the day the decision to refuse is made.</p>	As above.	As above.
Section 26	<p>A data scheme entity must comply with:</p> <ul style="list-style-type: none"> • the rules; and • data codes. 	<p>The ACQSC, as a data scheme entity, should have current policies and procedures in place to ensure compliance with the rules and data codes applicable under this Act.</p>	As above.
Section 27	<p>Data scheme entities must have regard to the guidelines when engaging in conduct for the purposes of this Act.</p>	As above.	As above.
Section 30	<p>The ACQSC (as an accredited entity) must comply with the conditions of the entity’s accreditation.</p>	As above.	300 penalty units.
Section 31	<p>The ACQSC (as an accredited entity) must give the Commissioner written notice in the approved form (if</p>	<p>The ACQSC should have a policy or procedure in place for when written notice to the Commissioner is required, including having</p>	300 penalty units.

	<p>any) of any event, or change in circumstance, relevant to either of the following:</p> <ul style="list-style-type: none"> the exercise of the Commissioner’s regulatory functions or the Minister’s functions as the accreditation authority for the entity; the entity’s accreditation or conditions of accreditation. 	approved pre-filled templates to ensure compliance.	
Section 32(1)	<p>A data scheme entity must not, in giving information or a document in compliance (or purported compliance) with this Act, the rules or a data code, give the Minister or Commissioner:</p> <ul style="list-style-type: none"> information or a document that is false or misleading; or information that omits any matter or thing without which the information is false or misleading. 	The ACQSC must ensure all information or documents given to the Minister or Commissioner are true and correct and must never knowingly provide false or misleading information. If the veracity of information or a document is unknown, there should be stringent procedures in place for employees to ensure the provision of such information/documents is not in breach of this section.	<p>300 penalty units.</p> <p>A data scheme entity that contravenes this subsection might also commit an offence under Division 136 or 137 of the <i>Criminal Code</i> – imprisonment of 12 months.</p>
Section 32(2)	<p>A data scheme entity must not, in giving information or a document for the purpose of entering into or giving effect to a data sharing agreement, give another data scheme entity:</p> <ul style="list-style-type: none"> information or a document that is false or misleading; or information that omits any matter or thing without which the information is false or misleading. 	As above.	300 penalty units.
Section 33(1)	<p>If the ACQSC is party to a data sharing agreement in the capacity of data custodian, the entity must give the Commissioner, in the approved form (if any):</p> <ul style="list-style-type: none"> an electronic copy of the agreement; and if the agreement is varied – an electronic copy of the variation, or the agreement as varied; <p>no later than 30 days after the day the agreement or the variation is made.</p>	The ACQSC should have a policy or procedure in place for when a data sharing agreement and relevant documents are due to be provided to the Commissioner, including having approved pre-filled templates to ensure compliance.	If the ACQSC breaches the Act or a data sharing agreement, another entity can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.
Section 33(2)	The ACQSC must also give the Commissioner any other information or documents required by a data code to be given to the Commissioner at the time the entity gives the Commissioner a document mentioned in subsection (1).	As above.	As above.

<p>Section 34(1)</p>	<p>A data custodian must, within the period applicable under subsection (4) after the end of a financial year, notify the Commissioner, in the approved form (if any), of the following in relation to the financial year:</p> <ul style="list-style-type: none"> • whether it received requests from accredited users to share data under this Act; • if it received any such requests—the number of requests and the reasons it agreed to or refused them; • if it refused any such requests—the number of requests that were refused where reasons for the refusal were not given within the time required by subsection 25(3); • whether it received complaints relating to the data sharing scheme or its conduct in relation to it, and if it did, the number of complaints and information about the subject matter of the complaints; • whether it entered into any data sharing agreements and if it did, the number entered into. 	<p>The ACQSC should have a policy or procedure in place for when written notice or relevant documents are to be provided to the Commissioner, including having approved pre-filled templates to ensure compliance.</p>	<p>As above.</p>
<p>Section 34(2)</p>	<p>A data custodian must give the Commissioner any other information and assistance the Commissioner reasonably requires in relation to the preparation of the annual report mentioned in section 138.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 34(3)</p>	<p>An entity that was an accredited entity at any time during a financial year must give the Commissioner any information and assistance the Commissioner reasonably requires in relation to the preparation of the annual report for the financial year mentioned in section 138.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 34(4)</p>	<p>The period for notifying the Commissioner is:</p> <ul style="list-style-type: none"> • the period applicable under a data code; or • if there is no period applicable under a data code – as soon as practicable. 	<p>As above.</p>	<p>As above.</p>
<p>Section 36(1)</p>	<p>If the ACQSC (a data scheme entity) reasonably suspects or becomes aware that a data breach of the entity has occurred, the entity must within the period application under subsection (3), take reasonable steps to prevent or reduce any harm resulting from</p>	<p>The ACQSC should have a clear and readily available policy or procedure in place outlining the required steps for when it becomes aware of a data breach.</p>	<p>300 penalty units.</p>

	the breach to entities, groups of entities and things to which the data involved in the breach relates.		
Section 36(2) and (3)	<p>If:</p> <ul style="list-style-type: none"> the ACQSC (as a data custodian) reasonably suspects or becomes aware that a data breach of an accredited entity has occurred; and the data breach involves scheme data that is output, or ADSP-enhanced data, of a project in which the data custodian shared public sector data with or through the accredited entity; <p>the data custodian must, within the period applicable under subsection (3), take reasonable steps to prevent or reduce any harm resulting from the breach to entities, groups of entities and things to which the data involved in the breach relates.</p> <p>The period for taking the steps required under subsection (1) and (2) is:</p> <ul style="list-style-type: none"> the period applicable under a data code; or if there is no period applicable under a data code – as soon as practicable after the breach occurs. 	As above.	<p>300 penalty units.</p> <p>If the ACQSC breaches the Act or a data sharing agreement, another entity or individual can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>
Section 37(3)	<p>This section applies if:</p> <ul style="list-style-type: none"> a data custodian (ACQSC) of public sector data that is personal information about one or more individuals has shared the personal information with or through an accredited entity under section 13; and the accredited entity holds the personal information. <p>If the accredited entity reasonably suspects or becomes aware that a data breach of the entity has occurred (within the meaning of section 35), the accredited entity must give the data custodian written notice of the suspected or actual data breach:</p> <ul style="list-style-type: none"> in sufficient time; and containing sufficient details 	The ACQSC should have a clear and readily available policy or procedure in place outlining the required steps for when it becomes aware of a data breach, including any additional obligations imposed by the <i>Privacy Act 1988</i> when a data breach involves personal information.	If the ACQSC breaches the Act or the <i>Privacy Act 1988</i> , another entity or individual can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.

	to enable the ACQSC (the data custodian) to comply with its obligations under Part IIIC of the <i>Privacy Act 1988</i> .		
Section 37(5)	A data scheme entity must, as soon as practicable, give the National Data Commissioner a copy of any statement the entity is required to give the Information Commissioner under section 26WK of the <i>Privacy Act 1988</i> (statement about eligible data breach) if the eligible data breach to which the statement relates involves scheme data.	As above.	As above.
Section 38(1)	<p>A data scheme entity must notify the Commissioner, in an approved form (if any), within the period applicable under subsection (1A) and in accordance with any requirements prescribed by a data code, if:</p> <ul style="list-style-type: none"> the entity reasonably suspects or becomes aware that a data breach of the entity has occurred; and data involved in the breach is not personal information about or more individuals. <p>The period for notifying the Commissioner is:</p> <ul style="list-style-type: none"> the period applicable under a data code; or if there is no period applicable under a data code – as soon as practicable after the end of the financial year in which the breach occurs. 	As above.	<p>300 penalty units.</p> <p>If the ACQSC breaches the Act or a data sharing agreement, another entity or individual can complain to the Commissioner, who will investigate the complaint which may lead to enforcement action being taken.</p>

Assurance Audit Process – Cover page
Defence Reserve Service (Protection) Act 2001

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Defence Reserve Service (Protection) Act 2001</i>	1 September 2021	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

**Assurance Audit Process – Legislative Framework Summary
Defence Reserve Service (Protection) Act 2001**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 15	<p>The ACQSC must not refuse or fail to offer to employ a person because the person:</p> <ul style="list-style-type: none"> • may volunteer to render defence service; or • is rendering defence service; or • is, or may become, liable to render defence service; or • has previously rendered defence service. 	<p>Ensuring the ACQSC’s recruitment policy includes a commitment to supporting persons who may render defence service.</p>	<p>A person who contravenes this section commits an offence and is liable to a civil penalty.</p>
Section 16	<p>The ACQSC must not, for a prohibited reason, or for reasons that include a prohibited reason, do or threaten to do any of the following:</p> <ul style="list-style-type: none"> • change the terms and conditions of employment of an employee to his or her prejudice; • discriminate against an employee in his or her terms and conditions of employment; • dismiss an employee. <p>A prohibited reason if it is engaged in because the employee:</p> <ul style="list-style-type: none"> • may volunteer to render defence service; or • is rendering defence service; or • is, or may become, liable to render defence service; or • has previously rendered defence service. 	<p>Ensuring the ACSQC’s recruitment policy includes a commitment to supporting persons who may render defence service.</p> <p>Ensuring the Commission has a defence leave policy in place which supports persons who render defence service and provides defence leave for employees.</p> <p>A defence leave policy can also help ensure that both employees and the Commission under the expectations and responsibilities that apply to them.</p>	<p>As above.</p>
Section 17	<p>The ACQSC must not hinder or prevent a person in the employer’s employment from:</p> <ul style="list-style-type: none"> • volunteering to render defence service; or • rendering defence service. 	<p>As above.</p>	<p>As above.</p>

<p>Section 22</p>	<p>The ACQSC must not refuse or fail to engage another person as a contractor¹ for the reason that, or for reasons that include the reason that, the other person, or an officer or employee of the other person:</p> <ul style="list-style-type: none"> • may volunteer to render defence service; or • is rendering defence service; or • is, or may become, liable to render defence service; or • has previously rendered defence service. 	<p>Ensuring the ACQSC’s recruitment policy includes a commitment to supporting persons who may render defence service.</p> <p>Ensuring the Commission supports contractors when they need to take leave to render defence service.</p>	<p>As above.</p>
<p>Section 23</p>	<p>The ACQSC must not, for a prohibited reason, or for reasons that include a prohibited reason, do, or threaten to do, either of the following:</p> <ul style="list-style-type: none"> • discriminate against a contractor in relation to the terms and conditions of the contract for services that the person has entered into with the contractor; • terminate the contract for services. 	<p>As above.</p>	<p>As above.</p>
<p>Section 23A</p>	<p>The Commission must not, for a prohibited reason, or for reasons that include a prohibited reason, harass another person if the other person is:</p> <ul style="list-style-type: none"> • a protected worker of the person; or • a partner in a partnership in which the person is also a partner; or • a protected co-worker of the person. 	<p>Ensuring the ACQSC has a defence leave policy in place which supports persons who render defence service and provides defence leave for employees.</p> <p>A defence leave policy can also help ensure that both employees and the Commission under the expectations and responsibilities that apply to them.</p>	<p>As above.</p>
<p>Section 25</p>	<p>If a member is employed by a person under a contract of employment that allows the member any type of paid or unpaid leave, the Commission must not require the member to take the leave concurrently with all or part of his or her absence on defence service.</p>	<p>As above.</p>	<p>No offence or civil penalty associated with this obligation however, all Australian Public Servants are required to remain compliant with all Australian Law under the APS Code of Conduct as provided in s 13 of the <i>Public Service Act 1999</i>.</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>
<p>Section 26</p>	<p>A member who is employed before being absent on defence service is entitled to be absent from that employment while the member is absent on defence service.</p> <p>A period during which the member is absent from that employment while absent on defence service is taken not to</p>	<p>As above.</p>	<p>As above.</p>

¹ ‘Contractor’ means a person who contracts to perform work for another person under a contract for services (other than as an employee).

	be a period of employment under the member’s contract of employment unless they are taking any type of paid or unpaid leave.		
Section 28	<p>As soon as reasonably practicable after receiving an application under s 27², the Commission must:</p> <ul style="list-style-type: none"> allow the member to resume work, or reinstate the member in employment; and ensure that the member’s terms and conditions of employment are at least as favourable as those that would have applied to him or her in that capacity but for the service. <p>There are exceptions contained in s 27(2).</p>	<p>Ensuring the ACQSC has a defence leave policy in place which supports persons who render defence service and provides defence leave for employees. In particular, ensuring the policy provides information about a member resuming work after rendering defence service.</p> <p>A defence leave policy can also help ensure that both employees and the Commission under the expectations and responsibilities that apply to them.</p>	As above.
Section 30	<p>(Applies if a member resumes work, or is reinstated in employment after rendering continuous full-time defence service).</p> <p>The entitlements in relation to the member’s employment in respect of the period of the absence on defence service must be no less beneficial than they would have been if the member had been absent on leave without pay from the employment during that period.</p> <p>The continuity of the member’s employment is taken not to have been broken by his or her absence on defence service.</p>	As above.	As above.
Section 31	<p>(Applies if a member resumes work, or is reinstated in employment, under this Part after rendering defence service other than full time service)</p> <p><i>Resumption of employment</i> If the member resumes work for the old employer (see s 27(1)):</p> <ul style="list-style-type: none"> the period of the absence is taken to have been paid service in the employment; and the continuity of the member’s employment is taken not to have been broken by his or her absence on defence service. <p><i>Reinstatement in employment</i> If the member is reinstated in employment with a new employer (see s 27(2)):</p>	As above.	As above.

² Section 27 relates to a member applying to resume work after defence service.

	<ul style="list-style-type: none"> the period of employment under the contract of employment with the old employer is taken to have been served under the contract of employment entered into on the reinstatement; and the period of the absence is taken to have been paid service in the new employment; and the continuity of the period of employment under the contract of employment with the old employer with the period of employment that commenced on the reinstatement is taken not to have been broken by the member’s absence on defence service. 		
Section 32	<p>(Applies if an employer has permitted a member to resume work or reinstated a member in employment)</p> <p>During the period that begins immediately after the member resumes work, or is reinstated in employment, and that is equal to the length of the member’s absence on defence service, the Commission must not:</p> <ul style="list-style-type: none"> terminate the member’s employment; or vary the member’s employment by employing the member in a capacity, or under terms and conditions, less favourable to the member than the capacity in which, or the terms and conditions under which, the member was employed on resuming work or being reinstated in employment. <p>s 32(3) and (4) outlines exceptions.</p>	As above.	As above.
Section 72E	The Commission must comply with a notice to produce that is issued by the Chief of the Defence Force under s 72D.	Ensuring the Commission has an agreed policy or procedure for responding to requests for information/ notices to produce.	A person who contravenes this section is liability to a civil penalty.
Section 72L	If the Commission is given a notice under s 72L(3) to attend a compulsory conference, they must comply.	As above.	As above.

<p>Section 76B</p>	<p>The Commission must not subject, or threaten to subject, another person to any detriment for the reason that, or for reasons that include the reason that, the other person:</p> <ul style="list-style-type: none"> • has made, or proposes to make, a complaint under s 72B; or • has given, or proposes to give, any information, or has produced, or proposes to produce, any documents to a person exercising or performing any power or function under Division 1B of Part 11; or • has brought, or proposes to bring, proceedings under Division 1 or 2 of Part 11 against any person. 	<p>Ensuring the Commission has a defence leave policy in place which supports persons who render defence service and provides defence leave for employees.</p>	<p>As above.</p>
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Assurance Audit Process – Cover page
Disability Discrimination Act 1992

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Disability Discrimination Act 1992</i>	18 October 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Disability Discrimination Act 1992

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 5(1)	A person (the discriminator) discriminates against another person (the aggrieved person) on the grounds of a disability of the aggrieved person if, because of the disability, the discriminator treats, or proposes to treat, the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different.	<p>The ACQSC has a duty to ensure its employees understand what constitutes disability discrimination and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of policies and procedures that align with the applicable APS Disability Employment Strategy and National Disability Strategy, including appointing a Disability Contact Officer • Regular training and information sessions to promote awareness • Education about indirect and direct disability discrimination • The creation of formal groups such as a disability employee network to assist with the above. <p>The ACQSC should review the resources on the Australian Public Service Commission website in relation to disability in the APS to ensure it is meeting best practice standards.</p>	<p>Potential legal ramifications and the ACQSC reputation could be diminished.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is unlawful discrimination. Complainants may progress unresolved AHRC complaints to the Federal Court or the Federal Circuit and Family Court of Australia.</p>
Section 6(1)	<p>A person (the discriminator) discriminates against another person (the aggrieved person) on the grounds of a disability of the aggrieved person if:</p> <ul style="list-style-type: none"> • the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or conditions; and • because of the disability, the aggrieved person does not or would not comply, or is not able or would not be able to comply, with the requirement or condition; and <p>the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.</p>	As above.	As above.

<p>Section 11(1)</p>	<p>For the purposes determining whether a request from an employee for a reasonable adjustment would cause unjustifiable hardship on the ACQSC, the ACQSC must take the following matters into account:</p> <ul style="list-style-type: none"> the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned; the effect of the disability of any person concerned; the financial circumstances, and the estimated amount of expenditure required to be made, by the ACQSC the availability of financial and other assistance to the ACQSC any relevant action plans given to the Australian Human Rights Commission under section 64 of the Act. 	<p>Internal policy and procedure should be established setting out the matters the ACQSC must consider when making a determination about unjustifiable hardship.</p>	<p>Potential legal ramifications and the ACQSC reputation could be diminished.</p> <p>Failure of the ACQSC to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Affected persons may complain to the Australian Human Rights Commission if a decision has been made without regard to the prescribed matters.</p>
<p>Section 15(1)</p>	<p>It is unlawful for the ACQSC to discriminate against a person on the ground of that person’s disability:</p> <ul style="list-style-type: none"> in arrangements made for the purposes of determining who should be offered employment; or in determining who should be offered employment; or in the terms or conditions on which employment is offered. 	<p>The ACQSC has a duty to ensure employees and especially employees responsible for recruitment understands what amounts to disability discrimination and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> Implementation of inclusive hiring policies and procedures Regular training and information sessions to promote awareness Education about indirect and direct disability discrimination Ensuring HR, managers and supervisors have independent training which outlines what needs to be considered when recruiting prospective employees and whether alterations should be made to application processes and employment contracts The creation of formal groups such as a disability employee to assist with the above. <p>The ACQSC should conduct an audit of its current internal policies and procedures relating to disability discrimination against the current guides for employers published on the Australian Human Rights Commission website.</p>	<p>As above.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p>
<p>Section 15(2)</p>	<p>It is unlawful for the ACQSC to discriminate against an employee on the ground of the employee’s disability:</p>	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> • in the terms or conditions of employment that the employer affords the employee; or • by denying the employee access, or limiting the employee’s access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; or • dismissing the employer; or • by subjecting the employee to any other detriment. 		<p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p>
<p>Section 30</p>	<p>It is unlawful for the ACQSC to request or require a person to provide information (whether by completing a form or otherwise) if:</p> <ul style="list-style-type: none"> • ACQSC requests or requires the information in connection with, or for the purposes of discriminating against the person on the grounds of disability; and • either or both of the following applies: <ul style="list-style-type: none"> ○ persons who do not have the disability would not be requested or required to provide the information in circumstances that are not materially different; and ○ the information relates to the disability. 	<p>As above.</p>	<p>Potential legal ramifications, an increase in complaints and reputational risks.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the ACQSC to carry out their duties could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions.</p>
<p>Section 35</p>	<p>It is unlawful for ACQSC or its employees to harass a person who:</p> <ul style="list-style-type: none"> • is an employee of the ACQSC; or • is seeking employment from the ACQSC; and • has a disability <p>in relation to the disability.</p>	<p>The ACQSC has a duty to ensure its employees understand what constitutes disability discrimination and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of policies and procedures • Review of complaints and grievance polices • Regular training and information sessions to promote awareness and understanding • Education about what conduct constitutes harassment • The creation of formal groups such as a disability employee network to assist with the above. <p>ACQSC should conduct an audit of its current internal policies and procedures relating to disability discrimination against the current guides for employers published on the Australian Human Rights Commission website to ensure it is meeting best practice standards.</p>	<p>If the ACQSC or an employee of the ACQSC victimises someone, this could diminish other employees’ confidence in raising concerns around discrimination and may suggest that the ACQSC does not foster an environment that responds to and prevents discrimination.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p> <p>The ACQSC may be held vicariously liable for the acts of its employees.</p>

<p>Section 42(1) and 58A</p>	<p>It is an offence for the ACQSC or its employees to commit an act of victimisation against another person.</p>	<p>As above.</p>	<p>If the ACQSC or its employees victimises someone, this could diminish other employees' confidence in raising concerns around discrimination and may suggest that the ACQSC does not foster an environment that responds to and prevents discrimination.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p> <p>If a person is found guilty of victimisation, they may be liable to imprisonment for 6 months.</p> <p>The ACQSC may be held vicariously liable for the acts of its employees.</p>
<p>Section 44(1)</p>	<p>It is an offence for the ACQSC to publish or display, or cause or permit to be published or displayed, an advertisement or notice that indicates, or could reasonably understood as indicating an intention by that person to do an act that would constitute:</p> <ul style="list-style-type: none"> • Discrimination at work • Breach of disability standards (if applicable) • Discrimination involving harassment 	<p>The ACQSC should ensure a policy or procedure exists that sets out the requirements as to what can be published and advertised having regard to this obligation.</p> <p>Part of the policy or procedure should include a requirement for the Governance and Risk work unit (or another suitable work unit) to conduct a quality assurance check.</p>	<p>A failure to comply is an offence and the penalty is 10 penalty units.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p>

Assurance Audit Process – Cover page
Environmental Protection and Biodiversity Conservation Act 1999

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Environmental Protection and Biodiversity Conservation Act 1999</i>	15 December 2023	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance

Assurance Audit Process – Legislative Framework Summary
Environmental Protection and Biodiversity Conservation Act 1999

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 28	The Commonwealth or a Commonwealth Agency must not take inside or outside the Australian jurisdiction an action that has, will have or is likely to have a significant impact on the environment inside or outside the Australian jurisdiction.	Determine whether the EPBC Act applies to certain action taken by the ACQSC. If the ACQSC is unsure whether the EPBC Act applies in certain circumstances, or of what they need to do to comply with the EPBC Act, review: www.environment.gov.au/environment/epbc	For a Commonwealth agency that is an individual—1,000 penalty units; and For a Commonwealth agency that is a body corporate—10,000 penalty units.
Section 516A(1)	The accountable authority of a Commonwealth entity (the Commissioner) must ensure that an annual report prepared under section 46 of the PGPA Act complies with s 516A(6).	The ACQSC will need to report against two core criteria. The first is how the ACQSC accords with and contributes to ecologically sustainable development (ESD). The second is to report the environmental performance of the ACQSC (impact the ACQSC’s activities have on the natural environment (if any), how these are mitigated and how they will be further mitigated). Consider using the ESD and environmental performance reporting templates in the Guidelines for Section 516A reporting – Environment Protection and Biodiversity Conversation Act 1999 .	Auditor-General can audit a reporter’s compliance with these requirements. A failure to publish these documents by the required timeframes (and with the required information), impacts transparency of government processes for the public, which could lead to increased scrutiny and negative commentary from the media and Australian public. Failure of the Commissioner to carry out their duties to the ACQSC could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions.
Section 516A	The report for a period must: <ul style="list-style-type: none"> include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development; and identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development; and document the effect of the reporter’s activities on the environment; and 	As above.	As above.

	<ul style="list-style-type: none">• identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment; and• identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures.		
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Assurance Audit Process – Cover page
Fair Work (Registered Organisations) Act 2009

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Fair Work (Registered Organisations) Act 2009</i>	27 February 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Fair Work (Registered Organisations) Act 2009

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 21(1)	<p>The Commission must not, for a prohibited reason, or for reasons that include a prohibited reason, do or threaten to do any of the following:</p> <ul style="list-style-type: none"> (a) dismiss an employee; (b) injure an employee in his or her employment; (c) alter the position of an employee to the employee’s prejudice; (d) discriminate against an employee. <p><i>A prohibited reason is any reason relating to the preparation, formation and/or registration federally registrable association of employers or a federally registrable association of employees</i></p>	<p>The ACQSC must ensure that all changes to employment conditions are not prompted by any union organisation.</p> <p>The ACQSC should document the reasons for any changes to employment conditions and ensure that all the reasons are defensible.</p>	<p>The Federal Court can impose a sanction of up to 100 penalty units to the Commission under the Act. The Commission will be vulnerable to unfair dismissal litigation.</p> <p>The ACQSC will also suffer reputational damage.</p>
Section 21(2)	<p>A Commission officer must not, for a prohibited reason, or for reasons that include a prohibited reason, do or threaten to do any of the following:</p> <ul style="list-style-type: none"> (a) terminate a contract for services that he or she has entered into with an independent contractor; (b) injure an independent contractor in relation to the terms and conditions of the contract for services; (c) alter the position of an independent contractor to the independent contractor’s prejudice; (d) discriminate against an independent contractor. <p><i>A prohibited reason is any reason relating to the preparation, formation and/or registration federally registrable association of employers or a federally registrable association of employees.</i></p>	As above.	As above.
Section 353	<p>The ACQSC as an employer of public sector workers must for the purposes of this Act and the procedural rules of the FWC made under section 609 of the Fair Work Act, act only by an employing authority of the employee acting on behalf of the employer</p>	<p>Ensure that the ACQSC acts only by an employing authority of the employee acting on behalf of the employer.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>

Assurance Audit Process – Legislative Framework Summary
Fair Work Act 2009
Fair Work Regulations 2009
Fair Work Commission Rules 2024
National Employment Standards

Version control

Legislation	Version	Last reviewed	Linkage to the ACQSC environment	Work Units/Areas most impacted
Primary legislation				
<i>Fair Work Act 2009</i>	21 June 2024	5 August 2024	<i>[For the ACQSC to fill in]</i>	People and Culture
Subordinate legislation				
<i>Fair Work Regulations 2009</i>	22 June 2024	5 August 2024	<i>[For the ACQSC to fill in]</i>	People and Culture
<i>Fair Work Commission Rules 2024</i>	25 March 2024	5 August 2024	<i>[For the ACQSC to fill in]</i>	People and Culture
<i>National Employment Standards</i>	21 June 2024	5 August 2024	<i>[For the ACQSC to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Fair Work Act 2009
Fair Work Regulations 2009
Fair Work Commission Rules 2024
National Employment Standards

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Fair Work Act 2009; National Employment Standards			
Section 44	The ACQSC must not contravene a provision of the National Employment Standards.	The ACQSC must ensure that it is not contravening the National Employment Standards (NES) and that it is aware of any updates issued by the Fair Work Ombudsman.	Civil penalty provision. Up to 600 penalty units for a serious contravention. Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.
Section 50	An ACQSC employee must not contravene a term of an enterprise agreement.	The ACQSC must ensure that it is complying with its current enterprise agreement and that employees are aware of its contents.	Civil penalty provision. Up to 600 penalty units for a serious contravention.
Section 55	A modern award or enterprise agreement must not exclude the NES or any provision of the NES.	Ensure that the ACQSC does not exclude the National Employment Standards or any provision. This means that the ACQSC should not approve any terms in an enterprise agreement that contravene this section. A term of an enterprise agreement will also not have effect to the extent that it contravenes this section.	Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.
National Employment Standards			
Section 62	The ACQSC must not request or require an employee to work more than the following number of hours in a week unless the additional hours are reasonable: <ul style="list-style-type: none"> • for a full-time employee—38 hours; or • for an employee who is not a full-time employee—the lesser of: 	The ACQSC must ensure that managers and employees are aware of maximum allowable hours a week. The ACQSC must ensure that it has a written overtime policy.	As above.

	<ul style="list-style-type: none"> ○ 38 hours; and ○ the employee’s ordinary hours of work in a week. <p>In determining whether additional hours are reasonable or unreasonable for the purposes of the act, the following must be taken into account:</p> <ul style="list-style-type: none"> ● any risk to employee health and safety from working the additional hours; ● the employee’s personal circumstances, including family responsibilities; ● the needs of the workplace or enterprise in which the employee is employed; ● whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours; ● any notice given by the employer of any request or requirement to work the additional hours; ● any notice given by the employee of his or her intention to refuse to work the additional hours; ● the usual patterns of work in the industry, or the part of an industry, in which the employee works; ● the nature of the employee’s role, and the employee’s level of responsibility; ● whether the additional hours are in accordance with averaging terms included under section 63 in a modern award or enterprise agreement that applies to the employee, or with an averaging arrangement agreed to by the employer and employee under section 64; ● any other relevant matter. 		
<p>Section 63</p>	<p>The average weekly hours contained in modern awards and enterprise agreements administered by the ACQSC must not exceed:</p> <ul style="list-style-type: none"> ● for a full-time employee – 38 hours, or ● for an employee who is not a full-time employee – the lesser of: 	<p>The ACQSC must ensure that average weekly hours required of its employee do not exceed the maximum allowable hours a week unless it is determined to be reasonable for the purposes of section 62 (see above criteria).</p>	<p>As above.</p>

	<ul style="list-style-type: none"> ○ 38 hours; and ○ the employee’s ordinary hours of work in a week. <p>However, the terms of a modern award of enterprise agreement can provide for average weekly hours that exceed the hours specified above if the excess hours are reasonable for purposes of section 62.</p>		
Section 65A	<p>If an employee requests flexible work arrangements, the ACQSC must give the employee a written response to the request within 21 days.</p> <p>The ACQSC’s response must:</p> <ul style="list-style-type: none"> • state that the employer grants the request; or • if, following discussion between the employer and the employee, the employer and the employee agree to a change to the employee’s working arrangements that differs from that set out in the request—set out the agreed change; or • state that the employer refuses the request and explain why. <p>The ACQSC must also explain the grounds for refusal, if the request is refused.</p>	<p>The ACQSC must ensure that it has a flexible work policy in place outlining acceptable terms for flexible work arrangements. The policy should include how flexible work arrangements should be sought, what acceptable flexible work conditions are and what recourse employees have should their request be denied.</p>	<p>As above.</p>
Section 65B(2)	<p>If the ACQSC has a workplace dispute regarding the National Employment Standards, the parties to the dispute must attempt to resolve the dispute at the workplace level, by discussions between the parties.</p> <p>Enterprise agreements must include a term that provides a procedure for settling disputes in relation to the National Employment Standards.</p>	<p>As above.</p>	<p>Reputational damage.</p>
Section 66C	<p>If an employee has been employed for more than 12 months and in the last 6 months they worked a regular pattern of hours on an ongoing basis and could continue work as a full time employee or part time employee, the ACQSC must make an offer of casual employment.</p>	<p>As above.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.</p>
Section 66L	<p>The ACQSC must not reduce or vary an employee’s hours of work, or terminate an employee’s employment, in order to avoid any right or obligation under this Act.</p>	<p>The ACQSC should document the reasons for any changes to employment conditions and entitlements.</p>	<p>As above.</p>

<p>Section 76A(1)</p>	<p>If an employee requests the ACQSC to agree to an extension of unpaid parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period, the employer must give the employee a written response to the request within 21 days.</p>	<p>The ACQSC must ensure the written response complies with section 76A(2) and (6).</p> <p>The ACQSC may consider preparing guidance material such as a template response to ensure each element is accounted for in its response.</p>	<p>As above.</p>
<p>Section 76A(2)</p>	<p>The ACQSC’s response under section 76A(1) must:</p> <ul style="list-style-type: none"> • state that the employer grants the request; or • if an extension period is negotiated between the ACQSC and an employee, set out the terms of the agreed extended period; or • state that the ACQSC refuses the request and include the matters required by subsection (6). 	<p>As above.</p>	<p>As above.</p>
<p>Section 76A(6)</p>	<p>If the ACQSC refuses to grant an extension period it must:</p> <ul style="list-style-type: none"> • include details of the reasons for the refusal; and <ul style="list-style-type: none"> ○ set out the ACQSC’s business grounds for refusing the request; and ○ explain how those grounds apply to the request; and • either: <ul style="list-style-type: none"> ○ set out the extension of the period of unpaid parental leave for the employee that the ACQSC would be willing to agree to; or ○ state that there is no extension of the period that the employer would be willing to agree to; and • set out the effects of sections 76B and 76C. 	<p>As above.</p>	<p>As above.</p>
<p>Section 76B(2)</p>	<p>If the ACQSC has a workplace dispute regarding an extension of parental leave under section 76, in the first instance the parties to the dispute must attempt to resolve the dispute at the workplace level, by discussions between the parties.</p>	<p>The ACQSC must have meaningful procedures in place to manage disputes internally, which must be accessible to both its employees and decision makers.</p> <p>This can include information on who will be required to attend any discussions and what records must be provided to ensure proper communication of the reasons why decisions were made.</p>	<p>As above.</p>

Section 81(2)	The ACQSC must transfer a pregnant employee to a safe position if the pregnant employee’s current position poses a risk of illness or is hazardous because of the employee’s pregnancy.	The ACQSC must ensure that it has a written policy that outlines the protections that can be provided to pregnant employees still in the workforce before birth.	Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.
Section 81(4)	If the ACQSC has transferred a pregnant employee to a safe position for the period of their pregnancy, they must be paid the full rate of their previous position at the same hours.	The ACQSC may wish to prepare guidance material for circumstances when an employee is transferred to ensure its HR and payroll employees are aware of this requirement.	As above.
Section 81A	If the ACQSC cannot find a suitable safe job for the pregnant employee as required by section 81 and they have taken leave for the period of pregnancy, the ACQSC must pay the employee’s base rate of pay at the employee’s ordinary hours	The ACQSC should ensure its employee leave policy has a provision setting out this requirement.	As above.
Section 83	If an ACQSC employee is taking a period of unpaid parental leave and the ACQSC intends to make a decision that will impact significantly on the status, pay or location of the employee’s pre-parental leave position, the ACQSC must take all reasonable steps to give the employee information about, and an opportunity to discuss, the effect of the decision on that position.	The ACQSC should consider preparing guidance material for relevant decision makers outlining what documents and information would be necessary to fulfil this requirement. This can include information on what records must be retained and then provided to affected employees to ensure proper communication of the reasons why decisions were made and how it affects them.	As above.
Section 84A	Before the ACQSC engages an employee to perform the work of another employee who is going to take, or is taking, unpaid parental leave, the employer must notify the replacement employee: <ul style="list-style-type: none"> • that the engagement to perform that work is temporary; and • of the rights the employee taking unpaid parental leave has under the Act. 	The ACQSC should ensure HR are aware of this provision and that the replacement employee is notified, preferably in writing, of the nature of their employment and its effects.	As above.
Section 88(2)	The ACQSC must not unreasonably refuse to agree to a request by an employee to take paid annual leave.	The ACQSC should ensure that it has a leave policy which addresses the process for taking annual leave (and refer to section 6 of the ACQSC’s enterprise agreement). The policy should require that reasons are given if leave is refused.	Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.
Section 90(1)	If an ACQSC employee takes a period of paid annual leave, the ACQSC must pay the employee at the	As above.	As above.

	employee’s base rate of pay for the employee’s ordinary hours of work in the period.	Ensure ACQSC’s Payroll team is aware of this obligation.	
Section 90(2)	If, when the employment of an ACQSC employee ends, the employee has a period of untaken paid annual leave, the ACQSC must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.	As above.	As above.
Section 93(2)	The terms of a modern award of enterprise agreement must require that: <ul style="list-style-type: none"> paid annual leave must not be cashed out if the cashing out would result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks; and each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and the employee; and the employee must be paid at least the full amount that would have been payable to the employee taken the leave that the employee has foregone. 	The ACQSC should ensure its payroll team is aware of this requirement (and refer to section 6 of the ACQSC’s enterprise agreement).	As above.
Section 99	Subject to the Act, if an ACQSC employee takes a period of paid personal/carer’s leave, the ACQSC must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work in the period.	As above.	As above.
Section 100	Paid personal/carer’s leave must not be cashed out, except in accordance with cashing out terms included in a modern award or enterprise agreement under section 101.	As above.	As above.
Section 101	A modern award or enterprise agreement must require that: <ul style="list-style-type: none"> paid personal/carer’s leave must not be cashed out if the cashing out would result in the employee’s remaining accrued entitlement to paid personal/carer’s leave being less than 15 days; and each cashing out of a particular amount of paid personal/carer’s leave must be by a 	The ACQSC must ensure its enterprise agreement does not contain terms inconsistent with this provision.	As above.

	<p>separate agreement in writing between the employer and the employee; and</p> <ul style="list-style-type: none"> the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone. 		
Section 106	<p>If, in accordance with this Subdivision, a ACQSC employee, other than a casual employee, takes a period of compassionate leave, the ACQSC must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work in the period.</p>	<p>The ACQSC should ensure that it has a leave policy which addresses the process for taking compassionate leave (and refer to section 6 of the ACQSC’s enterprise agreement).</p> <p>Ensure ACQSC’s Payroll team is aware of this obligation.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Section 106BA(1)	<p>If, in accordance with this Subdivision, an ACQSC employee takes a period of paid family and domestic violence leave, the employer must pay the employee, in relation to the period:</p> <ul style="list-style-type: none"> for an employee other than a casual employee—at the employee’s full rate of pay, worked out as if the employee had not taken the period of leave; or for a casual employee—at the employee’s full rate of pay, worked out as if the employee had worked the hours in the period for which the employee was rostered. 	<p>The ACQSC should ensure that it has a leave policy which addresses the process for taking family and domestic violence leave (and refer to section 7 of the ACQSC’s enterprise agreement). The policy must require that reasons are given if leave is refused.</p>	<p>As above.</p>
Section 106C(1)	<p>The ACQSC must take steps to ensure information concerning any notice or evidence an employee has given under section 107 of the employee taking leave is treated confidentially, as far as it is reasonably practicable to do so.</p> <p><i>Section 107 requires the employee taking leave to inform the employer of upcoming or commenced leave.</i></p>	<p>The ACQSC should ensure HR, including its employees who are supervisors or managers, are aware of their obligation to maintain confidentiality of employee information.</p>	<p>As above.</p>
Section 106C(2)	<p>The ACQSC must not, other than with the consent of the employee, use such information for a purpose other than satisfying itself in relation to the employee’s entitlement to leave under this Subdivision. In particular, the ACQSC must not use such information to take adverse action against an employee.</p>	<p>As above.</p>	<p>As above.</p>

<p>Section 111</p>	<p>If an ACQSC employee must attend jury duty the ACQSC must pay the ACQSC employee’s base rate of pay for the employee’s ordinary hours of work in the period subject to the Act.</p>	<p>The ACQSC should ensure that it has a leave policy which addresses the process for taking jury duty leave (and refer to section 6 of the ACQSC’s enterprise agreement).</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
<p>Section 116</p>	<p>If an ACQSC employee is absent from his or her employment on a day or part-day that is a public holiday, the ACQSC must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work on the day or part-day.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 116B</p>	<p>The ACQSC must make contributions to a superannuation fund for the benefit of an employee to avoid liability to pay a superannuation guarantee charge under the <i>Superannuation Guarantee Charge Act 1992</i> in relation to the employee.</p>	<p>The ACQSC payroll team must be aware of the requirement to make superannuation contributions in accordance with this provision and section 17 of the <i>Superannuation Act 2005</i>.</p>	<p>Liability to pay superannuation guarantee charge under the <i>Superannuation Guarantee Charge Act 1992</i>.</p>
<p>Section 117(1)</p>	<p>The ACQSC must not terminate an employee’s employment unless the employer has given the employee written notice of the day of the termination (which cannot be before the day the notice is given).</p>	<p>The ACQSC should consider developing a policy or procedure which outlines steps that need to be undertaken to properly terminate an employee (with reference to section 11 of the ACQSC’s enterprise agreement).</p> <p>The ACQSC’s enterprise agreement outlines the payment of annual leave on termination.</p>	<p>Reputational damage</p> <p>Potential employment litigation</p>
<p>Section 117(2)</p>	<p>The ACQSC must not terminate an employee’s employment unless:</p> <ul style="list-style-type: none"> • the time between giving the notice and the day of the termination is at least the period (the minimum period of notice) worked out under section 117 (3); or • the employer has paid to the employee (or to another person on the employee’s behalf) payment in lieu of notice of at least the amount the employer would have been liable to pay to the employee (or to another person on the employee’s behalf) at the full rate of pay for the hours the employee would have worked had the employment continued until the end of the minimum period of notice. 	<p>As above.</p>	<p>As above.</p>

<p>Section 125(1)</p>	<p>The ACQSC must give each employee the Fair Work Information Statement before, or as soon as practicable after, the employee starts employment.</p> <p><i>This obligation does not apply if the employee has been given the Information Statement by the ACQSC within 12 months.</i></p>	<p>The ACQSC should have an onboarding checklist that informs HR staff of what information needs to be provided to new employees.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
<p>Section 178(2)(b)</p>	<p>A copy of an instrument of appointment of a bargaining representative for a proposed enterprise agreement must:</p> <ul style="list-style-type: none"> for an appointment made by the ACQSC that will be covered by a proposed enterprise agreement that is not a greenfields agreement—be given, on request, to a bargaining representative of an employee who will be covered by the agreement. 	<p>The ACQSC may consider developing a checklist to ensure when appointing a bargaining representative, copies of the instrument of appointment are provided to the relevant people or organisations as required.</p>	<p>As above.</p>
<p>Section 178A(3)</p>	<p>The appointment of a bargaining representative for an enterprise agreement may be revoked by written instrument.</p> <p>A copy of the written instrument must be given to the bargaining representative and, on request, to a bargaining representative of an employee who will be covered by the agreement.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 179A(1)</p>	<p>If the ACQSC will be covered by a proposed enterprise agreement that is not a greenfields agreement; and as a direct or indirect consequence of the operation of one or more terms of the agreement (the beneficial terms) and the ACQSC or a person mentioned in subsection (2) will, or can reasonably be expected to, receive or obtain (directly or indirectly) a section 179A disclosable benefit (each such person is a beneficiary); the ACQSC must prepare a document in accordance with section 179A(3).</p>	<p>The ACQSC should prepare an internal procedure for when it receives a disclosable benefit, including a checklist to ensure any disclosure documents are compliant with section 197A(3).</p> <p>A ‘disclosable benefit’ includes:</p> <ul style="list-style-type: none"> a financial benefit – <ul style="list-style-type: none"> received as a direct or indirect consequence of one or more of the terms of the agreement, received by the employer or an associated entity of the employer but does not include a financial benefit that it received from the ordinary course of the employers business. 	<p>As above.</p>

<p>Section 179A(3)</p>	<p>The document required under section 179A(1) must:</p> <ul style="list-style-type: none"> • itemise the beneficial terms; and • describe the nature and (as far as reasonably practicable) amount of each section 179A disclosable benefit in relation to each beneficiary; and • name each beneficiary; and • be in accordance with any other requirements prescribed by the regulations for the purposes of this paragraph. 	<p>As above.</p>	<p>As above.</p>
<p>Section 180(1)</p>	<p>Before the ACQSC requests under subsection 181(1) of this Act that employees approve a proposed enterprise agreement by voting for the agreement, the employer must comply with the requirements set out in this section.</p> <p><i>Subsection 181(1) allows the ACQSC to request employees covered by an enterprise agreement to approve the agreement by voting on it.</i></p>	<p>The ACQSC may wish to prepare a checklist to ensure when seeking to approve enterprise agreements, the requirements set out at sections 180(4A), (4B) and (4C) are complied with.</p>	<p>As above.</p>
<p>Section 180(4A)</p>	<p>If an organisation gives the employer a document under section 179 before the voting process referred to in subsection 181(1) starts for the agreement, the employer must take all reasonable steps to ensure that the employees employed at the time who will be covered by the agreement:</p> <ul style="list-style-type: none"> • are given a copy of the document as soon as practicable after it was given to the employer; or • are given access to a copy of the document as soon as practicable after it was given to the employer and have access to that copy until the voting process starts. 	<p>As above.</p>	<p>This is a civil penalty provision – 60 penalty units.</p>
<p>Section 180(4B)</p>	<p>If the employer is required to prepare a document under section 179A, the employer must take all reasonable steps to ensure that the employees employed at the time who will be covered by the agreement:</p> <ul style="list-style-type: none"> • are given a copy of the document a reasonable time before the voting process referred to in subsection 181(1) starts for the agreement; or 	<p>As above.</p>	<p>This is a civil penalty provision – 60 penalty units.</p>

	<ul style="list-style-type: none"> are given access to a copy of the document a reasonable time before the voting process starts and have access to that copy until the voting process starts. 		
Section 180(4C)	The employer must not knowingly or recklessly make a false or misleading representation in the document that employees are given a copy of or access to under subsection 180(4B).	As above.	This is a civil penalty provision – 60 penalty units
Section 180(5)	<p>The employer must take all reasonable steps to ensure that:</p> <ul style="list-style-type: none"> the terms of the agreement, and the effect of those terms, are explained to the employees employed at the time who will be covered by the agreement; and the explanation is provided in an appropriate manner taking into account the particular circumstances and needs of those employees. 	The ACQSC should ensure its employees are kept informed of any agreements and its effects throughout the approval process. This may include publishing accessible updates on the ACQSC Intranet so employees can continue to view the terms after it has been adequately explained to them.	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Section 181(2)	If the ACQSC is required by section 173(1) (which deals with giving notice of employee representational rights) to take all reasonable steps to give notice in relation to the agreement, the request must not be made until at least 21 days after the day on which the last notice under subsection 173(1) in relation to the agreement is given.	The ACQSC should prepare guidance material setting out the timeframes it will need to adhere to when requiring its employees to engage in the enterprise agreement approval process.	As above.
Section 202(1)	<p>An enterprise agreement must include a (flexibility term) that:</p> <ul style="list-style-type: none"> enables an employee and their employer to agree to an arrangement (an individual flexibility arrangement) varying the effect of the agreement in relation to the employee and the employer, in order to meet the genuine needs of the employee and employer; and complies with section 203. 	The ACQSC should ensure its enterprise agreement includes provisions that allow the ACQSC and its employees to make individual flexibility arrangements and that those flexibility terms are compliant with section 230 (with reference to section 1 of the ACQSC’s enterprise agreement).	As above.
Section 203(2)	<p>A flexibility term included in the ACQSC’s enterprise agreement must meet the following requirements:</p> <ul style="list-style-type: none"> it must set out the terms of the enterprise agreement the effect of which may be varied by an individual flexibility arrangement agreed to under the flexibility term; and 	As above.	As above.

	<ul style="list-style-type: none"> • require the employer to ensure that any individual flexibility arrangement agreed to under the flexibility term: <ul style="list-style-type: none"> ○ must be about matters that would be permitted matters if the arrangement were an enterprise agreement; and ○ must not include a term that would be an unlawful term if the arrangement were an enterprise agreement 		
Section 203(2A)	If the enterprise agreement includes terms that would be outworker terms if they were included in a modern award, the flexibility term must not allow the effect of those outworker terms to be varied.	As above.	As above.
Section 203(3)	The flexibility term must require that any individual flexibility arrangement is genuinely agreed to by the ACQSC and the employee.	As above.	As above.
Section 203(4)	The flexibility term must require the ACQSC to ensure that any individual flexibility arrangement agreed to under the term must result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.	As above.	As above.
Section 203(5)	Except as required by subparagraph (7)(a)(ii), the ACQSC must ensure that the flexibility term does not require that any individual flexibility arrangement agreed to by an employer and employee under the term be approved, or consented to, by another person.	As above.	As above.
Section 203(6)	<p>The flexibility term must require the ACQSC to ensure that any individual flexibility arrangement agreed to under the term must be able to be terminated:</p> <ul style="list-style-type: none"> • by either the employee, or the employer, giving written notice of not more than 28 days; or • by the employee and the employer at any time if they agree, in writing, to the termination. 	As above.	As above.
Section 203(7)	The flexibility term must require the ACQSC to ensure that:	As above.	As above.

	<ul style="list-style-type: none"> any individual flexibility arrangement agreed to under the term must be in writing and signed: <ul style="list-style-type: none"> in all cases—by the employee and the employer; and if the employee is under 18—by a parent or guardian of the employee; and a copy of any individual flexibility arrangement agreed to under the term must be given to the employee within 14 days after it is agreed to. 		
Section 205(1)	<p>An enterprise agreement must include a term (a consultation term) that:</p> <ul style="list-style-type: none"> requires the ACQSC (or employers) to which the agreement applies to consult the employees to whom the agreement applies about: <ul style="list-style-type: none"> a major workplace change that is likely to have a significant effect on the employees; or a change to their regular roster or ordinary hours of work; and allows for the representation of those employees for the purposes of that consultation. 	The ACQSC should ensure its enterprise agreement includes provisions setting out consultation terms as required under section 205 (with reference to section 10 of the ACQSC’s enterprise agreement).	As above.
Section 205(1A)	<p>For a change to the employees’ regular roster or ordinary hours of work, the consultation term must require the employer:</p> <ul style="list-style-type: none"> to provide information to the employees about the change; and to invite the employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and to consider any views given by the employees about the impact of the change. 	As above.	As above.
Section 205A(1)	<p>An enterprise agreement must include a delegates’ rights term for workplace delegates to whom the agreement applies.</p>	The ACQSC should ensure its enterprise agreement includes provisions setting out consultation terms as required under section 205A (with reference to section 10 of the ACQSC’s enterprise agreement).	As above.

<p>Section 210(1)</p>	<p>If a variation of an enterprise agreement has been made, a person covered by the agreement must apply to the FWC for approval of the variation.</p>	<p>The ACQSC should prepare an internal procedure for when it wishes to make an application to vary a term of the enterprise agreement, which should include a checklist for what needs to accompany the application (see section 210(2) below).</p>	<p>As above.</p>
<p>Section 210(2)</p>	<p>The application in section 210(1) must be accompanied by:</p> <ul style="list-style-type: none"> • a signed copy of the variation; and • a copy of the agreement as proposed to be varied; and • any declarations that are required by the procedural rules to accompany the application. 	<p>The ACQSC may wish to prepare a checklist to ensure the correct documents and information are included in any application to vary a term of the enterprise agreement.</p>	<p>As above.</p>
<p>Section 210(3)</p>	<p>The application in section 210(1) must be made:</p> <ul style="list-style-type: none"> • within 14 days after the variation is made; or • if in all the circumstances the FWC considers it fair to extend that period—within such further period as the FWC allows. 	<p>The ACQSC should prepare guidance material setting out the timeframes it will need to adhere to when making an application to vary an enterprise agreement.</p>	<p>As above.</p>
<p>Section 220(2)</p>	<p>Before making a section 220 request, the employer must:</p> <ul style="list-style-type: none"> • take all reasonable steps to notify the employees of the following: <ul style="list-style-type: none"> ○ the time and place at which the vote will occur; ○ the voting method that will be used; and • give the employees a reasonable opportunity to decide whether they want to approve the proposed termination. <p><i>Section 220 allows the ACQSC to request employees covered by an enterprise agreement to approve a proposed termination agreement by voting on it.</i></p>	<p>The ACQSC should prepare an internal procedure for when it wishes to seek employee approval to terminate an enterprise agreement, which should include a checklist of what the required notification must contain.</p>	<p>As above.</p>
<p>Section 226A(6)</p>	<p>The ACQSC must comply with a guarantee of termination entitlements given by the employer to the FWC in relation to the termination of an enterprise agreement if:</p> <ul style="list-style-type: none"> • the agreement is terminated under section 226; and 	<p>The ACQSC must ensure it has procedures in place to implement provisions contained in a guarantee of termination entitlements it provides to the FWC.</p>	<p>600 penalty units for a serious contravention.</p>

	<ul style="list-style-type: none"> the employer terminates the employment of a protected employee for the termination of the agreement while the guarantee is in force: <ul style="list-style-type: none"> at the employer’s initiative because the employer no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or because of the insolvency or bankruptcy of the employer. 		
Section 293	The ACQSC must not contravene a term of a national minimum wage order.	The ACQSC must ensure that it aware of the National Minimum Wage order and any updates issued by the FWC Expert Panel. The order comes into operation on 1 July every year.	600 penalty units for a serious contravention.
Section 305	The ACQSC must not contravene a term of an equal remuneration order.	The ACQSC must abide equal remuneration orders made by FWC. An equal remuneration order is an order that ensures that there will be equal remuneration for men and women workers for work of equal or comparable value.	600 penalty units for a serious contravention.
Section 306F(2)	The employer must pay the regulated labour hire employee at no less than the protected rate of pay for the employee in connection with the work performed by the employee for the regulated host.	If the FWC makes a regulated labour hire arrangement order, the ACQSC must not pay the labour hire employee less than the protected rate of pay. <i>Note: this provision commenced on 15 December 2023 however regulated labour hire arrangement orders cannot come into force until at least 1 November 2024.</i>	600 penalty units for a serious contravention. The FWC may make an alternative protected rate of pay order.
Section 306P	In the first instance, the parties to the dispute must attempt to resolve the dispute at the workplace level by discussions between the parties.	The ACQSC should consider internal dispute resolution framework that allows employees to resolve disputes with the ACQSC or other employees at the workplace level.	
Section 323(1)	The ACQSC must pay an employee amounts payable to the employee in relation to the performance of work: <ul style="list-style-type: none"> in full (except as provided by section 324); and in money by one, or a combination, of the methods referred to in subsection (2); and 	The ACQSC should ensure current payroll processes account for the requirement to pay its employees both in full and at least on a monthly basis.	Civil penalty provision – 600 penalty units for a serious contravention.

	<ul style="list-style-type: none"> at least monthly. <p><i>Section 324 allows the ACQSC to deduct amounts payable to an employee in certain situations.</i></p>		
Section 323(3)	<p>If a modern award or an enterprise agreement specifies a particular method by which the money must be paid, then the employer must pay the money by that method.</p>	<p>The ACQSC must comply with the terms of its enterprise agreement .</p>	<p>600 penalty units for a serious contravention.</p>
Section 324(1A)	<p>The ACQSC must not deduct an amount under section 324(1)(a) if the deduction is:</p> <ul style="list-style-type: none"> directly or indirectly for the benefit of the employer or a party related to the employer; and for an amount that may be varied from time to time; <p><i>Section 324 allows the ACQSC to deduct amounts payable to an employee in certain situations.</i></p>	<p>The ACQSC should consider preparing guidance material for the payroll team on what deductions are allowable or not allowable for the purposes of this provision.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Section 324(2)	<p>A deduction authorisation under section 324(1)(a):</p> <ul style="list-style-type: none"> must specify: <ul style="list-style-type: none"> for a single deduction—the amount of the deduction; or for multiple or ongoing deductions—whether the deductions are for a specified amount or amounts, or for amounts as varied from time to time; and must include any information prescribed by the regulations; and may be withdrawn in writing by the employee at any time. <p><i>Section 324 allows the ACQSC to deduct amounts payable to an employee in certain situations.</i></p>	<p>The ACQSC should consider preparing an internal procedure which sets out the information required for a deduction authorisation, such as template letters for the payroll team.</p>	<p>As above.</p>
Section 324(3)	<p>Any variation in a specified amount of a deduction must be authorised in writing by the employee.</p> <p><i>Section 324 allows the ACQSC to deduct amounts payable to an employee in certain situations.</i></p>	<p>As above.</p>	<p>As above.</p>

<p>Section 325(1)</p>	<p>The ACQSC must not directly or indirectly require an employee to spend, or pay to the employer or another person, an amount of the employee’s money or the whole or any part of an amount payable to the employee in relation to the performance of work, if:</p> <ul style="list-style-type: none"> the requirement is unreasonable in the circumstances; and for a payment—the payment is directly or indirectly for the benefit of the employer or a party related to the employer. 	<p>The ACQSC must ensure it has clear policies in place outlining when or why it may be reasonable for an employee to spend to pay back money.</p> <p>Otherwise, it must ensure compliance with this provision by not requiring employees to use wages they have been paid in a certain way, to benefit the ACQSC or another related entity.</p>	<p>600 penalty units for a serious contravention.</p>
<p>Section 325(1A)</p>	<p>The ACQSC (the prospective employer) must not directly or indirectly require another person (the prospective employee) to spend, or pay to the prospective employer or any other person, an amount of the prospective employee’s money if:</p> <ul style="list-style-type: none"> the requirement is in connection with employment or potential employment of the prospective employee by the prospective employer; and the requirement is unreasonable in the circumstances; and the payment is directly or indirectly for the benefit of the prospective employer or a party related to the prospective employer. 	<p>As above.</p>	<p>As above.</p>
<p>Section 328(1)</p>	<p>The ACQSC that has given a guarantee of annual earnings to an employee must (subject to any reductions arising from circumstances in which the employer is required or entitled to reduce the employee’s earnings) comply with the guarantee during any period during which the employee:</p> <ul style="list-style-type: none"> is a high income employee of the employer; and is covered by a modern award that is in operation. 	<p>The ACQSC must ensure its payroll processes account for this requirement, except for in circumstances where the ACQSC is required or entitled to reduce an employee’s earnings due to them taking a period of unpaid leave or absence, and periods of industrial action.</p>	<p>As above.</p>
<p>Section 328(2)</p>	<p>The employer must pay earnings to the employee in relation to the part of the guaranteed period before the termination at the annual rate of the guarantee of annual earnings if:</p>	<p>The ACQSC must ensure its payroll systems account for this requirement, including providing any notice to the affected employee as required under section 328(3).</p>	<p>As above.</p>

	<ul style="list-style-type: none"> the employment of a high income employee is terminated before the end of the guaranteed period; and either or both of the following apply: <ul style="list-style-type: none"> the employer terminates the employment; the employee becomes a transferring employee in relation to a transfer of business from the employer to a new employer, and the guarantee of annual earnings has effect under subsection 316(2) as if it had been given to the employee by the new employer; and the employee is covered by a modern award that is in operation at the time of the termination. 		
Section 328(3)	Before or at the time of giving a guarantee of annual earnings to an employee covered by a modern award that is in operation, the ACQSC must notify the employee in writing that a modern award will not apply to the employee during any period during which the annual rate of the guarantee of annual earnings exceeds the high-income threshold.	As above.	As above.
Section 333H(1)	<p>A person must not do any of the following in order to avoid any right or prohibition under this Division:</p> <ul style="list-style-type: none"> terminate an employee’s employment for a period; delay re-engaging an employee for a period; not re-engage an employee and instead engage another person to perform the same, or substantially similar, work for the person as the employee had performed for the person; change the nature of the work or tasks the employee is required to perform for the person; otherwise alter an employment relationship. 	The ACQSC should ensure its HR team are aware of this requirement and have policy provisions in place to prevent this occurring.	The general protections provisions prohibit the taking of adverse action against an employee because of a workplace right. The ACQSC could be subject to a general protections claim.
Section 333K	If a person enters into a contract of employment that includes a term that provides the contract will terminate at the end of an identifiable period (whether or not the contract also includes other terms that provide for circumstances in which it may be terminated before the end of that period), the person must, before, or as soon as practicable after,	<p>The ACQSC should ensure that all employees on a fixed term contract are provided the Fixed Term Contract Information Statement.</p> <p>The ACQSC should ensure that the HR team is aware of this obligation and provides the Statement to employees when they enter into a contract.</p>	600 penalty units for a serious contravention.

	the contract is entered into, give the employee the Fixed Term Contract Information Statement.	Regularly review the Fair Work Ombudsman’s website to ensure that the latest version of the Statement is being used.	
Section 333L	In the first instance, the parties to a dispute under this section dispute must attempt to resolve the dispute at the workplace level, by discussions between the parties.	The ACQSC must have meaningful procedures in place to manage disputes internally, which must be accessible to both its employees and decision makers. This can include information on who will be required to attend any discussions and what records must be provided to ensure proper communication of the reasons why decisions were made.	Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potential litigation.
Section 340(1)	A person (the ACQSC) must not take adverse action against another person: <ul style="list-style-type: none"> because the other person: <ul style="list-style-type: none"> has a workplace right; or has, or has not, exercised a workplace right; or proposes or proposes not to, or has at any time proposed or proposed not to, exercise a workplace right; or to prevent the exercise of a workplace right by the other person. 	The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights afforded to employees and have policy provisions in place to prevent the occurrence of adverse or unreasonable management action. For example, the ACQSC cannot dismiss an employee because that employee had taken temporary sick leave.	60 penalty units.
Section 340(2)	A person (the ACQSC) must not take adverse action against another person (the second person) because a third person has exercised, or proposes or has at any time proposed to exercise, a workplace right for the second person’s benefit, or for the benefit of a class of persons to which the second person belongs.	As above.	60 penalty units. The general protections provisions prohibit the taking of adverse action against an employee because of a workplace right. The ACQSC could be subject to a general protections claim.
Section 343	The AQSC must not organise or take, or threaten to organise or take, any action against another person with intent to coerce the other person, or a third person, to: <ul style="list-style-type: none"> exercise or not exercise, or propose to exercise or not exercise, a workplace right; or exercise, or propose to exercise, a workplace right in a particular way. 	The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights and protections afforded to employees and have policy provisions in place to prevent the occurrence of adverse coercion against its employees to not exercise their workplace rights.	60 penalty units.
Section 344	The ACQSC must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to:	The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights and protections afforded to employees and do not place	60 penalty units.

	<ul style="list-style-type: none"> • make, or not make, an agreement or arrangement under the National Employment Standards; or • make, or not make, an agreement or arrangement under a term of a modern award or enterprise agreement that is permitted to be included in the award or agreement under subsection 55(2); or • agree to, or terminate, an individual flexibility arrangement; or • accept a guarantee of annual earnings; or • agree, or not agree, to a deduction from amounts payable to the employee in relation to the performance of work. 	<p>them under undue influence of pressure to do something that would adversely affect the employee.</p> <p>For example, the ACQSC cannot pressure an employee to cash out their annual leave entitlement because their particular team cannot accommodate employee absences due to understaffing.</p>	
Section 345	<p>A person must not knowingly or recklessly make a false or misleading representation about:</p> <ul style="list-style-type: none"> • the workplace rights of another person; or • the exercise, or the effect of the exercise, of a workplace right by another person. 	<p>The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights and protections afforded to employees, and that they cannot knowingly or recklessly make false or misleading representations about such workplace right.</p> <p>For example, the ACQSC cannot falsely represent that it has a right to know if an employee is a member of a union.</p>	60 penalty units.
Section 346	<p>A person must not take adverse action against another person because the other person:</p> <ul style="list-style-type: none"> • is or is not, or was or was not, an officer or member of an industrial association; or • engages, or has at any time engaged or proposed to engage, in industrial activity within the meaning of section 347(a) or (b); or • does not engage, or has at any time not engaged or proposed to not engage, in industrial activity within the meaning of sections 347(c) to (g). 	<p>The ACQSC must ensure its HR team and employees are aware that adverse action against employees, for example changes to employment conditions due to any union organisation, cannot occur.</p>	60 penalty units.
Section 348	<p>A person must not organise or take, or threaten to organise or take, any action against another person with intent to coerce the other person, or a third person, to engage in industrial activity.</p>	As above.	60 penalty units.

<p>Section 349</p>	<p>A person must not knowingly or recklessly make a false or misleading representation about either of the following:</p> <ul style="list-style-type: none"> • another person’s obligation to engage in industrial activity; • another person’s obligation to disclose whether he or she, or a third person: <ul style="list-style-type: none"> ○ is or is not, or was or was not, an officer or member of an industrial association; or ○ is or is not engaging, or has or has not engaged, in industrial activity. 	<p>The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights and protections afforded to employees engaging in industrial action, and that they cannot knowingly or recklessly make false or misleading representations about such workplace right.</p>	<p>60 penalty units.</p>
<p>Section 350</p>	<p>The ACQSC must not induce an employee to take, or propose to take, membership action.</p> <p>A person who has entered into a contract for services with an independent contractor must not induce the independent contractor to take, or propose to take, membership action.</p>	<p>The ACQSC should ensure there are policy provisions in place to protect employees from membership action.</p> <p>For example, the ACQSC cannot persuade an employee to resign from a union.</p>	<p>60 penalty units.</p>
<p>Section 350A</p>	<p>The employer of a workplace delegate must not:</p> <ul style="list-style-type: none"> • unreasonably fail or refuse to deal with the workplace delegate; or • knowingly or recklessly make a false or misleading representation to the workplace delegate; or • unreasonably hinder, obstruct or prevent the exercise of the rights of the workplace delegate under this Act or a fair work instrument. 	<p>The ACQSC should have in place clear guidelines on how to engage with a workplace delegate, including the requirements as outlined in this provision. .</p>	<p>60 penalty units.</p>
<p>Section 351</p>	<p>The ACQSC must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person’s race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer’s responsibilities, subjection to family and domestic violence, pregnancy, religion, political opinion, national extraction or social origin.</p>	<p>The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights and protections afforded to employees and have policy provisions in place to prevent the occurrence of adverse or unreasonable management action as a result of discrimination.</p>	<p>60 penalty units.</p> <p>The general protections provisions prohibit the taking of adverse action against an employee because of a workplace right. The ACQSC could be subject to a general protections claim.</p> <p>The employee may also make a complaint to the Australian Human Rights Commission.</p>
<p>Section 352</p>	<p>The ACQSC must not dismiss an employee because the employee is temporarily absent from work</p>	<p>The ACQSC should ensure its HR team and employees are aware of the relevant workplace rights afforded to employees and have policy provisions in place to</p>	<p>60 penalty units.</p>

	because of illness or injury of a kind prescribed by the regulations.	prevent the occurrence of adverse or unreasonable management action. It may be beneficial to include this provision in any personal leave/sick leave policy which can be accessed by ACQSC managers and employees alike.	
Section 355	<p>A person must not organise or take, or threaten to organise or take, any action against another person with intent to coerce the other person, or a third person, to:</p> <ul style="list-style-type: none"> • employ, or not employ, a particular person; or • engage, or not engage, a particular independent contractor; or • allocate, or not allocate, particular duties or responsibilities to a particular employee or independent contractor; or • designate a particular employee or independent contractor as having, or not having, particular duties or responsibilities. 	The ACQSC should ensure its HR team and employees are aware of the requirement to take action, or threaten to take action, forcing an employee to make specific business decisions which they would not otherwise make.	60 penalty units.
Section 357(1)	The employer that employs, or proposes to employ, an individual must not represent to the individual that the contract of employment under which the individual is, or would be, employed by the employer is a contract for services under which the individual performs, or would perform, work as an independent contractor.	The ACQSC should ensure its employment guidelines are clear and accessible and do not misrepresent the job and role description for potential candidates.	60 penalty units.
Section 358	<p>The ACQSC must not dismiss, or threaten to dismiss, an individual who:</p> <ul style="list-style-type: none"> • is an employee of the employer; and • performs particular work for the employer; <p>in order to engage the individual as an independent contractor to perform the same, or substantially the same, work under a contract for services.</p>	The ACQSC should make sure it has clear guidelines ensuring that the HR team are aware that an employee cannot be dismissed so that the ACQSC can then engage the employee as an independent contractor.	60 penalty units.
Section 359	The employer that employs, or has at any time employed, an individual to perform particular work must not make a statement that the employer knows is false in order to persuade or influence the individual to enter into a contract for services under which the individual will perform, as an independent	As above.	60 penalty units.

	contractor, the same, or substantially the same, work for the employer.		
Section 417	<p>The ACQSC must not organise or engage in industrial action from the day on which:</p> <ul style="list-style-type: none"> (a) an enterprise agreement is approved by the FWC until its nominal expiry date has passed; or (b) a workplace determination comes into operation until its nominal expiry date has passed; <p>whether or not the industrial action relates to a matter dealt with in the agreement or determination.</p>	The ACQSC must not attempt to interfere with or undermine the enterprise agreement negotiation process.	60 penalty units.
Section 462	The ACQSC must not hinder, intimidate, coerce, sabotage or otherwise impede a person in relation to a protected action ballot	The ACQSC must ensure there are clear and accessible guidelines in place to protect its employees from the actions as described in this provision.	30 penalty units.
Section 463(1)	<p>A person must not contravene:</p> <ul style="list-style-type: none"> • a term of a protected action ballot order; or • a term of an order made by the FWC in relation to a protected action ballot order or a protected action ballot. 	the ACQSC must have policies and guidelines in place to ensure compliance with protected action ballot orders and any order issued by the FWC..	60 penalty units.
Section 463(2)	The ACQSC must not contravene a direction given by the FWC, or a protected action ballot agent, in relation to a protected action ballot order or a protected action ballot.	As above.	60 penalty units.
Section 470(1)	If an employee engaged, or engages, in protected industrial action against the ACQSC on a day, the employer must not make a payment to an employee in relation to the total duration of the industrial action on that day.	The ACQSC should ensure its payroll processes are able to account for when an employee elects to engage in industrial action.	60 penalty units.
Section 474(1)	<p>If an employee engaged, or engages, in industrial action that is not protected industrial action against the ACQSC on a day, the employer must not make a payment to an employee in relation to:</p> <ul style="list-style-type: none"> • if the total duration of the industrial action on that day is at least 4 hours—the total duration of the industrial action on that day; or 	As above.	60 penalty units.

	<ul style="list-style-type: none"> otherwise—4 hours of that day. 		
Section 482(3)	<p>An occupier or affected employer must not contravene a requirement under subsection (1)(c)</p> <p><i>Subsection 482(1)(c) allows permit holders to inspect a premises to ensure the Act is being complied with.</i></p>	<p>The ACQSC must make all supervisors aware of all the powers of inspectors empowered under the Act. ACQSC staff must be told not to interfere with inspectors empowered under the Act.</p>	60 penalty units.
Section 483(4)	<p>An affected employer must not contravene a requirement under subsection (1).</p> <p><i>Subsection 483(1) requires an employer to provide access to records and documents to permit holders regarding a contravention of the Act.</i></p>	As above.	60 penalty units.
Section 501	<p>A person must not refuse or unduly delay entry onto premises by a permit holder who is entitled to enter the premises in accordance with this Part.</p>	As above.	60 penalty units.
Section 502(1)	<p>A person must not intentionally hinder or obstruct a permit holder exercising rights in accordance with this Part.</p>	As above.	60 penalty units.
Section 506	<p>A person must not contravene a term of an order under section 505(2) or section 505A(3) (which requires parties to comply with FWC orders regarding dispute resolution).</p>	The ACQSC must abide by FWC orders.	60 penalty units.
Section 527	<p>A person must not contravene a term of an FWC order dealing with a dispute about the operation of this Part.</p>	As above.	60 penalty units.
Section 527D	<p>A person (the first person) must not sexually harass another person (the second person) who is:</p> <ul style="list-style-type: none"> a worker in a business or undertaking; or seeking to become a worker in a particular business or undertaking; or a person conducting a business or undertaking; <p>if the harassment occurs in connection with the second person being a person of the kind mentioned in paragraph (a), (b) or (c).</p>	<p>The ACQSC must ensure that all employees are aware of and review the Australian Human Rights ACQSC’s Guidelines for Complying with the Positive Duty (the Guidelines) and in particular, the 4 Guiding Principles for eliminating unlawful conduct.</p>	<p>60 penalty units.</p> <p>A person may make a complaint to the Australian Human Rights Commission.</p>
Section 527K	<p>A person to whom a stop sexual harassment order applies must not contravene a term of the order.</p>	As above, and the ACQSC must also abide by FWC orders.	As above.

<p>Section 530(1)</p>	<p>If the ACQSC decides to dismiss 15 or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer must give a written notice about the proposed dismissals to the Chief Executive Officer of the Commonwealth Services Delivery Agency (Centrelink).</p>	<p>The ACQSC must prepare an emergency plan should mass dismissals be necessary. This plan must include plans to notify the CEO of Centrelink. This notification must include:</p> <ul style="list-style-type: none"> • the reasons for the dismissals; • the number and categories of employees likely to be affected; • the time when, or the period over which, the employer intends to carry out the dismissals. <p>The notice must be given as close as possible to the dismissal.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
<p>Section 530(2)</p>	<p>The notice must be in the form (if any) prescribed by the regulations and set out:</p> <ul style="list-style-type: none"> • the reasons for the dismissals; and • the number and categories of employees likely to be affected; and • the time when, or the period over which, the employer intends to carry out the dismissals. 	<p>As above.</p>	<p>As above.</p>
<p>Section 530(3)</p>	<p>The notice must be given:</p> <ul style="list-style-type: none"> • as soon as practicable after making the decision; and • before dismissing an employee in accordance with the decision. 	<p>As above.</p>	<p>As above.</p>
<p>Section 530(4)</p>	<p>The employer must not dismiss an employee in accordance with the decision unless the employer has complied with section 530.</p>	<p>As above.</p>	<p>30 penalty units.</p>
<p>Section 535(1)</p>	<p>The ACQSC must make, and keep for 7 years, employee records of the kind prescribed by the regulations in relation to each of its employees.</p>	<p>The ACQSC must ensure that it has documented records retention policy in line with the <i>Archives Act 1983</i></p>	<p>600 penalty units for a serious contravention.</p>
<p>Section 535(2)</p>	<p>The records must:</p> <ul style="list-style-type: none"> • if a form is prescribed by the regulations—be in that form; and 	<p>The ACQSC must ensure its record keeping policy is up to date and complies with this requirement.</p>	<p>600 penalty units for a serious contravention.</p>

	<ul style="list-style-type: none"> include any information prescribed by the regulations. 		
Section 535(4)	The ACQSC must not make or keep a record for the purposes of this section that the employer knows is false or misleading.	As above.	600 penalty units for a serious contravention.
Section 536(1)	The ACQSC must give a pay slip to each of its employees within one working day of paying an amount to the employee in relation to the performance of work.	The ACQSC must ensure its payroll processes include providing pay slips to employees in accordance with this provision.	600 penalty units for a serious contravention.
Section 536(2)	<p>The pay slip must:</p> <ul style="list-style-type: none"> if a form is prescribed by the regulations—be in that form; and include any information prescribed by the regulations; and not include any information prescribed by the regulations in relation to paid family and domestic violence leave; and comply with any requirements prescribed by the regulations in relation to the reporting of paid family and domestic violence leave. 	As above.	600 penalty units for a serious contravention.
Section 536(3)	The ACQSC must not give a pay slip for the purposes of this section that the employer knows is false or misleading.	As above.	600 penalty units for a serious contravention.
Section 536AA(1)	<p>The ACQSC must not advertise, or cause to be advertised, that the employer is offering employment at a rate of pay that would contravene either of the following, if the advertised employment occurred:</p> <ul style="list-style-type: none"> this Act; a fair work instrument. 	The ACQSC should ensure its recruitment processes are compliant with this provision. It may be beneficial to prepare internal guidance materials for when roles at the ACQSC are advertised.	Civil penalty provision – 60 penalty units.
Section 536AA(2)	<p>If:</p> <ul style="list-style-type: none"> the ACQSC advertises, or causes to be advertised, that the employer is offering employment as a pieceworker; and the employee would be entitled to a periodic rate of pay, if the advertised employment occurred; <p>the advertisement must:</p>	As above.	60 penalty units.

	<ul style="list-style-type: none"> • specify that rate of pay (or a higher rate of pay); or • include a statement to the effect that a periodic rate of pay is payable in relation to the employment. 		
Section 611(1)	A person must bear the person’s own costs in relation to a matter before the FWC.	<p>The ACQSC should ensure it has received legal advice from an external legal provider that outlines:</p> <ul style="list-style-type: none"> • lines of communication with legal advice and representation • any potential indemnity or insurance factors • litigation risks under the Act • document retention policy • timelines to ensure FWC filing deadlines are met 	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Section 611(3)	A person to whom an order for costs applies must not contravene a term of the order.	The ACQSC must abide by FWC orders.	60 penalty units.
Section 712(3)	A person who is served with a notice to produce from an inspector under the Act must not fail to comply with the notice.	As above	30 penalty units
Section 716(5)	A person must not fail to comply with a notice given under this section.	As above	60 penalty units
Section 718A	<p>A person must not give information or produce a document to the Fair Work Ombudsman, an inspector, or a person referred to in subsection 712AA(2), (the official) exercising powers or performing functions under, or in connection with, a law of the Commonwealth if the person knows, or is reckless as to whether, the information or the document:</p> <ul style="list-style-type: none"> • is false or misleading; or • for information—omits any matter or thing without which the information is misleading. 	The ACQSC must ensure all information and documents produced to the Ombudsman are true and correct to the best of its knowledge.	60 penalty units
Section 757BA	If the ACQSC gives a person a pay slip relating to paid leave to which the person is entitled because of section 757B, the employer:	The ACQSC must ensure its payroll processes account for this provision when issuing pay slips to employees taking paid leave.	600 penalty units for a serious contravention.

	<ul style="list-style-type: none"> • must not include on the pay slip any information prescribed by regulations made for the purposes of section 536(2)(c); and • must comply with any requirements prescribed by regulations made for the purposes of section 536(2)(d). <p><i>Section 536 relates to providing employees pay slips.</i></p> <p><i>Section 757B provides that an employee is entitled to pay slips relating to paid leave</i></p>		
Section 757C	The ACQSC must not contravene the extended paid family and domestic violence leave provisions.	The ACQSC must ensure its leave policy includes provisions in line with the Act, including paid family and domestic violence leave entitlements.	60 penalty units.
Section 772	<p>The ACQSC must not terminate an employee’s employment for one or more of the following reasons, or for reasons including one or more of the following reasons:</p> <ul style="list-style-type: none"> • temporary absence from work because of illness or injury of a kind prescribed by the regulations; • trade union membership or participation in trade union activities outside working hours or, with the employer’s consent, during working hours; • non-membership of a trade union; • seeking office as, or acting or having acted in the capacity of, a representative of employees; • the filing of a complaint, or the participation in proceedings, against the ACQSC involving alleged violation of laws or regulations or recourse to competent administrative authorities; • race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer’s responsibilities, subjection to family and domestic violence, pregnancy, religion, political opinion, national extraction or social origin; • absence from work during parental leave; • temporary absence from work for the purpose of engaging in a voluntary emergency management activity, where the absence is 	The ACQSC must ensure its HR team have in place clear policy guidelines that protect employees from unfair dismissal, in accordance with this provision.	60 penalty units.

	reasonable having regard to all the circumstances.		
Section 785(1)	<p>If the ACQSC decides to terminate the employment of 15 or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer must give a written notice about the proposed terminations to the Chief Executive Officer of the Commonwealth Services Delivery Agency (Centrelink).</p> <p>The notice must be given:</p> <ul style="list-style-type: none"> • as soon as practicable after making the decision; and • before terminating an employee’s employment in accordance with the decision. 	The ACQSC must ensure its processes include providing sufficient notice to the CEO of Centrelink when this provision is enlivened.	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Section 785(2)	<p>The notice must be in the form (if any) prescribed by the regulations and set out:</p> <ul style="list-style-type: none"> • the reasons for the terminations; and • the number and categories of employees likely to be affected; and • the time when, or the period over which, the ACQSC intends to carry out the terminations. 	As above.	As above.
Section 785(3)	<p>The notice must be given:</p> <ul style="list-style-type: none"> • as soon as practicable after making the decision; and • before terminating an employee’s employment in accordance with the decision. 	As above.	As above.
Section 785(4)	The employer must not terminate an employee’s employment in accordance with the decision unless the employer has complied with this section.	As above.	60 penalty units.
Section 789FG	<p>A person to whom an order under section 789FF applies must not contravene a term of the order.</p> <p><i>Section 789FF orders are made to stop bullying.</i></p>	The ACQSC must abide by FWC orders.	60 penalty units.
Section 789GW	A person must not contravene a term of an FWC order dealing with a dispute about the operation of this Part.	As above.	Civil penalty provision.

<p>Section 795(1)</p>	<p>For the purposes of this Act and the procedural rules, the employer of an employee (a public sector employee) employed in public sector employment must act only through the employee’s employing authority acting on behalf of the employer.</p>	<p>The ACQSC must only act through its employing authority.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>
<p>Fair Work Regulations 2009</p>			
<p>Regulation 2.07</p>	<p>For subsection 190(5) of the <i>Fair Work Act 2009</i> (the Act), an undertaking relating to an enterprise agreement must be signed by each employer who gives the undertaking.</p>	<p>The ACQSC may wish to consider training or internal policy documents on how to engage and manage the bargaining process before the FWC, including how to correctly execute undertakings.</p>	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
<p>Regulation 2.10</p>	<p>For subsection 212(4) of the Act, an undertaking relating to the variation of an enterprise agreement must be signed by each employer who gives the undertaking.</p>	<p>As above.</p>	<p>As above.</p>
<p>Regulation 2.10B(1)</p>	<p>For the purposes of subsection 216AA(4) of the Act, this regulation outlines the requirements relating to the signing of a variation of a supported bargaining agreement made jointly under section 216A of the Act by the employer (for example, ACQSC) who will be covered by the agreement if the variation is approved, and the affected employees for the variations.</p>	<p>As above.</p>	<p>As above.</p>
<p>Regulation 2.10B(2)</p>	<p>The variation must be signed by:</p> <ul style="list-style-type: none"> • the ACQSC (if the employer) or a person authorised by the ACQSC to sign the variation on its behalf; and • at least one representative of the affected employees. 	<p>As above.</p>	<p>As above.</p>
<p>Regulation 2.10B(3)</p>	<p>The variation must include, for each person who signs the variation:</p> <ul style="list-style-type: none"> • the full name and address of the person; and 	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> an explanation of the person’s authority to sign the variation. 		
Regulation 3.13(7)	<p>For section 445 and paragraph 469(b) of the Act, this regulation sets out procedures to be followed for notifying employees in relation to the conduct of a protected action ballot.</p> <p>The ACQSC must allow the protected action ballot agent access to the workplace for the purpose of notifying employees of the information about the protected action ballot.</p>	The ACQSC must not interfere with any union organising and ensure that it complies with all obligations arising out of the <i>Fair Work (Registered Organisations) Act 2009</i> .	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p> <p>Severe reputational damage.</p>
Regulation 3.13(8)	<p>For section 445 and paragraph 469(b) of the Act, this regulation sets out procedures to be followed for notifying employees in relation to the conduct of a protected action ballot.</p> <p>The ACQSC must allow the protected action ballot agent access to the workplace for the purpose of preparing for, or conducting the protected action ballot.</p>	The ACQSC must not interfere with any union organising and ensure that it complies with all obligations arising out of the <i>Fair Work (Registered Organisations) Act 2009</i> .	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p> <p>Severe reputational damage.</p>
Regulation 3.15(1)	For section 452 and paragraph 469(b) of the Act, this paragraph applies if the ACQSC (as the employer) of an employee who is to be balloted provides information under subsection 450(4) or 452(3) of the Act.	The ACQSC may wish to consider training or internal policy documents on how to engage and manage the balloting process before the FWC.	<p>Reputational damage. Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential litigation.</p>
Regulation 3.15(2)	The applicant or employer must include with the information a declaration in writing that the applicant or employer reasonably believes that the information is complete, up-to-date and accurate.	As above.	As above.
Regulation 3.31(1)	<p>For subsection 535(1) of the Act, an employee record made and kept by the ACQSC for this Subdivision must be of the following kind:</p> <ul style="list-style-type: none"> a record in a legible form and in the English language; a record in a form that is readily accessible to an inspector. 	<p>The ACQSC must not interfere with any union organising and ensure that it complies with all obligations arising out of the <i>Fair Work (Registered Organisations) Act 2009</i>.</p> <p>In addition, the ACQSC must ensure that it keeps accurate employment records and complies with any obligations under the <i>Archives Act 1983</i>.</p>	Civil penalty provision – infringement notice.
Regulation 3.31(2)	For section 796 of the Act, an employee record made and kept by the ACQSC for this Subdivision must be of the following kind:	The ACQSC must ensure that it keeps accurate employment records and complies with any obligations under the <i>Archives Act 1983</i> .	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>

	<ul style="list-style-type: none"> • a record in a legible form and in the English language; • a record in a form that is readily accessible to an inspector. 		
Regulation 3.32	<p>For subsection 535(1) of the Act, a kind of employee record that the ACQSC must make and keep is a record that specifies:</p> <ul style="list-style-type: none"> • the employer’s name; and • the employee’s name; and • whether the employee’s employment is full-time or part-time; and • whether the employee’s employment is permanent, temporary or casual; and • the date on which the employee’s employment began; and • on and after 1 January 2010—the Australian Business Number (if any) of the employer. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.33(1)	<p>For subsection 535(1) of the Act, a kind of employee record that the ACQSC must make and keep is a record that specifies:</p> <ul style="list-style-type: none"> • the rate of remuneration paid to the employee; and • the gross and net amounts paid to the employee; and • any deductions made from the gross amount paid to the employee. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.33(2)	<p>If the employee is a casual or irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the record must set out the hours worked by the employee.</p>	As above.	Civil penalty provision – infringement notice.
Regulation 3.33(3)	<p>If the employee is entitled to be paid:</p> <ul style="list-style-type: none"> • an incentive-based payment; or • a bonus; or • a loading; or • a penalty rate; or • another monetary allowance or separately identifiable entitlement; 	As above.	Civil penalty provision – infringement notice.

	the record must set out details of the payment, bonus, loading, rate, allowance or entitlement.		
Regulation 3.34	For subsection 535(1) of the Act, if a penalty rate or loading (however described) must be paid for overtime hours actually worked by an employee, a kind of employee record that the employer must make and keep is a record that specifies: <ul style="list-style-type: none"> the number of overtime hours worked by the employee during each day; or when the employee started and ceased working overtime hours. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.35	For subsection 535(1) of the Act, if the ACQSC and an employee agree in writing to an averaging of the employee’s hours of work, a copy of the agreement is a kind of employee record that the employer must make and keep.	As above.	Civil penalty provision – infringement notice.
Regulation 3.36(1)	For subsection 535(1) of the Act, if an employee is entitled to leave, a kind of employee record that the employer must make and keep is a record that sets out: <ul style="list-style-type: none"> any leave that the employee takes; and the balance (if any) of the employee’s entitlement to that leave from time to time. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.36(2)	If the ACQSC and employee agree to cash out an accrued amount of leave: <ul style="list-style-type: none"> a copy of the agreement is a kind of employee record that the employer must make and keep; and a kind of employee record that the employer must make and keep is a record that sets out: <ul style="list-style-type: none"> the rate of payment for the amount of leave that was cashed out; and when the payment was made. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.37(1)	For subsection 535(1) of the Act, if the ACQSC is required to make superannuation contributions for the benefit of an employee, a kind of employee record that the employer must make and keep is a record that specifies:	As above.	Civil penalty provision – infringement notice.

	<ul style="list-style-type: none"> • the amount of the contributions made; and • the period over which the contributions were made; and • the date on which each contribution was made; and • the name of any fund to which a contribution was made; and • the basis on which the employer became liable to make the contribution, including: <ul style="list-style-type: none"> ○ a record of any election made by the employee as to the fund to which contributions are to be made; and ○ the date of any relevant election. 		
Regulation 3.38	<p>For subsection 535(1) of the Act, if the ACQSC and employee agree in writing on an individual flexibility arrangement under the Act:</p> <ul style="list-style-type: none"> • a copy of the agreement is a kind of employee record that the employer must make and keep; and • a copy of a notice or agreement that terminates the agreement is a kind of employee record that the employer must make and keep. 	As above.	Civil penalty provision – infringement notice.
Regulation 3.39(1)	<p>For subsection 535(1) of the Act, if the ACQSC gives a guarantee of annual earnings under section 330 of the Act, the guarantee is a kind of employee record that the employer must make and keep.</p>	As above.	Civil penalty provision – infringement notice.
Regulation 3.39(2)	<p>For subsection 535(1) of the Act, if the ACQSC revokes a guarantee of annual earnings under section 330 of the Act, a kind of employee record that the employer must make and keep is a record of the date of the revocation.</p>	As above.	Civil penalty provision – infringement notice.
Regulation 3.40	<p>For subsection 535(1) of the Act, if an employee’s employment is terminated, a kind of employee record that the employer must make and keep is a record that sets out:</p> <ul style="list-style-type: none"> • whether the employment was terminated: <ul style="list-style-type: none"> ○ by consent; or ○ by notice; or ○ summarily; or 	As above.	Civil penalty provision – infringement notice.

	<ul style="list-style-type: none"> ○ in some other manner (specifying the manner); and ● the name of the person who acted to terminate the employment. 		
Regulation 3.41(2)	<p>The old employer must transfer to the new employer each employee record concerning a transferring employee that the old employer was required to keep for subsection 535(1) of the Act at the time at which the connection between the old employer and the new employer mentioned in paragraph 311(1)(d) of the Act occurs.</p> <p>If the old employer is a Commonwealth authority, the old employer only has to provide copies of those records.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.41(4)	<p>If the transferring employee becomes an employee of the new employer after the time at which the connection between the old employer and the new employer mentioned in paragraph 311(1)(d) of the Act occurs, the new employer must ask the old employer to give the new employer the employee records concerning the transferring employee.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.41(5)	<p>If the old employer receives a request under subregulation (4), the old employer must give the employee records to the new employer.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.41(6)	<p>The new employer who receives transferred employee records must keep the records, as if they had been made by the new employer at the time at which they were made by the old employer.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.42(1)	<p>For subsection 535(3) of the Act, the ACQSC must make a copy of an employee record available for inspection and copying on request by the employee or former employee to whom the record relates.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.42(2)	<p>The employer must make the copy available in a legible form to the employee or former employee for inspection and copying.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.42(3)	<p>If the employee record is kept at the premises at which the employee works or the former employee worked, the employer must:</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>

	<ul style="list-style-type: none"> • make the copy available at the premises within 3 business days after receiving the request; or • post a copy of the employee record to the employee or former employee within 14 days after receiving the request. 		
Regulation 3.42(4)	<p>If the employee record is not kept at the premises at which the employee works or the former employee worked, the employer must, as soon as practicable after receiving the request:</p> <ul style="list-style-type: none"> • make the copy available at the premises; or • post a copy of the employee record to the employee or former employee. 	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.43(1)	<p>The ACQSC who has been asked by an employee or former employee to make a copy of an employee record available for inspection must tell the employee or former employee, on request, where employee records relating to the employee or former employee are kept.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.44(2)	<p>The ACQSC must correct a record that the employer is required to keep under the Act or these Section s as soon as the employer becomes aware that it contains an error.</p>	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.44(3)	<p>The ACQSC must ensure that a record that the employer is required:</p> <ul style="list-style-type: none"> • to keep under the Act or these Section s; and • to correct in accordance with subregulation (2); contains a notation of the nature of the corrected error with the correction. 	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
Regulation 3.44(4)	<p>The ACQSC must not alter a record that the employer is required to keep under the Act or these Regulations except:</p> <ul style="list-style-type: none"> (a) in compliance with subregulation (2) or (3); or (b) to any extent otherwise permitted by the Act or these Regulations. 	As above.	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>

<p>Regulation 3.44(5)</p>	<p>The ACQSC must ensure that a record that the employer is required to keep under the Act or these Sections is not altered by another person except:</p> <ul style="list-style-type: none"> • in compliance with subregulation (2) or (3); or • to any extent otherwise permitted by the Act or these Regulations. 	<p>As above.</p>	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.44(6)</p>	<p>A person must not make use of an entry in an employee record made and kept by the ACQSC for this Subdivision if the person does so knowing that the entry is false or misleading.</p>	<p>As above.</p>	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.45</p>	<p>For paragraph 536(2)(a) of the Act, a pay slip must be:</p> <ul style="list-style-type: none"> • in electronic form; or • a hard copy. 	<p>As above.</p>	<p>Maximum of 20 penalty units.</p> <p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.46(1)</p>	<p>For paragraph 536(2)(b) of the Act, a pay slip must specify:</p> <ul style="list-style-type: none"> • the employer’s name; and • the employee’s name; and • the period to which the pay slip relates; and • the date on which the payment to which the pay slip relates was made; and • the gross amount of the payment; and • the net amount of the payment; and • any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement; and • on and after 1 January 2010—the Australian Business Number (if any) of the employer. 	<p>As above.</p>	<p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.46(2)</p>	<p>If one or more amounts are deducted from the gross amount of the payment under subsection 324(1) of the Act, the pay slip must also include, for each deduction:</p> <ul style="list-style-type: none"> • the amount of the deduction; and • the name, or the name and number, of the fund or account into which the deduction was paid. 	<p>As above.</p>	<p>Civil penalty provision – infringement notice.</p>

<p>Regulation 3.46(3)</p>	<p>If the employee is paid at an hourly rate of pay, the pay slip must also include:</p> <ul style="list-style-type: none"> • the rate of pay for the employee’s ordinary hours (however described); and • the number of hours in that period for which the employee was employed at that rate; and • the amount of the payment made at that rate. 	<p>As above.</p>	<p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.46(4)</p>	<p>If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.</p>	<p>As above.</p>	<p>Civil penalty provision – infringement notice.</p>
<p>Regulation 3.46(5)</p>	<p>If the employer has made, or intends to make, superannuation contributions for the benefit of the employee, the pay slip must also include:</p> <ul style="list-style-type: none"> • the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or • the amounts of contributions that the employer intends to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made. 	<p>As above.</p>	<p>Civil penalty provision – infringement notice.</p>
<p>Fair Work Commission Rules 2024</p>			
<p>Rule 13(1)</p>	<p>In any matter before the FWC, the ACQSC must not be represented by a lawyer in a conference or hearing without the permission of the FWC.</p> <p>However, the ACQSC may otherwise be represented by a lawyer in the matter without the permission of the FWC, as long as it is not for the purpose of a conference or hearing.</p> <p>Subsection 596(2) of the <i>Fair Work Act 2009</i> (the Act) sets out that the FWC may grant permission for a person to be represented by a lawyer or paid agent in a matter before the FWC only if:</p>	<p>The ACQSC should ensure there is a guidance document and/or relevant training for ACQSC legal officers on how to internally manage matters before the FWC.</p> <p>This can include policy and guidance material outlining all procedural rules when responding to and managing matters before the FWC.</p> <p>In accordance with the <i>Legal Services Directions 2017</i>, the ACQSC will be required to engage external legal providers in the absence of any separate approval from the Attorney-General for the ACQSC to use an in-house lawyer.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>

	<ul style="list-style-type: none"> • it would enable the matter to be dealt with more efficiently, taking into account the complexity of the matter; or • it would be unfair not to allow the person to be represented because the person is unable to represent himself, herself or itself effectively; or • it would be unfair not to allow the person to be represented taking into account fairness between the person and other persons in the same matter. 		
Rule 14(1)	If the ACQSC intends to be represented in a matter before the FWC by a lawyer and permission is required under rule 13 (see above), then the ACQSC must lodge a notice with the FWC informing the FWC that the ACQSC will seek the FWC’s permission for a lawyer to participate in the conference or hearing.	As above.	As above.
Rule 15(1)	A document lodged with the FWC must be in A4 size and be typewritten or clearly handwritten.	The ACQSC may wish to prepare guidance material outlining the procedures for how to prepare and lodge documents with the FWC.	As above.
Rule 15(2)	<p>A document must be lodged with the FWC either by:</p> <ul style="list-style-type: none"> • physically delivering the document to an office of the FWC between 9am and 5 pm on a business day, or • sending the document by post to an office of the FWC, or • emailing the document in accordance with rule 16 (see below), or • using the FWC’s online lodgement facilities. 	The ACQSC should have a documented process in place for lodging documents with the FWC.	As above.
Rule 16(2)	<p>If a document is lodged by email, the documents must be attached to the email in accordance with the below specifications:</p> <ul style="list-style-type: none"> • for a statutory declaration – PDF or image format, • for any other document – Word, RTF or PDF, and • without any security restrictions (i.e., password protections). <p>Further, the covering email must include the following:</p>	The ACQSC should have a documented process in place for lodging documents via email with the FWC.	As above.

	<ul style="list-style-type: none"> the name, address and telephone number of the natural person sending the email; and an email address to which the FWC can send notices or other documentation; and if the document is an application commencing a matter—that fact; and if the document relates to an existing matter—the matter number given to the matter by the FWC. <p>When lodging the document(s) by email, the ACQSC must retain the email as a “sent item” and retain a “delivered” statement or “read receipt” showing the date and time and receiving email address.</p> <p>The ACQSC must produce the retained document if required by the FWC.</p>		
Rule 18(1)	<p>A document (other than an affidavit, annexure or exhibit attached to another document) that is lodged by the ACQSC in a matter must be dated and signed by either:</p> <ul style="list-style-type: none"> the party, or the nominated representative (if the party has a nominated representative). 	The ACQSC may wish to prepare guidance material outlining the procedures for how to finalise and lodge documents with the FWC.	As above.
Rule 20(1)	The first page of a witness statement, submission or statutory declaration lodged with the FWC in relation to a matter must comply with subrules (2) to (4) – which set out examples of the information and required format to be adopted.	The ACQSC may consider developing template documents for witness statements, submissions or certain statutory declarations, with a checklist to ensure they each comply with this obligation.	As above.
Rule 21	<p>A document must be lodged with the FWC in accordance with Schedule 1 (Serving documents lodged with the FWC), which provides detailed instructions as to service – such as:</p> <ul style="list-style-type: none"> the types of documents to be served, and by which person (FWC, Applicant or Respondent), the types of documents to be served, and on which person (FWC, Applicant or Respondent), the time period in which the document must be served. 	The ACQSC may wish to prepare guidance material outlining the procedures for serving documents, including detail for who needs to serve the documents and on whom (i.e. the FWC or the Applicant bringing the claim against the ACQSC).	As above.

<p>Rule 22</p>	<p>If the ACQSC is required to serve a document on another person, it must serve the document as soon as practicable.</p>	<p>The ACQSC should prepare guidance material setting out the timeframes it will need to adhere to when serving documents in a matter before the FWC, including timeframes for the ACQSC legal officers to provide clearance of such documents.</p>	<p>As above.</p>
<p>Rule 25</p>	<p>If the ACQSC intends to apply for an order requiring a person to attend before the FWC, the application must:</p> <ul style="list-style-type: none"> • be in the approved form, • be accompanied by a draft order in the terms sought by the applicant, <ul style="list-style-type: none"> ○ the draft order must be lodged electronically in Word format <p>If an order is made by the FWC, the ACQSC must serve a signed copy of the order on the person who is required to attend before the FWC as soon as practicable.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 26</p>	<p>If the ACQSC intends to apply for an order requiring a person to provide copies of documents or records, or to provide any other information to the FWC, the application must:</p> <ul style="list-style-type: none"> • be in the approved form, • be accompanied by a draft order in the terms sought by the applicant, <ul style="list-style-type: none"> ○ the draft order must be lodged electronically in Word format <p>If an order is made by the FWC, the ACQSC must serve a signed copy of the order on the person who is required to attend before the FWC as soon as practicable.</p>	<p>The ACQSC may consider developing template documents for any applications it intends to make, with a checklist to ensure the application complies with this obligation.</p>	<p>As above.</p>
<p>Rule 32(2)</p>	<p>If the ACQSC makes an application for approval of an enterprise agreement (that <i>is not</i> a greenfields agreement), and is made by a bargaining representative on behalf of the ACQSC, or an employee of the ACQSC, the application must be accompanied by a copy of the written instrument of appointment of the bargaining representative.</p>	<p>The ACQSC may wish to consider training or internal policy documents on how to engage and manage the bargaining process before the FWC.</p>	<p>As above.</p>

<p>Rule 32(3)</p>	<p>If the ACQSC (as an employer) is covered by the agreement, it must lodge a declaration by the ACQSC in support of the application for approval, with the FWC within 14 days after the day on which the agreement is made.</p> <p>The declaration must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 32(4)</p>	<p>The declaration must be accompanied by the following:</p> <ul style="list-style-type: none"> • a copy of the notice given of the right to be represented by a bargaining representative (required under subsection 173(1) of the Act), • copies of any documents: <ul style="list-style-type: none"> ○ used to explain to employees who will be covered by the agreement, the terms of the agreement, and the effect of those terms, ○ used to give that explanation to those employees in an otherwise appropriate manner (taking into account their particular circumstances and needs), or ○ provided to those employees to inform them of the time, place and method for the vote. 	<p>As above.</p>	<p>As above.</p>
<p>Rule 35</p>	<p>The ACQSC must notify its employees, as soon as practicable, that an application for approval of an enterprise agreement has been made to the FWC.</p> <p>The employees must be notified, as soon as reasonably practicable after the application is lodged with the FWC through the usual means that are adopted by the employer for communicating with employees.</p>	<p>The ACQSC must notify its employees in accordance with this provision when an application for approval is made.</p> <p>Usual means could include communicating with employees on the intranet page or by email.</p>	<p>As above.</p>
<p>Rule 36</p>	<p>Documents lodged with an application for approval of an enterprise agreement, or a related declaration, must be served with the application or declaration.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for which documents are required to accompany an application or declaration before the FWC.</p>	<p>As above.</p>

<p>Rule 37(2)</p>	<p>If an application is made under section 210 of the Act for approval of a variation of an enterprise agreement, the ACQSC (if an employer covered by the agreement) must lodge a declaration, in support of the application for approval of the variation, within the FWC within 14 days after the day on which the variation is made.</p> <p>The declaration must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 37(3)</p>	<p>The declaration must be accompanied by copies of any documents:</p> <ul style="list-style-type: none"> • provided to the affected employees to inform them that the ACQSC is bargaining for a variation of the agreement and of the coverage of the agreement as proposed to be varied; or • provided to those employees to inform them of their capacity to be represented in bargaining for the variation and how to exercise that capacity; or • used to explain to those employees the terms of the variation and the effect of those terms; or • used to give that explanation to those employees in an appropriate manner taking into account their particular circumstances and needs; or • provided to those employees to inform them of the time, place and method for the vote. 	<p>As above.</p>	<p>As above.</p>
<p>Rule 44</p>	<p>If the ACQSC is required to serve any of the following:</p> <ul style="list-style-type: none"> • an application for approval of a variation of an enterprise agreement, or • an application for a variation of an enterprise agreement, or • a declaration in support of, or in relation to, such an application <p>The ACQSC must serve with the application or declaration copies of any documents that were lodged with the application or declaration.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for which documents are required to accompany an application or declaration to vary an enterprise agreement before the FWC.</p>	<p>As above.</p>

<p>Rule 45</p>	<p>An application under section 222 of the Act for approval of the termination of an enterprise agreement must be accompanied by a declaration by the ACQSC (if the applicant) setting out the basis on which the FWC can be satisfied that the requirements of section 223 of the Act have been met.</p> <p>Both the application and the declaration must be in the approved form.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for which documents are required to accompany an application or declaration to terminate an enterprise agreement before the FWC.</p>	<p>As above.</p>
<p>Rule 46(1)</p>	<p>An application under section 225 of the Act for the termination of an enterprise agreement after its nominal expiry date must be accompanied by:</p> <ul style="list-style-type: none"> • a declaration by the ACQSC (if the applicant) setting out the basis on which the FWC can be satisfied that the requirements of section 226 of the Act have been met, and • any guarantee of termination entitlements given to the FWC in relation to the termination of the agreement. <p>Both the application and the declaration must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 46(2)</p>	<p>Each employee, employer or employee organisation that:</p> <ul style="list-style-type: none"> • is covered by the agreement, and • wants to advise the FWC on its views on the termination of the agreement, <p>must lodge a declaration by it to that effect with the FWC before the FWC approved the termination of the agreement.</p> <p>The declaration must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 47</p>	<p>An application under section 229 of the Act for a bargaining order must be accompanied by a copy of the written notice that has been given to the relevant bargaining representatives under paragraph 229(4)(b) of the Act.</p> <p>The application must be in the approved form.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for which documents are required to accompany an application or declaration for a bargaining order before the FWC.</p>	<p>As above.</p>

<p>Rule 49</p>	<p>An application under section 240 of the Act for the FWC to deal with a bargaining dispute must be accompanied by a copy of each notice that has been issued by the ACQSC (as either the applicant or respondent) or a bargaining representative since bargaining commenced in the matter to which the application relates.</p> <p>The application must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 64</p>	<p>An application under section 333L of the Act to deal with a dispute about the operation of Division 5 of Part 2.9 of the Act must be accompanied by copies of any written contracts of employment that relate to the dispute.</p> <p>The application must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 65(1)</p>	<p>A respondent to a general protections application must lodge with the FWC a response by the respondent to the application within 7 days after the day on which the respondent was served with the application.</p> <p>The response must be in the approved form.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for responding to a general protections application. This can include template responses highlighting the information required for the response itself and any additional documents that may be relevant to include as attachments.</p>	<p>As above.</p>
<p>Rule 65(2)</p>	<p>The response must include details of any jurisdictional objection to the application that the respondent wants to raise.</p> <p>This means, the ACQSC can object to an application if it does not consider the FWC has jurisdiction to deal with the dispute.</p>	<p>The ACQSC should consider preparing guidance material outlining examples of jurisdictional objections that may be relevant to a claim, such as:</p> <ul style="list-style-type: none"> • the applicant was not an employee (was an independent contractor or volunteer), • the applicant resigned voluntarily (was not dismissed), • the applicant was made genuinely redundant, • the applicant was employees for a specific period and was dismissed at the end of that period, • the applicant made the application against the ACQSC, who is not the employer, • the applicant worked for the ACQSC for less than 6 months, • the applicant lodged their application to the FWC outside the specified time limit, and there are not exceptional circumstances permitting an extension of time. 	<p>As above.</p>

<p>Rule 66(1)</p>	<p>A respondent to an unfair dismissal application must lodge with the FWC a response by the respondent to the application, together with any supporting documents, within 7 days after the day on which the respondent was served with the application.</p> <p>The response must be in the approved form.</p>	<p>The ACQSC may wish to consider training or internal policy documents outlining the requirements for responding to an unfair dismissal application. This can include preventative guidance ensuring accurate records and reasons for decisions are made at the time of dismissal so they can be relied on when responding to such an application.</p>	<p>As above.</p>
<p>Rule 66(2)</p>	<p>If the respondent wants to raise:</p> <ul style="list-style-type: none"> • an objection to the application in relation to a matter mentioned in section 396 of the Act; or • any jurisdictional objection to the application; <p>the response must include details of the objection to the application.</p>	<p>The ACQSC should consider preparing guidance material outlining examples of jurisdictional objections that may be relevant to a claim, in addition to any further material or records that should be included in the objection.</p>	<p>As above.</p>
<p>Rule 67(1)</p>	<p>A respondent or applicant in a matter before the FWC arising under Part 3-2 (unfair dismissal) of the Act may apply to the FWC for an order that a person provide security for the payment of costs in respect of the matter or part of the matter.</p> <p>If an application is made, it must be in the approved form.</p>	<p>The ACQSC will be guided by its external legal providers as to whether a security for costs application should be made with reference to the <i>Legal Services Directions 2017</i>.</p>	<p>As above.</p>
<p>Rule 67(2)</p>	<p>If an order is made, the person to whom the order applies must pay the amount of security at the time, and in the manner and form, required by the order.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 68</p>	<p>If the ACQSC is a respondent to an unlawful termination FWC application, it must lodge with the FWC a response by the respondent to the application within 7 days after the day on which the ACQSC was served with the application</p>	<p>The ACQSC may wish to consider training or internal policy documents outlining the requirements for responding to an unlawful termination application. This can include preventative guidance ensuring accurate records and reasons for decisions are made at the time of termination so they can be relied on when responding to such an application.</p>	<p>As above.</p>
<p>Rule 72</p>	<p>If the ACQSC is required to serve:</p> <ul style="list-style-type: none"> • a response to a general protections application; or • a response to an unfair dismissal application; or 	<p>The ACQSC should prepare a procedural document outlining the obligations for each response to an application, including a check list ensuring that all the required information and documents are flagged before submission.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> a response to an unlawful termination FWC application; <p>the ACQSC must serve with the response copies of any documents that were lodged with the response.</p>		
Rule 73	<p>An application under sections 418 or 419 of the Act for an order that industrial action stop, not occur or not be organised (as the case may be) for a specified period must be accompanied by a draft order in the terms sought by the applicant.</p> <p>The application must be in the approved form.</p> <p>The draft order must be lodged:</p> <ul style="list-style-type: none"> electronically in Word or PDF format; or if the applicant is unable to lodge electronically—in hard copy form. 	<p>The ACQSC must ensure its HR team is aware of any industrial action and are informed as to whether it is protected or unprotected industrial action. Internal procedures should be prepared for notifying the Commissioner and processes for making an application for an order to stop industrial action and what must be included.</p>	As above.
Rule 73(2)	<p>The draft order must be lodged:</p> <ul style="list-style-type: none"> electronically in Word or PDF format; or if the applicant is unable to lodge electronically—in hard copy form. 	As above.	As above.
Rule 74(1)	<p>An application under sections 423, 424, 425 or 426 of the Act for an order suspending or terminating protected industrial action must be accompanied by a draft order in the terms sought by the ACQSC (if lodging the application).</p> <p>The application must be in the approved form.</p> <p>The draft order must be lodged:</p> <ol style="list-style-type: none"> electronically in Word or PDF format; or if the applicant is unable to lodge electronically—in hard copy form. 	As above.	As above.
Rule 74(2)	<p>The draft order must be lodged:</p> <ul style="list-style-type: none"> electronically in Word or PDF format; or if the applicant is unable to lodge electronically—in hard copy form. 	As above.	As above.

<p>Rule 75</p>	<p>An application under section 428 of the Act for an order extending a suspension of protected industrial action must be accompanied by a copy of the suspension order.</p> <p>The application must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 78</p>	<p>An application under subsection 459(3) of the Act, to extend the 30-day period during which industrial action by employees must commence in order to be authorised by a protected action ballot, must be accompanied by:</p> <ul style="list-style-type: none"> • a copy of the protected action ballot order; and • a copy of the declaration of the results of the ballot. <p>The application must be in the approved form.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 79</p>	<p>An application under subsection 472(4) of the Act for an order relating to partial work bans must be accompanied by a copy of the written notice given to the employee by the ACQSC (as the employer) under paragraph 471(1)(c) of the Act.</p>	<p>As above.</p>	<p>As above.</p>
<p>Rule 84(1)</p>	<p>If the ACQSC is named in a sexual harassment FWC application as:</p> <ul style="list-style-type: none"> • an employer or principal of: <ul style="list-style-type: none"> ○ an aggrieved person in respect of the application; or ○ a person alleged to have engaged in sexual harassment; <p>it must lodge a response by the person to the application with the FWC within 7 days after the day on which the person was served with the application.</p> <p>The response must be in the approved form.</p>	<p>The ACQSC may wish to prepare guidance material outlining the procedures for responding to a sexual harassment application. This can include template responses highlighting the information required for the response itself and any additional documents that may be relevant to include as attachments.</p> <p>The templates should include examples of jurisdictional objections that may be relevant to a claim, such as:</p> <ul style="list-style-type: none"> • the aggrieved person was not a worker, or seeking to become a worker, in the ACQSC when the alleged sexual harassment occurred, • the aggrieved person was not conducting a business or undertaking when the alleged sexual harassment occurred, • the conduct described in the application does not meet the definition of sexual harassment, • the alleged sexual harassment did not happen in connection with work, 	<p>As above.</p>

		<ul style="list-style-type: none"> the alleged sexual harassment happened more than 2 years before the application was made. 	
Rule 86(1)	<p>If the ACQSC is named as an employer or principal in an application made under section 789FC of the Act for an order to stop bullying at work, the ACQSC must lodge with the FWC a response to the application within 7 days after the day on which the ACQSC was served with the application.</p> <p>The response must be in the approved form.</p>	The ACQSC should prepare a procedural document outlining the obligations for each response to a stop bullying order application, including a check list ensuring that all the required information and documents are flagged before submission.	As above.
Rule 86(3)	<p>If the ACQSC is named in an application under section 789FC of the Act as a person alleged to have engaged in bullying behaviour wants to lodge a response to the application, the ACQSC must lodge with the FWC a response within 7 days after the day on which the ACQSC was served with the application.</p>	As above.	As above.
Rule 87(1)	<p>If the ACQSC is named as an employer or principal in an application made under section 789FC of the Act for an order to stop sexual harassment at work, the ACQSC must lodge with the FWC a response to the application within 7 days after the day on which the ACQSC was served with the application.</p> <p>The response must be in the approved form.</p>	The ACQSC may wish to consider training or internal policy documents on how to manage stop sexual harassment at work orders issued by the FWC.	As above.
Rule 87(3)	<p>If the ACQSC is named in an application under section 789FC of the Act as a person alleged to have engaged in sexual harassment wants to lodge a response to the application, the ACQSC must lodge with the FWC a response within 7 days after the day on which the ACQSC was served with the application.</p>	As above.	As above.
Rule 119(1)	<p>An application under section 739 of the Act for the FWC to deal with a dispute must be accompanied by a copy of the term referred to in section 738 of the Act under which the FWC is required or allowed to deal with the dispute.</p> <p>The application must be in the approved form.</p>	The ACQSC may wish to consider training or internal policy documents on how to manage stop sexual harassment at work orders issued by the FWC.	As above.
Rule 119(2)	<p>If the ACQSC is a respondent and wants to respond to the application, the ACQSC must:</p>	As above.	As above.

	<ul style="list-style-type: none"> • lodge a response by the person, in writing, with the FWC as soon as practicable after the respondent is served with the application; and • serve a copy of the response on the applicant as soon as practicable after lodging the response with the FWC. 		
Rule 128(1)	<p>If the ACQSC intends to institute an appeal under section 604 of the Act against a decision of:</p> <ul style="list-style-type: none"> • a single FWC Member; or • the General Manager; or • a person exercising a delegation from the President or the General Manager; must do so by lodging a notice of appeal. <p>The notice of appeal must be in the approved form.</p>	The ACQSC will be guided by its external legal providers as to whether an appeal should be made with reference to the <i>Legal Services Directions 2017</i> .	As above.
Rule 128(2)	<p>The notice of appeal must be lodged:</p> <ul style="list-style-type: none"> • within 21 days after the date of the decision being appealed against; or • if the decision was issued in the form of an order—within 21 days after the date of the order; or • within such further time allowed by the FWC on application by the appellant. Note: Subsection 598(4) of the Act provides that a decision may be made as an order. 	As above.	As above.
Rule 128(3)	<p>The appellant must, within 7 days after the day on which the appellant lodged the notice of appeal, lodge with the FWC:</p> <ul style="list-style-type: none"> • one copy of an appeal book, electronically in PDF format; or • if the appellant is unable to lodge electronically—3 copies of an appeal book in hard copy form. 	As above.	As above.
Rule 128(4)	<p>The appeal book must contain:</p> <ul style="list-style-type: none"> • any order made by the FWC to which the appeal relates; and 	As above.	As above.

	<ul style="list-style-type: none"> • the statement of the reasons for the decision being appealed against; and • if a copy of the transcript of the evidence and argument in the matter from which the appeal is brought is available from the FWC’s transcription service provider and the FWC has not exempted the appellant under subrule (7)—a copy of the transcript or the relevant extract from the transcript; and • a copy of each document that was an exhibit or written submission in the matter from which the appeal is brought that relates to the grounds of appeal set out in the notice of appeal. 		
Rule 128(5)	The appeal book must be paginated in continuous Arabic numerals, starting with “1” on the first page of the document (reckoned inclusive of all pages of the document, including any title pages or tables of contents).	As above.	As above.
Rule 128(6)	As soon as practicable after lodging the appeal book, the appellant must serve a copy of the appeal book on each other party to the matter from which the appeal is brought.	As above.	As above.

**Assurance Audit Process – Cover page
Freedom of Information Act 1982**

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Freedom of Information Act 1982</i>	22 May 2024	5 August 2024	FOI Policy	FOI and Privacy

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Whole of Government policies, frameworks and Codes applicable to the Commission’s functions and activities			
FOI Guidelines (made under section 93A of the FOI Act)	Updated May 2024	FOI Policy	FOI and Privacy

Assurance Audit Process – Legislative Framework Summary
Freedom of Information Act 1982

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 6C	If the ACQSC obtains a service under a Commonwealth contract in connection with its performance or function, it must take contractual measures to obtain a copy of the document where: <ul style="list-style-type: none"> • the document is made or in possession of a contracted service provider or subcontractor; and • the document relates only to the performance of the contract; and • the ACQSC receives a request for the document 	Ensuring templates for Commonwealth contracts include a clause to obtain a copy of the Commonwealth contract, including with a sub-contractor contract. This could also be included in the ACQSC's procurement policy/procedure.	A failure to provide a copy of a Commonwealth contract when requested may result in a complaint to the Information Commissioner and subsequent investigation or an investigation at the Information Commissioner's own initiative.
Section 8	The ACQSC must prepare a plan showing: <ul style="list-style-type: none"> • what information it proposes to publish • how and to whom it proposes to publish the information; and • how it proposes to comply with their obligations with respect to the information that must be published Information that must be published: <ul style="list-style-type: none"> • details of organisational structure • functions of the ACQSC • decision making power and other powers affecting the public • officer appointments under the PS Act • information contained in the annual reports put before parliament • details as to how and to whom the public can comment on the ACQSC's policy proposals • information in documents the ACQSC routinely gives access to • information routinely provided to Parliament in response to requests/orders from Parliament • contact details of an officer/s that can be contacted about the ACQSC's information or documents • operational information, including information that assists with the performance or exercise of the ACQSC's functions/powers in making decisions or recommendations affecting members of the public 	Internal policy providing for review and updates to the ACQSC's Information Publication Scheme (IPS): <ul style="list-style-type: none"> • the periodic review of the Information Publication Scheme; • updates to ACQSC website; and • group or department responsible for review and updates. 	A failure to publish prescribed information may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner's own initiative. A person must not be subject to prejudice where information is required to, but is not published in ACQSC's IPS (e.g., where eligibility or allowance, such as a closing date, is not published)
Section 8B	Information that must be published by the ACQSC must be accurate, up to date and complete.	Internal policy providing for review and updates to the ACQSC's IPS which clearly sets out:	A failure to publish prescribed information may result in a complaint to the Information Commissioner and subsequent investigation,

		<ul style="list-style-type: none"> the periodic review of the IPS updates to ACQSC website; work unit responsible for review and updates. 	<p>or an investigation at the Information Commissioner’s own initiative.</p> <p>A person must not be subject to prejudice where information is required to, but is not published in ACQSC’s IPS (e.g., where eligibility or allowance, such as a closing date, is not published).</p>
Section 8D	<p>The ACQSC must publish the information:</p> <ul style="list-style-type: none"> to members of the public; and (if appropriate to do so) to particular classes of persons or entities on a website so that it is available for download or accessible via a link on another website <p>The ACQSC may impose a charge on a person to access the information, only if:</p> <ul style="list-style-type: none"> the person does not download the information directly from the website; and the charges relate to specific production or incidental costs incurred in providing a person with the information <p>If a charge applies, the ACQSC must publish details of the charge in the same manner.</p>	<p>Internal policy providing for review and updates to the ACQSC’s IPS which clearly sets out:</p> <ul style="list-style-type: none"> the periodic review of the IPS updates to ACQSC website; work unit responsible for review and updates publication of the details of charges (where applicable) 	As above.
Section 9	In conjunction with the Information Commissioner, the ACQSC must review the operation of the information it is required to publish (as set out above). The review must occur at least every five years and as appropriate from time to time.	As above. <i>Note – requirement in the FOI Act for the review is every 5 years, but agencies are encouraged to undertake more regular reviews.</i>	As above.
Section 9A	The ACQSC must have regard to the objects of this Act and the guidelines issued by the Information Commissioner in relation to its information publication scheme.	<p>Internal policy providing for review and updates to the ACQSC’s IPS which clearly sets out:</p> <ul style="list-style-type: none"> statement about objects of the FOI Act; and referring to any guidelines issued under s 93A (FOI Guidelines) 	A failure to consider objects of the FOI Act and guidelines may result in the ACQSC’s IPS being non-compliant. This may lead to a complaint and subsequent investigation.
Section 11A	<p>Where a person has made a valid request for access to the ACQSC’s documents and any relevant charge has been paid, the ACQSC must give the person access to the document (subject to any exemptions).</p> <p>Valid request: <i>must be in writing, state the request is an FOI application, reasonably identify the document/s and provide the applicant’s contact details.</i></p>	Ensure there is an internal policy or procedure for determining whether a request is valid and that charges are paid prior to access being given.	Access may be granted for non-valid requests and the ACQSC decision may not comply with requirements of the FOI Act and principles of good decision making. Decision may be invalid and/or subject to review
Section 11B	In determining whether access to an exempt document would be contrary to public interest, the ACQSC must not consider:	Internal policy or procedure for use in all decision making relating to access requests, setting out relevant legislative requirements:	Impermissible factors may be considered and the ACQSC decision may not comply with

	<ul style="list-style-type: none"> • whether access to the document would result in embarrassment to, or loss of confidence in, the Government • result in a person misunderstanding/misinterpreting the document • author of the document is or was of high seniority in the Government • accessing the document would result in confusion or unnecessary debate <p>The ACQSC must have regard to any guidelines issued by the Information Commissioner under s 93A of this Act when determining whether access to a document is contrary to public interest.</p>	<ul style="list-style-type: none"> • Factors that must not be considered in public interest considerations • Consideration of guidelines issued by the Information Commissioner 	<p>requirements of the FOI Act and principles of good decision making.</p>
<p>Section 11C</p>	<p>If the ACQSC gives a person access to a document, the ACQSC must, within 10 working days from the day after the person is given access:</p> <ul style="list-style-type: none"> • publish the information to members of the public generally on a website; and • ensure the information is available for download or accessible via a link on another website <p>The ACQSC may impose a charge on a person to access the information, only if</p> <ul style="list-style-type: none"> • a person does not download the information directly from the website; and • the charges relate to specific production or incidental costs incurred in providing a person with the information <p><i>Note: this does not apply to requests for access to information that is personal, business/commercial or a kind determined by the Information Commissioner, if it would be unreasonable to publish</i></p>	<p>Internal policy or procedure relating to publication of information once access is granted under s 11A, setting out relevant prescribed timeframes and imposition of charges.</p>	<p>Failure to:</p> <ul style="list-style-type: none"> • publish information in prescribed time • charge persons in accordance with the FOI Act <p>may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 15</p>	<p>The ACQSC has a duty to:</p> <ul style="list-style-type: none"> • take reasonable steps to assist a person who wishes to make a request or has made a request that does not comply with this Act • take reasonable to steps to assist a person direct a request to the appropriate agency or Minister where that person has incorrectly directed a request to the ACQSC. <p>The ACQSC must:</p> <ul style="list-style-type: none"> • take reasonable steps to notify an applicant their request has been received as soon as practicable and no later than 14 days after the day the request was received 	<p>Internal policy or procedure for determining:</p> <ul style="list-style-type: none"> • whether a request is valid • compliance with prescribed timeframes • reference to relevant guidelines issued under s 93A . <p>Guidance document setting out ACSQC’s duties in relation to requests for access and examples of what would constitute “reasonable steps”.</p>	<p>Failure to comply with duties or prescribed timeframes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Failure to consider applicable guidelines issued under s 93A may result in ACQSC decision not complying with requirements of the FOI Act and principles of good decision making. Decision may be invalid and/or subject to review</p>

	<ul style="list-style-type: none"> take reasonable steps to notify an applicant of a decision on the request as soon as practicable and no later than 30 days after the day the request was received have regard to any guidelines issued by the Information Commissioner under s 93A of this Act when deciding a request inform an applicant as soon as practicable that the period for deciding a matter will be extended beyond 30 days 		
Section 16	<p>Where the ACQSC receives a request for access to a document that:</p> <ul style="list-style-type: none"> originated or was received from another agency that is not an exempt agency; and is more connected with the functions of the other agency <p>The ACQSC shall:</p> <ul style="list-style-type: none"> transfer the request to the other agency inform the person who made the request; and If necessary, provide the other agency with the document. <p>Exempt agency – agencies listed in Part II and Part III of Schedule 2 of this Act</p>	Internal policy or procedure for transferring requests to another agency and informing the applicant.	Failure to inform the applicant of any changes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.
Section 17	<p>If it is reasonable to do so, the ACQSC will deal with a valid request for information that:</p> <ul style="list-style-type: none"> is not available in written documents; and from the request it does not appear the applicant is seeking to be provided with a computer tape or computer disk containing the information; and the ACQSC could produce a written document containing the information (e.g transcribing a sound recording). <p>as if the request is for access to a written document so produced and containing that information, for that purpose, this Act applies as if the ACQSC had such a document in its possession.</p>	Guidance document detailing factors to be considered in determining what is a “substantial and unreasonable” diversion of resources.	Failure to prepare and produce the document where the use of resources is not substantial or unreasonable may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.
Section 20	<p>Where an applicant has requested access in a particular form, the access shall be given in that form, subject to:</p> <ul style="list-style-type: none"> unreasonable interference with the ACQSC’s operations detriment to the preservation of the document would otherwise involve a copyright infringement 	<p>Guidance document detailing what constitutes “unreasonable interference with ACQSC’s operations” and “detriment to the preservation of document”.</p> <p>Internal policy or procedure for matters involving potential copyright infringement, if required, external advice may be required for a suitably qualified person.</p>	<p>Failure to give access to documents without proper consideration of unreasonable interference and preservation issues may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Failure to consider copyright infringements may result in ACQSC breaching copyright and being liable for damages.</p>

<p>Section 21</p>	<p>If the ACQSC defers the provision of access to a document, that it shall inform the applicant of the reasons for the deferral, including where possible, the period of the deferment.</p>	<p>Internal policy or procedure dealing with ACQSC’s notification obligations in relation to deferment of access.</p>	<p>Failure to notify of the to notify the applicant of the deferment and period of operation may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 22</p>	<p>If it is reasonably practicable for an the ACQSC to prepare an edited copy of a requested document that redacts/deletes exempt or irrelevant information so that the document can be produced to the applicant, it must:</p> <ul style="list-style-type: none"> • prepare the edited copy • give the applicant the edited copy • give the applicant written notice that the document is an edited copy, provide the grounds for deletion of matter, and for matter that is deleted because it is exempt, advise the matter is exempt because of a provision under this Act. 	<p>Guidance document for material that should be redacted to allow production of the document to the applicant and consideration as to what is “reasonably practicable” in preparing an edited (redacted) copy of the document.</p> <p>Internal policy or procedure on the matters required to be included in the written notice to the applicant about the redacted document.</p>	<p>The ACQSC’s written notice may not comply with requirements of the FOI Act and be invalid and/or subject to review.</p>
<p>Section 24</p>	<p>Where the ACQSC is satisfied a practical refusal exists in relation to a request for a document, prior to refusing the request, it must undertake the consultation process (see below 24AB). Practical refusal reason: <i>substantially and unreasonably divert the resources of the agency from its other operations</i></p>	<p>Guidance document on what constitutes a “practical refusal” (under s 24AA) in the ACQSC. Internal policy or procedure setting out consultation process (under s 24AB).</p>	<p>Failure to conduct consultation process or give proper consideration to “practical refusal” may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 24AA</p>	<p>In determining whether a practical refusal reason exists, the ACQSC must have regard to the resources that would be required for:</p> <ul style="list-style-type: none"> • identifying/locating/collating documents within the filing system • making a decision about deferring, refusing or granting access to a document (i.e., examining documents, consulting with any person about the request) • making a copy or edited copy • notifying any interim or final decision about the request <p>The ACQSC must not have regard to:</p> <ul style="list-style-type: none"> • applicant’s reasons for request or what the ACQSC believes the applicant’s reasons are • the amount payable as a charge for processing the request 	<p>As above.</p>	<p>As above.</p>
<p>Section 24AB</p>	<p>In a request consultation process, the ACQSC must give the applicant written notice of:</p> <ul style="list-style-type: none"> • intention to refuse access • the practical reason • a contact in ACQSC and details of how the applicant can make contact <p>The consultation period is 14 days after the day the applicant is given notice</p>	<p>As above.</p>	<p>As above.</p>

	Where an applicant contacts the ACQSC’s contact, the ACQSC must take reasonable steps to assist the applicant revise the request to overcome the practical refusal reason.		
Section 26	<p>Where a decision is made to defer or refuse the request for access, the decision maker shall cause the applicant to be give written notice which:</p> <ul style="list-style-type: none"> states the findings on any material questions of fact; and where the decision is to refuse access to a conditionally exempt document – the public interest reasons for the refusal; and where the decision relates to a document of an agency, the name and designation of the person of the person giving the decision; and appropriate information concerning the applicant’s: <ul style="list-style-type: none"> review rights and how to access the review avenues rights to make a complaint to the Information Commissioner about the decision 	Internal policy or procedure for use in all decision making relating to access requests, setting out relevant legislative requirements.	Failure to comply with legislative requirements and principles of good decision making may result in the ACQSC decision being invalid and/or subject to review.
Section 26A	<p>If the Commonwealth and the State have made arrangements about consultation under this section and a request has been made for a document that:</p> <ul style="list-style-type: none"> originated from or was received from the State or contains State originated information <p>if the ACQSC considers the State may reasonably contend:</p> <ul style="list-style-type: none"> the document is an exempt document; or access to the document would be contrary to public interest <p>the ACQSC must not give the applicant access unless consultation has taken place in accordance with the arrangements and/or the State has exhausted all opportunities for appeal of a decision with respect to the access</p> <p>Where the ACQSC gives the applicant access to the document, it must provide written notice to:</p> <ul style="list-style-type: none"> the Applicant the State <p>State originated information: <i>information that originated with, or was received from, the State or an authority of the State</i></p>	Internal policy or procedure consultation obligations with State governments, including guidance on what may be a “State document” or “State originated information” and notification obligations to the applicant and State.	Failure to consult with the State may result in access being granted to documents that may be exempt or access being contrary to public interest.
Section 27	<p>If the ACQSC receives a request in relation to business information of a person, organisation or undertaking, it must consider the following in determining whether person, organisation or proprietor of the undertaking (person or organisation concerned) may wish to make an exemption contention:</p> <ul style="list-style-type: none"> the extent to which the information is well known the association of the person or organisation concerned with the business information 	<p>Guidance document on what constitutes “business information of a person”.</p> <p>Internal policy and procedure regarding:</p> <ul style="list-style-type: none"> factors to be considered in determining whether an exemption contention may be made by the relevant person or organisation 	<p>Failure to allow a person or organisation be heard may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Failure to comply with legislative requirements and principles of good decision making may result in the ACQSC decision being invalid and/or subject to review.</p>

	<ul style="list-style-type: none"> • availability of information from publicly accessible sources • other matters the agency considers relevant. <p>The ACQSC must not give access unless:</p> <ul style="list-style-type: none"> • the person or organisation concerned is given a reasonable opportunity to make submissions; and • the agency has had regard to the submissions; and • if the person or organisation concerned made submissions, the person or organisation concerned has exhausted all review opportunities in relation to the decision <p>Where the ACQSC gives the applicant access to the document (after all review or appeal opportunities have been exhausted), it must provide written notice to:</p> <ul style="list-style-type: none"> • the applicant • the person or organisation concerned <p>Business information: information about the person’s business or professional affairs or information about the business, commercial or financial affairs of the organisation or undertaking</p>	<ul style="list-style-type: none"> • giving a reasonable opportunity for submissions • notification requirements • access withheld until appeal opportunities exhausted. 	
<p>Section 27A</p>	<p>If the ACQSC receives a request for a document containing personal information about a person, it must consider the following in determining whether the person (or their legal representative) may wish to make an exemption contention:</p> <ul style="list-style-type: none"> • the extent to which the information is well known • the association of the person with the information • availability of information from publicly accessible sources • other matters the agency considers relevant <p>The ACQSC must not give access unless:</p> <ul style="list-style-type: none"> • the person (or their legal representative) is given a reasonable opportunity to make submissions; and • it has had regard to the submissions; and • if the person (or their legal representative made submissions), the person has exhausted all review opportunities in relation to the decision <p>Where the ACQSC gives the applicant access to the document, it must provide written notice to:</p> <ul style="list-style-type: none"> • the applicant • the person concerned 	<p>Guidance document on what constitutes “personal information”.</p> <p>Internal policy and procedure regarding:</p> <ul style="list-style-type: none"> • factors to be considered in determining whether an exemption contention may be made by the relevant person • giving a reasonable opportunity for submissions • notification requirements • access withheld until appeal opportunities exhausted. 	<p>Failure to allow a person to be heard may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Failure to comply with legislative requirements and principles of good decision making may result in the ACQSC’s decision being invalid and/or subject to review.</p>
<p>Section 29</p>	<p>If the ACQSC determines an applicant is liable to pay a charge in respect of a request, it must provide written notice to the applicant stating</p> <ul style="list-style-type: none"> • applicant is liable to pay the charge 	<p>Internal policy or procedure, including reference to the <i>Freedom of Information (Charges) Regulations 2019</i>, notice requirements and matters that must be taken</p>	<p>Failure to comply with written notice requirements may result in a complaint to the Information Commissioner and subsequent</p>

	<ul style="list-style-type: none"> the QSC’s preliminary assessment of the amount and basis applicant can contend the charge is wrong/reduced/ not be imposed the matters the ACQSC must take into account: <ul style="list-style-type: none"> whether payment would cause financial hardship to the applicant whether access is in the greater public interest or in the interest of a substantial part of the public amount of the deposit the applicant is required to pay that the applicant must, within 30 days or another time specified by the ACQSC: <ul style="list-style-type: none"> pay the amount; or provide reasons as to why the charge is wrong/reduced/not be imposed; or withdraw the request if the applicant fails to give the notice within 30 days or the time specified by the agency, the request is taken to be withdrawn <p>The ACQSC must not impose a charge until:</p> <ul style="list-style-type: none"> applicant has notified the ACQSC; or the period for the applicant’s notification has lapsed <p>Where an applicant contends the charge is wrong/reduced/not be imposed, the ACQSC must:</p> <ul style="list-style-type: none"> take all reasonable steps to notify the applicant within 30 days of its decision in relation to the charge <p>Where the applicant notifies the ACQSC that it contends the charge should be reduced/not imposed and the ACQSC rejects the applicant’s contention, it must provide the applicant with written notice of the decision and reasons.</p>	<p>into account for use in all decision making in relation to the imposition of charges.</p> <p>Guidance document on what constitutes “reasonable steps” in relation to notifying an applicant of the decision.</p>	<p>investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Failure to comply with legislative requirements and principles of good decision making may result in the ACQSC decision being invalid and/or subject to review.</p>
<p>Section 47F</p>	<p>In determining whether the disclosure of a document would result in the unreasonable disclosure of personal information, the ACQSC must have regard to:</p> <ul style="list-style-type: none"> the extent to which the information is well known the association of the person with the information availability of information from publicly accessible sources other matters the ACQSC considers relevant 	<p>Internal policy or procedure setting out:</p> <ul style="list-style-type: none"> matters that must be considered under the Act examples of “other matters” that may be relevant <p>in relation to personal privacy exemptions for disclosure.</p>	<p>Failure to comply with legislative requirements and principles of good decision making may result in ACQSC decision being invalid and/or subject to review.</p>
<p>Section 50</p>	<p>Where:</p> <ul style="list-style-type: none"> the ACQSC receives an application for an amendment in relation to personal information; and the ACQSC is satisfied the amendment is warranted 	<p>Guidance material regarding amendments to personal information to ensure the original record is preserved.</p>	<p>Failure to preserve the original text due to carelessness or negligence may result in a complaint to the Information Commissioner and subsequent investigation, or an</p>

	it may make the amendment by altering the document concerned but must, as far as reasonably practicable, ensure the amendment does not obliterate the original text of the record		investigation at the Information Commissioner’s own initiative.
Section 51	<p>Where the ACQSC rejects wholly or partly an application for amendment, the ACQSC must:</p> <ul style="list-style-type: none"> take reasonable steps to enable the applicant to provide a statement about the application/reasons for application; and if the statement is not irrelevant, defamatory or unnecessarily voluminous <p>annotate the document by adding the statement provided by the applicant.</p>	<p>Guidance material as to what constitutes “reasonable steps” and when a statement may be “irrelevant, defamatory or unnecessarily voluminous”.</p> <p>Guidance material regarding amendments to personal information to ensure the original record is preserved.</p>	See above.
Section 51B	Where the ACQSC is satisfied the record of personal information to which the request relates is contained in a document of the ACQSC’s, it must annotate the document by adding the statement provided by the applicant.	See above.	See above
Section 51C	<p>Where:</p> <ul style="list-style-type: none"> the ACQSC receives an application to amend a document the document is related/originated/received from an exempt agency either under Part II or Part III of Schedule 2 of the Act the application is more connected with the functions of the exempt agency as opposed to the agency the application is made to, <p>the ACQSC must transfer the application to:</p> <ul style="list-style-type: none"> for Part II agencies: <ul style="list-style-type: none"> the relevant department pursuant to the AAO; or if the document is related/originated/received from an exempt part of the Department of Defence, that Department for Part III agencies: <ul style="list-style-type: none"> to that agency <p>Where an application is transferred, the ACQSC must:</p> <ul style="list-style-type: none"> inform the person making the application; and if necessary, send the document to the other agency <p>Where an application has been transferred and the ACQSC amends or annotates the document, it must notify the transferring agency of:</p> <ul style="list-style-type: none"> the decision; and any amendment/annotation; and <p>If the transferring agency receives notice of an amendment/annotation, that agency must also make the amendment/annotation in the same manner.</p>	<p>Guidance material on “exempt agencies”.</p> <p>Internal policy or procedure for transferring requests to another agency and informing the applicant.</p>	<p>Failure to inform the applicant of any changes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p> <p>Disclosure of a document that belongs to an exempt agency may have far reaching consequences including in relation to national security.</p>

<p>Section 51D</p>	<p>The ACQSC must take reasonable steps to notify the applicant of a decision to transfer an application within 30 days after the day the request from the applicant is received.</p>	<p>Guidance material on what constitutes “reasonable steps” in relation to notification of a decision.</p> <p>Internal policy or procedure in relation to prescribed timeframes for notification of decisions and</p>	<p>Failure to adhere to prescribed timeframes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 54C</p>	<p>If the ACQSC received an application for internal review of an access refusal or access grant decision, it must:</p> <ul style="list-style-type: none"> • as soon as practicable arrange for a different person to conduct the review; and • make a fresh decision within 30 days of receipt of the application 	<p>Internal policy or procedure relating to procedural aspects of internal review of decisions (for example, a decision making policy or procedure).</p>	<p>Failure to adhere to prescribed timeframes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 54P</p>	<p>Where the ACQSC makes a decision not to give access to a document to which a consultation requirement applies and an Information Commissioner (IC) review application is made, the ACQSC must:</p> <ul style="list-style-type: none"> • take all reasonable steps to notify the affected third party; and • given a copy of the notice to the Information Commissioner. <p><i>IC reviewable decision: access refusal and access grant decisions</i></p>	<p>Guidance material on what constitutes “reasonable steps” in relation to notification of third parties.</p> <p>Internal policy or procedure relating to procedural aspects of reviewable decisions.</p>	<p>Failure to provide notification to third parties and adhere to prescribed timeframes may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 55DA</p>	<p>In an IC review, the ACQSC must use best endeavours to assist the Information Commissioner to make their decision in relation to the review.</p>	<p>The ACQSC should consider whether external assistance would be beneficial in preparing for matters before the Information Commissioner.</p> <p>Internal policy and procedure governing procedural aspects of reviewable decisions.</p>	<p>If the ACQSC’s legal officers are responsible for assisting with IC review’s and do not comply with this obligation, they may be exposed to unsatisfactory professional conduct and result in reputational damage to the ACQSC.</p>
<p>Section 55E</p>	<p>The ACQSC must, within a specified period or 28 days after notice has been given, provide the Information Commissioner and applicant with an adequate statement of reasons.</p>	<p>Internal policy or procedure relating to procedural and substantive aspects of reviewable decisions.</p>	<p>As above.</p>
<p>Section 55G</p>	<p>If the ACQSC varies/sets asides/substitutes an access refusal decision, it must notify the Information Commissioner in writing as soon as practicable.</p>	<p>Internal policy or procedure for communicating decisions to Information Commissioner, including use of template letters to ensure all relevant information is provided.</p> <p><i>Note: ACQSC should consider whether a consultation requirement for third party’s is re-enlivened by a revised decision.</i></p>	<p>Failure to comply with this obligation may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>
<p>Section 55N</p>	<p>The ACQSC must comply with a decision of the Information Commission on an IC review.</p>	<p>Internal policy or procedure relating to implementation action following decisions of the Information Commissioner and appeal avenues and timeframes.</p>	<p>Failure to comply with this obligation may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.</p>

Section 55R	The ACQSC must comply with a notice of the Information Commissioner requesting production of information and/or documents.	Internal policy or procedure for responses to notices to produce.	Non-compliance is an offence punishable by 6 months imprisonment.
Section 55W	The ACQSC must comply with a notice of the Information Commissioner requesting their appearance to answer questions.	Guidance material in the event that ACQSC staff have to appear before the Information Commissioner.	Non-compliance is an offence punishable by 6 months imprisonment.
Section 60AA	Where an application is made to the tribunal for review of a decision not to give access to documents to which a consultation requirements applies, the ACQSC must, as soon as practicable, take all reasonable steps to notify the affected third party of the application to the tribunal.	Guidance material on what constitutes “reasonable steps” in relation to notification of third parties.	Failure to notify a third party may result in a complaint to the Information Commissioner and subsequent investigation, or an investigation at the Information Commissioner’s own initiative.
Section 89	The ACQSC must comply with an implementation notice issued by the Information Commissioner.	Internal policy or procedure relating to implementation action following decisions of the Information Commissioner.	Failure to comply may result in the Information Commissioner providing a report to the minister responsible for ACQSC and this report must be tabled before each house of the Parliament.
Section 93	The ACQSC must: <ul style="list-style-type: none"> • give information that the Information Commissioner requires to prepare its report; and • comply with any requirements prescribed by the regulations in relation to the giving of information and keeping of records. 	Internal policy and procedure which sets out: <ul style="list-style-type: none"> • reporting time periods as set out in the <i>Freedom of Information (Prescribed Authorities, Principal Offices and Annual Report) Regulations 2017</i> • requirement for periodic review of guidelines to ensure the ACQSC record keeping accords with information required by the Information Commissioner. 	Failure to comply may result in reputational damage to ACQSC.

Assurance Audit Process – Cover page
Fringe Benefits Tax Assessment Act 1986

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Fringe Benefits Tax Assessment Act 1986</i>	15 September 2013	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance People and Culture

Assurance Audit Process – Legislative Framework Summary
Fringe Benefits Tax Assessment Act 1986¹

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 39FA	<p>If an employer provides car parking benefits to its employees, the employer may elect that the ‘spaces method’ of calculating car parking fringe benefits) applies to the car parking fringe benefits.</p> <p>If an employer uses the spaces method of calculating car parking fringe benefits, it must specify whether this method applies to:</p> <ul style="list-style-type: none"> • all the employees; or • all employees of a particular class; or • particular employees. 	<p>If the ACQSC provides car parking benefits to its employees, in paying fringe benefits tax on these benefits, it must specify whether it has used the ‘spaces method’ (i.e. number of car parking spaces) to calculate tax for all employees, a class of employees or particular employees.</p>	<p>Under s 167, a breach of the Act that would otherwise constitute an offence is taken not to be an offence if it is committed by a government body.</p> <p>However, there would also reputational consequences for a Commonwealth entity that fails to comply with Commonwealth imposed tax obligations.</p> <p>There may be also financial penalties associated with the failure to meet the Commission’s tax obligations.</p> <p>Further, we note that the Tax Commissioner is required to publish a report on the operation of the Act, including specifically whether there are any breaches or evasions of the supporting Act which makes fringe benefits payable by Commonwealth entities.² Therefore, if the Commission breaches the Act this information will be made known.</p>
Section 66	<p>Tax imposed in respect of the fringe benefits taxable amount of an employer of a year of tax is payable by the employer.³</p>	<p>If the ACQSC provides fringe benefits (benefits or payments other than salaries or wages such as car parking, salary sacrifice arrangements, gym memberships etc) to its employees, then it must pay tax to the Commonwealth on these benefits at a rate of 47%, and otherwise in accordance with the requirements of the Act.</p>	<p>As above.</p>
Section 93, Section 112B	<p>If any of the tax (including additional tax) which a person is liable to pay remains unpaid after the time by which the tax is due to be paid, the person is liable to pay a general interest charge on the unpaid amount.</p>	<p>The ACQSC must pay interest on any unpaid fringe benefits tax.</p>	<p>As above.</p>

¹ Under s 4 of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*, the *Fringe Benefits Act* applies to the Commonwealth as if it were a company.

² *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*, s 8.

³ The *Fringe Benefits Tax Act 1986* sets the tax rate on fringe benefits paid by employers at 47%.

Section 102	An employer is liable to pay 4 instalments of tax in respect of each year of tax.	The ACQSC must pay fringe benefits tax in instalments throughout the year. These instalments are due on (s 103): <ul style="list-style-type: none"> • 21 July; • 21 October; • 21 January; and • 21 April. 	As above.
Section 104	An employer must notify the Commissioner, in the approved form, of the amount of an instalment on or before the day on which the instalment is due and payable.	The ACQSC must notify the Tax Commissioner of the instalment amounts due on or before the date on which the instalments are due.	As above.
Section 112A	If the amount of an instalment is a negative amount, an employer can claim a credit equal to that amount. If an employer wishes to claim a credit, it must make this claim in the approved form after the end of the quarter.	If the ACQSC wishes to obtain a tax credit, it must state this. We note that there is a section on the form “ <i>Fringe benefits tax (FBT) return</i> ” which allows an employer to specify if they wish to claim a credit.	As above.
Section 132(1)	An employer shall: <ul style="list-style-type: none"> • keep records that record and explain all transactions and other acts engaged in by the employer or any other person that are relevant for the purpose of ascertaining the employer’s liability under this Act; and • retain those records, and any records given to the employer under paragraph, for a period of 5 years after the completion of the transactions or acts to which they relate. 	The ACQSC must keep all records that are relevant to fringe benefits tax for at least 5 years.	As above.
Section 132A	An employer must notify the Tax Commissioner in writing within a reasonable time that relevant evidence has not been obtained in situations where it has submitted its tax returns and: <ul style="list-style-type: none"> • a provision of the Act requires documentary evidence before the declaration date for a year; and • at the date of lodgement: <ul style="list-style-type: none"> ○ the employer has not been given, or has not obtained, the documentary evidence; but: ○ the employer has good reason to expect that he or she will be given, or will obtain, that evidence within a reasonable time. 	The ACQSC may submit a tax return without documentary evidence, if it has not yet received this evidence, but expects to obtain it soon. If the ACQSC submits a tax return without the supporting documentary evidence, it must provide it to the Tax Commissioner within a reasonable time, or otherwise notify the Tax Commissioner that it has not been obtained within a reasonable time.	As above.

Assurance Audit Process – Cover page
Government Procurement (Judicial Review) Act 2018

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Government Procurement (Judicial Review) Act 2018</i>	1 September 2021	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Whole of Government policies, frameworks and Codes applicable to the Commission’s functions and activities			
Commonwealth Procurement Rules*	13 June 2023	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance

Note: The Department of Finance produces Resource Management Guides (**RMGs**) that provides guidance to Commonwealth officials on their obligations and compliance with several Commonwealth legislations and policies. We have not included a detailed list of the relevant RMGs, however this is available publicly.

*The Commission should note that the Commonwealth Procurement Rules will be replaced by a new version effective 1 July 2024, which is available here: https://www.finance.gov.au/sites/default/files/2024-06/Commonwealth_Procurement_Rules-1-July-2024.pdf

**Assurance Audit Process – Legislative Framework Summary
Government Procurement (Judicial Review) Act 2018**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 9(1) – Restraining Injunctions	<p>If a relevant Commonwealth entity or an official of a relevant Commonwealth entity engages or is proposing to engage in conduct that contravenes the relevant Commonwealth Procurement Rules (CPRs), on application of a supplier whose interests are affected by the conduct, the Federal Court or the Federal Circuit and Family Court of Australia may grant an injunction:</p> <ul style="list-style-type: none"> • restraining the entity or official from engaging in the conduct; and • requiring the entity or official to do something (if desirable in the court’s opinion) 	<p>The ACQSC should develop a policy or guidance document that sets out a process it follows when there has been:</p> <ul style="list-style-type: none"> • an allegation of a contravention of the CPRs; • a complaint being made under the GPJR Act; or • injunction action being commenced by a Supplier under the Act. <p>This document should further:</p> <ul style="list-style-type: none"> • indicate the relevant teams that can be approached for further advice regarding a contravention or complaint; • provide a list of individuals that have been delegated authority by the Commissioner to investigate a complaint under the Act, prepare a report, discontinue the investigation, and suspend the procurement if a Public Interest Certificate is not in place; • provide a process for issuing a Public Interest Certificate, set out the format of the Public Interest Certificate, and identify the officials that have delegated authority to approve the issuing of a Public Interest Certificate; • provide an approach to investigating a complaint and preparing the relevant report; • provide information on circumstances where an investigation should be discontinued or where a procurement should be suspended; • provide an approach on which teams have responsibility to deal with an injunction application; • provide an approach to calculating compensation in accordance with section 16 of the Act; • and 	<p>If the ACQSC or its officials fail to comply with an injunction, it may be available to the Court to impose appropriate penalties, noting that the powers conferred to the Court under the GPJR Act is in addition to other powers the Court has (section 14 of the GPJR Act).</p> <p>Breaches of the GPJR Act or non-contravention of the CPRs may need to be reported in the Commission’s Annual Report.</p> <p>A failure to comply with the GPJR Act may result in scrutiny by Parliamentary processes such as Parliamentary Committees and Estimates. The Commission’s procurement processes and handling of complaints under the GPJR Act can also be the subject of an audit by the Australian National Audit Office.</p> <p>A procurement impacted by a GPJR Act complaint may need to be suspended or terminated and recommenced. This can limit the Commission’s ability to obtain value for money, delay the services or goods being sought through the procurement activity, and incur additional costs. Where an order to pay compensation to a Supplier has been made, the ACQSC will incur unanticipated costs.</p> <p>Any finding regarding a procurement and the suspension or termination of a procurement may have an impact on the Commission’s reputation. This could cause potential tenderers to lose confidence in the Commission’s procurement processes and in turn lessen competition for future procurement processes undertaken by the Commission. This may then affect the Commission’s ability to achieve value for money outcomes.</p>

		<ul style="list-style-type: none"> be available to all personnel within the Commission. <p>Any induction guide or onboarding training modules for ACQSC personnel that are likely to be involved in procurement activities should contain content specific to the CPRs and set out potential consequences that could result from a contravention of the CPRs including bringing action under the GPJR Act. These induction packs should also include a copy of the policy or guidance document referred to above.</p>	
Section 9(2) – Performance Injunctions	<p>If a relevant Commonwealth entity or an official of a relevant Commonwealth entity:</p> <ul style="list-style-type: none"> refuses/fails or proposes to refuse/fail to do an act or thing; and the refusal or failure contravene or would contravene the relevant CPRs <p>the Federal Court or the Federal Circuit and Family Court of Australia may, on application of a supplier whose interests are affected by the refusal or failure, grant an injunction – requiring the entity or official to do that act or thing.</p>	As above.	As above.
Section 16 – Compensation for a contravention of the relevant Commonwealth Procurement Rules	<p>If a relevant Commonwealth entity or an official of a relevant Commonwealth entity contravenes or proposes to contravene the relevant CPRs, the Federal Court or the Federal Circuit and Family Court of Australia may, on application of a supplier whose interests are affected by the contravention, order the entity to pay the supplier an amount not exceeding the sum of reasonable expenditure incurred by the supplier in:</p> <ul style="list-style-type: none"> preparing a tender for the procurement; and making a complaint to the accountable authority of the entity under s18 of the Act; and making a reasonable attempt to resolve the complaint. 	As above.	As above.
Section 19(1) & (2) – Investigation by accountable authority	<p>If a supplier makes a complaint under s18 of the Act, the accountable authority of the relevant Commonwealth entity must:</p> <ul style="list-style-type: none"> investigate the conduct which is the subject of the complaint; and prepare a report of the investigation. 	As above.	As above.

	<p>The accountable authority may discontinue the investigation where:</p> <ul style="list-style-type: none"> • the complaint is resolved • the complaint is withdrawn • the court finds that the conduct was in contravention/not in contravention of the relevant CPRs 		
Section 19(3) – Investigation by accountable authority	<p>If there are court proceedings in relation to the complaint and continuing the investigation would result in prejudice to the proper administration of justice – the accountable authority must discontinue the investigation.</p>	As above.	As above.
Section 20 – Suspension of procurement	<p>If a supplier makes a complaint under s18 of the Act and no public interest certificate is in force, the accountable authority must suspend the procurement until:</p> <ul style="list-style-type: none"> • the complaint is resolved; • the complaint is withdrawn; • a public interest certificate is issued; • the court finds that the conduct was in contravention/not in contravention of the relevant CPRs. 	As above.	As above.
Section 22 – Public interest certificate	<p>The accountable authority of the Commonwealth entity may issue a written certificate stating that it is not in the public interest for a specified procurement being undertaken by the entity to be suspended while:</p> <ul style="list-style-type: none"> • applications for injunctions under Part 2 are being considered; or • complaints under section 18 are being investigated. 	As above.	As above.

Assurance Audit Process – Cover page
Judiciary Act 1903 and Legal Services Directions 2017

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
Judiciary Act 1903 (Cth)	12 June 2024	5 August 2024	<i>[For the Commission to fill in]</i>	<i>[For the Commission to fill in]</i>
Subordinate legislation				
Legal Services Directions 2017	1 July 2018	5 August 2024	<i>[For the Commission to fill in]</i>	<i>[For the Commission to fill in]</i>

Note: The Department of Finance produces Resource Management Guides (**RMGs**) that provides guidance to Commonwealth officials on their obligations and compliance with several Commonwealth legislations and policies. We have not included a detailed list of the relevant RMGs, however this is available publicly.

Assurance Audit Process – Legislative Framework Summary
Judiciary Act 1903
Legal Services Directions 2017

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Judiciary Act 1903			
55A- Right of barristers and solicitors admitted in federal courts to practise in those courts	A person who has been appropriately admitted to practise as a barrister, solicitor, or both, under this act, is entitled to practise in any federal court as a barrister or solicitor, or both. Therefore, those not appropriately admitted to practice are not entitled to practice in any federal court.	<p>The ACQSC should ensure that the lawyers in their internal legal team are appropriately admitted to practice in accordance with this section, and remain so, OR that the members of the internal legal team that are not admitted to practice are not undertaking duties of an admitted lawyer.</p> <p>This could involve the ACQSC:</p> <ul style="list-style-type: none"> requiring that admission as a lawyer is a requisite qualification for any individual that is employed as a lawyer (with the expectation that law graduates will be supported to be admitted by the ACQSC once they have met the requirements for admission) coordinating renewals of practising certificates for the internal legal team each year; providing a reminder to the internal legal team to complete their requirements for legal practice each year (including the completion of their CPD points); and developing a policy or manual that sets out a clear division of responsibilities between lawyers and support staff within the internal legal team. 	<p>If a member of the internal legal team has provided advice without a current practising certificate, where that advice has not been reviewed or settled by an admitted lawyer, the individual would have committed an offence and can be subject to penalties.</p> <p>Where the ACQSC has acted on advice from an individual without a current practising certificate that has not been either reviewed or settled by an admitted lawyer, it could expose the ACQSC to financial, legal and reputational risks.</p> <p>The ACQSC may consider revisiting any transactions or conduct it has undertaken/performed as a result of advice provided by an individual who is not admitted to practice (where that advice has not been settled or reviewed by an admitted lawyer), and assess whether something can be done to mitigate any of the risks.</p> <p><i>Note: Matters of a procedural nature that are often handled by the internal legal team, such as processing FOI applications, reviewing privacy incidents, handling Public Interest Disclosures, compiling documents for evidence, etc. may be undertaken by an individual that is not admitted as a lawyer. However, any legal advice provided on those matters is subject to the analysis above.</i></p>
55B - Right to practise as barrister or solicitor in federal courts and	A person admitted to practice as a barrister or solicitor in the Supreme Court of a State or Territory, has the right to practice in any federal Court and has a right of audience in State and Territory Courts in the exercise	As per above.	As per above.

<p>courts exercising federal jurisdiction</p>	<p>of federal jurisdictions. Conversely, persons are not entitled to practice as a barrister or solicitor in a federal court unless prerequisites relevant to that State or Territory are met.</p>		
<p>55ZF - Attorney-General may issue directions</p>	<p>The Attorney-General may issue Legal Services Directions that apply to Commonwealth legal work. Commonwealth legal work can include work performed by a person for the Commonwealth, for a statutory body, for a Commonwealth company, or for an entity performing a Commonwealth function.</p>	<p>The ACQSC should ensure that the internal legal team is aware of the Legal Services Directions as issued from time to time. This could involve the ACQSC:</p> <ul style="list-style-type: none"> • developing a policy or manual that discusses the purpose of the Directions and the main requirements within the Directions that applies to the work of the internal legal team; • sending a notification email to the internal legal team informing them of any updates to the Directions, providing a summary of the updates, and a link to the updated version for their reference; and • providing periodic training regarding Legal Services Directions. 	<p>A lack of awareness of the Legal Services Directions can lead to the internal legal team providing legal advice to the ACQSC that is not compliant with the Directions. This can expose the ACQSC to financial, legal and reputational risks. Non-compliance with the Directions could also lead to complaints from the public.</p> <p>Where the ACQSC considers there has been possible or apparent breaches of the Directions, they are required to notify the Attorney-General or Office of Legal Services Coordination (OLSC) and advise of any corrective steps that will be undertaken in response to the breach. The accountable authority for the ACQSC is also required to provide a compliance certificate to OLSC at the end of each financial year.</p> <p>The Attorney-General may also impose sanctions for non-compliance with the Directions (paragraph 14 of the Legal Services Directions).</p>
<p>55ZG - Compliance with Legal Services Directions</p>	<p>Compliance with Legal Services Directions that have been published is mandatory for the bodies listed in the section. This includes the Commonwealth, statutory bodies, Commonwealth companies, and Legal Practitioners and firms representing the Commonwealth or other entities listed or referred to in this section.</p>	<p>The ACQSC should ensure that the internal legal team is providing legal advice that is compliant with the Legal Services Directions as issued from time to time. This could involve the ACQSC developing a policy or manual that provides guidance to the internal legal team on steps that should be undertaken to ensure that they provide legal services in line with the Directions. It would be helpful for the manual to provide references to specific sections of the Directions, where relevant and regular training to build awareness.</p>	<p>As per above.</p>
<p>55ZH - Legal Services Directions and legal professional privilege</p>	<p>Legal Professional Privilege does not create a right not to comply with a Legal Service Direction. Where a breach of Legal Professional Privilege is required by the Legal Services Direction, the person making the breach will be taken, for all purposes, not to have breached Legal Professional Privilege.</p>	<p>As per above.</p>	<p>As per above.</p>

<p>55Z1 - Anything done under Legal Services Directions not actionable</p>	<p>A person is not liable to civil or criminal action against them for compliance with a Legal Services Direction.</p>	<p>The ACQSC should ensure that it remains aware of situations in which the Legal Services Directions may have breached Legal Professional Privilege. This does not require a particular action on the part of the ACQSC. However, it would be useful for members of the internal legal team to be aware of this section in discharging their duties. The ACQSC could consider maintaining a central document or register that can be accessed by anyone from the internal legal team for the purposes of recording situations where compliance with the Directions may have breached Legal Professional Privilege.</p>	<p>N/A</p>
<p>Legal Services Directions 2017</p>			
<p>1.1 - Arrangements for legal services</p>	<p>Arrangements made by a non-corporate Commonwealth entity for the provision of legal services are to ensure the delivery of efficient and effective services.</p>	<p>The ACQSC can develop a guidance manual for the internal legal team (Guidance Manual) providing practical tips on:</p> <ul style="list-style-type: none"> • effective matter management; • what level of clearance is needed for legal matters taking into account the nature of the advice and circumstances; • how and when an external legal service provider should be approached; and • training and engaging with other lawyers within the team to share expertise and knowledge. <p>The ACQSC can also develop a guidance document for the business area to assist them in understanding when and how they should seek advice from the internal legal team. Building this awareness will assist the internal legal team with providing advice to the business area in the most efficient manner.</p>	<p>A lack of awareness of the Legal Services Directions can lead to the internal legal team providing legal advice to the ACQSC that is not compliant with the Directions. This can expose the ACQSC to financial, legal and reputational risks. Non-compliance with the Direction could also lead to complaints from the public.</p> <p>Where the ACQSC considers there has been possible or apparent breaches of the Directions, they are required to notify the Attorney-General or OLSC and advise of any corrective steps that will be undertaken in response to the breach. The accountable authority for the ACQSC is also required to provide a compliance certificate to OLSC at the end of each financial year.</p> <p>The Attorney-General may also impose sanctions for non-compliance with the Directions (paragraph 14 of the Legal Services Directions).</p>
<p>2.1 – Tied Work</p>	<p>Constitutional, Cabinet, national security, public international law and most drafting work undertaken for a non-corporate Commonwealth entity is tied to government providers of legal services, in accordance with the Directions on Tied Areas of Commonwealth Legal Work, at Appendix A.</p>	<p>The Guidance Manual should set out circumstances when a matter will be considered tied work and should be outsourced in accordance with the Legal Services Directions, and who will be responsible for making this decision. The ACQSC can also maintain a register of matters that has been outsourced as it relates to tied work, and who it has been outsourced to.</p>	<p>As above.</p>
<p>3.1 and 3.2 – Reporting on significant issues</p>	<p>A non-corporate Commonwealth entity is to report as soon as possible to the Attorney-General or OLSC on significant issues that arise in the provision of legal services, especially in handling claims and conducting litigation.</p>	<p>The Guidance Manual for the internal legal team should provide information on the reporting of significant issues, including guidance on the reporting process, the process for seeking agreement from the Attorney-General to settle reported claims, and set out circumstances where an issue should be considered significant.</p>	<p>As above.</p>

	A claim that is required to be reported by a non-corporate Commonwealth entity to the Attorney-General or OLSC under paragraph 3.1 is not to be settled without the agreement of the Attorney-General.	The ACQSC can also maintain a register of significant issues including details on whether the issue was reported to the Attorney-General or OLSC.	
4.1 – Entities to comply with instructions from the Attorney-General	A non-corporate Commonwealth entity is to comply with any instructions by the Attorney-General about the handling of claims or the conduct of litigation	<p>The Guidance Manual for the internal legal team should provide information on the handling of claims and conduct of litigation in accordance with any instructions from the Attorney-General and outline the process that should be followed upon receipt of the instructions.</p> <p>The manual should also provide guidance on the general process for handling claims (including monetary claims) and conducting litigation which aligns with the:</p> <ul style="list-style-type: none"> • model litigant obligation; • the obligation to handle claims and litigation in accordance with legal principle and practice; and • Directions on Handling Monetary Claims at Appendix C of the Legal Services Directions. <p>Any guidance on the process for handling and conducting litigation should be supplemented with training and practical examples demonstrating how compliance with the above obligations can be managed in practice.</p>	As above.
4.2 – The Model Litigant Obligation	Claims are to be handled and litigation is to be conducted by the entity in accordance with the “Directions on The Commonwealth’s Obligation to Act as a Model Litigant”, at Appendix B.	As per above.	As above.
4.3 – Acting in accordance with legal principle and practice	Claims are to be handled and litigation is to be conducted by the entity in accordance with legal principle and practice, taking into account the legal rights of the parties and the financial risk to the Commonwealth (including the entity) of pursuing its rights.	As per above.	As above.
4.4 – Handling monetary claims	Monetary claims by and against the Commonwealth or the entity (other than claims that are to be determined under a legislative or contractual mechanism) are to be handled in accordance with the Directions on Handling Monetary Claims, at Appendix C.	As per above.	As above.
4.5 and 4.5A – Disclosure of terms of settlement	The entity is only to agree that the terms of settlement are confidential and cannot be disclosed where this is necessary to protect the Commonwealth’s interests. The entity should consult with the responsible Minister (where practicable) before it agrees to a settlement inhibiting voluntary disclosure to the Parliament or to a Parliamentary Committee.	<p>The Guidance Manual for the internal legal team should provide information:</p> <ul style="list-style-type: none"> • the process for approving and agreeing to settlements; • on whether legal advice is required prior to a settlement being considered; • on confidential terms of settlement and disclosure of terms where required by law, 	As above.

	<p>The entity is to tell the other party to a confidential settlement that disclosure of the settlement may nevertheless be required by law; in particular, to the Parliament or to a Parliamentary Committee which has power to compel disclosure.</p>	<p>including whether a deed of release should be requested.</p> <p>The manual should also include on when terms of settlement should be confidential (e.g. having a list of factors relevant to the determination of when terms of settlement need to be confidential to protect the Commonwealth’s interests), and who will be able to make a decision on confidential settlement terms.</p> <p>The ACQSC can also maintain a register on matters that have been settled and which involves confidential terms of settlement.</p>	
<p>4.6 and 4.6A – Jurisdiction of State and Territory courts and tribunals</p>	<p>An objection on behalf of the Commonwealth to the jurisdiction of a State or Territory court on the basis that it is not a court authorised under section 56 of the <i>Judiciary Act 1903</i> is not to be made by the entity without the approval of the Attorney-General.</p> <p>The Commonwealth or a Commonwealth agency is not to submit, or object, to the jurisdiction of a State or Territory tribunal, unless approval has been given by the Attorney-General for that position to be taken.</p>	<p>The Guidance Manual for the internal legal team should provide guidance on how it may apply for approval from the Attorney-General to submit or object to the jurisdiction of a State or Territory Court.</p> <p>The ACQSC can also maintain a register on matters where the ACQSC has sought approval from the Attorney-General and the outcome of the application.</p>	<p>As above.</p>
<p>4.7 – Entities to receive written legal advice before starting court proceedings</p>	<p>A non-corporate Commonwealth entity is not to start court proceedings unless the entity has received written legal advice from lawyers whom the entity is allowed to use in the proceedings indicating that there are reasonable grounds for starting the proceedings.</p>	<p>The Guidance Manual for the internal legal team should provide information on seeking written legal advice before commencing proceedings. This may include seeking prospects advice.</p> <p>There should also be a separate guidance document made available to the internal legal team which outlines a consistent approach to be adopted by the internal legal team when filing documents for a matter. This guidance document should also provide general guidance on how to navigate the ACQSC’s record management system. This will assist the ACQSC with having a robust record of all written legal advice provided by lawyers relating to proceedings.</p>	<p>As above.</p>
<p>4.9 – Suppression orders</p>	<p>A non-corporate Commonwealth entity that applies for an order to prohibit or restrict the disclosure or publication of evidence or information (a suppression order) in a proceeding:</p> <ul style="list-style-type: none"> • may apply for a suppression order only if it considers suppression of the evidence or information to be reasonably necessary to protect the interests of the Commonwealth; • must not apply for a suppression order only to avoid the disclosure or publication of evidence 	<p>The Guidance Manual for the internal legal team should set out the circumstances in which it would be appropriate for the ACQSC to apply for a suppression order, the relevant Officials who can approve the process, and any advice that might be needed prior to doing so.</p>	<p>As above.</p>

	or information that may be embarrassing to the Commonwealth or Commonwealth agencies.		
5.1 – Use of in-house lawyers for court litigation	A non-corporate Commonwealth entity may only use an in-house lawyer to conduct court litigation as solicitor on the record or as counsel with the approval of the Attorney-General.	The Guidance Manual for the internal legal team should provide information on the availability of using in-house lawyers to conduct court litigation and set out the process for seeking approval from the Attorney-General.	As above.
6.1 and 6.2 – Engagement of counsel	Counsel are to be engaged by or on behalf of a non-corporate Commonwealth entity in accordance with the Directions on Engagement of Counsel, at Appendix D. Briefs to counsel in matters covered by the model litigant policy are to enclose a copy of the Directions on The Commonwealth’s Obligation to Act as a Model Litigant, at Appendix B, and instruct counsel to comply with this obligation.	The Guidance Manual for the internal legal team should provide information on Appendix D and set out a process (which aligns with Appendix D) that should be followed by the team when engaging counsels. Guidance on the process should include a reminder that a copy of the Model Litigant Obligations is to be included in the brief to the counsel with instructions for the counsel to comply with it.	As above.
7 – Public interest immunity	If a request or demand to provide documents or information in the conduct of litigation being handled by a non-corporate Commonwealth entity (litigating entity) could give rise to a claim of immunity on a public interest ground for another non-corporate Commonwealth entity who has administrative responsibility (PII entity), the litigating entity is to refer the decision whether to make the claim to the PII entity or the PII entity’s Minister. Where a claim for public interest immunity is being resisted by another party in litigation, the PII entity is responsible for handling the claim after consultation with the litigating entity – if there is any disagreement, the matter should be referred to the Attorney-General or OLSC.	The Guidance Manual for the internal legal team should provide information on immunity claims, who is able to make an immunity claim, and who will be responsible for handling the claim where there is resistance by another party. A separate document can be developed to provide more detailed guidance on how entities should interact with each other. The ACQSC can also maintain a register recording any matters referred to the Attorney-General or OLSC as a result of a disagreement with handling an immunity claim.	As above.
8.1 and 8.2 – Entities to get approval before waiving or agreeing to extend limitation periods	A defence based on the expiry of an applicable limitation period is to be pleaded by a non-corporate Commonwealth entity, unless approval not to do so is given by the Attorney-General. An application for an extension of a limitation period is to be opposed by the entity unless approval to consent to the application is given by the Attorney-General.	The Guidance Manual for the internal legal team should provide guidance on when it would be appropriate to seek approval from the Attorney-General under this paragraph, and the process for seeking this approval.	As above.
9.1 – Assistance to Commonwealth employees in legal proceedings	Financial assistance to a Commonwealth employee for legal proceedings in which the employee is involved is to be provided in accordance with the Directions on Assistance to Commonwealth Employees for Legal Proceedings, at Appendix E.	The Guidance Manual for the internal legal team should provide information on Appendix E such as the factors that should be considered when assessing whether it would be appropriate to offer financial assistance to a Commonwealth employee involved in legal proceedings, and the appropriate level of assistance to be provided.	As above.

<p>9A.1 – Procurement of legal service providers</p>	<p>The Department must comply with the directions on legal services procurement at Appendix F (of Legal Services Directions 2017) when procuring legal services from external legal services providers.</p>	<p>The Guidance Manual for the internal legal team should state the obligation to comply with Appendix F when procuring legal services from external legal services providers, and outline the relevant requirements in Appendix F such as the matters that should be taken into account when selecting external legal services providers, for example:</p> <ul style="list-style-type: none"> • establishing qualifications and expertise; • establishing pro-bono contribution; • use of any established Panel arrangements; • reporting obligations; and • processes for issuing instructions. 	
<p>10.1 – 10.4 – Consultation and exceptions to consultation requirement</p>	<p>If a non-corporate Commonwealth entity (requesting entity) wishes to obtain legal advice (whether from an in-house or external source) on the interpretation of legislation administered by another non-corporate Commonwealth entity (administering entity), the requesting entity is to consult with the administering entity.</p> <p>The requirement for prior consultation is not required where:</p> <ul style="list-style-type: none"> • advice is needed urgently; • a disclosure constitutes a breach of law; • a cabinet, law enforcement or national security matter would be inappropriately disclosed; • the Attorney General has granted an exemption from the requirement (per section 10.9); and • the advice relates to the application of the law to particular facts by relying on the settled interpretation of the legislation. 	<p>The Guidance Manual for the internal legal team should provide information on conducting consultations with an administering entity regarding an interpretation of legislation administered by that entity. The manual should further set out the circumstances where consultation would not be required.</p> <p>The ACQSC can also prepare a separate document providing guidance on the process of undertaking consultation (including who should be responsible for undertaking the consultation and the process for resolving any disagreements). It would be helpful for the Guidance Manual to include a reference to this document.</p>	<p>As above.</p>
<p>10.5 – Responsibility of administering entity</p>	<p>If an administering entity is consulted, it should carefully consider the advice given to the requesting entity and determine whether the advice indicates an ambiguity or issue with the legislation that should be addressed by remedial action to be taken by the administering entity.</p>	<p>In developing a separate document to provide guidance on the process of undertaking consultation (as referred to above), the ACQSC should also include a process for providing input if it is consulted as the administering entity. This latter process should include a reminder to consider whether there are any issues arising from the advice provided by the requesting entity to the ACQSC which should be addressed by remedial action by the ACQSC.</p>	<p>As above.</p>
<p>10.6 – Resolving disagreements about interpretation of legislation</p>	<p>Any disagreement as to the correct interpretation of the legislation is to be resolved between the requesting entity and the administering entity as far as possible. Issues should be referred to OLSC if further advice is sought from the Solicitor-General to resolve the matter.</p>	<p>The ACQSC should maintain a register recording matters that were referred to OLSC where further advice was sought from the Solicitor-General to resolve the matter.</p> <p>Also refer to above response on paragraphs 10.1 – 10.4.</p>	<p>As above.</p>

<p>10.8 – Sharing of advice generally</p>	<p>If a non-corporate Commonwealth entity receives legal advice that it considers is likely to be significant to other Commonwealth agencies, it is to take reasonable steps to make that advice available to those agencies, subject to paragraph 10.4.</p>	<p>The Guidance Manual for the internal legal team should provide guidance on the process the ACQSC should undertake when sharing advice to other Commonwealth agencies. The ACQSC should also maintain a register recording any advice received by the ACQSC and whether the advice has been shared to other agencies.</p>	
<p>10A.1 – Advice on constitutional law matters</p>	<p>When a non-corporate Commonwealth entity seeks legal constitutional law advice from the AGS it must:</p> <ul style="list-style-type: none"> (a) simultaneously give a copy of the request for advice to the Secretary of the Attorney-General’s Department; or (b) for advice that has been requested orally, as soon as possible confirm it in writing and give a copy of the request for advice to the Secretary of the Attorney-General’s Department. 	<p>The Guidance Manual for the internal legal team should include a reminder to provide relevant copies of legal constitutional law advice from the AGS to the Secretary of the Attorney-General Department.</p>	<p>As above.</p>
<p>11 – Entity responsibility</p>	<p>The accountable authority of a non-corporate Commonwealth entity is responsible for ensuring that:</p> <ul style="list-style-type: none"> • the entity’s arrangements for legal services including litigation matters are handled efficiently and effectively; • appropriate management strategies and practices are adopted to achieve compliance with the Directions; • the entity’s legal services purchasing is appropriately recorded and monitored, and the entity makes publicly available records of its legal services expenditure for the previous financial year; • lawyers providing legal services to the entity are aware of, and are required to assist in ensuring that the entity complies with the Directions; • the entity gives reports as soon as practicable to the Attorney-General or OLSC about any possible/apparent/allegations of breaches of the Directions by the entity and any corrective steps that have been taken/proposed to be taken by the entity; • the entity reports to OLSC about the legal services expenditure and legal work of the entity within 60 days after the end of each financial year; • any matters required to be approved by the Attorney-General are raised promptly; • any other matters of which the Attorney-General or OLSC is required to be informed are notified promptly; 	<p>The ACQSC could prepare a separate guidance document directed to the accountable authority of the ACQSC and any Officials that have been delegated authority outlining all the responsibilities of the accountable authority under paragraph 11 of the Legal Services Directions. This document should also aim to provide guidance on practical steps that could be undertaken by the accountable authority to ensure that all their responsibilities are met. For example, the accountable authority can consider issuing relevant AAs for each set of responsibility under paragraph 11 to ACQSC employees.</p> <p>The relevant AAs and any subordinate Guidance Manual may require its legal staff to:</p> <ul style="list-style-type: none"> • comply with reporting obligations for each matter, including at periodic intervals: monthly, quarterly, and Financial Year end; • adopt matter management processes, which may include use of matter management software to track legal spend and matter progress; • request itemised invoices from external legal services providers; • follow a clear process for engaging external legal service providers that provides value for money, and requires these external legal providers to comply with reporting and compliance requirements. 	<p>As above.</p>

	<ul style="list-style-type: none"> • a certificate to OLSC setting out the extent to which the accountable authority believes there has been compliance by the entity with the Directions within 60 days after the end of each financial year; and • that the entity, when selecting and retaining legal services providers, does not adversely discriminate against legal services providers that have acted, or may act, pro bono for clients in legal proceedings against the Commonwealth or Commonwealth agencies (unless an actual conflict of interest may arise). 		
11A.1 – Third parties	When entering into a contract with a third party that includes a right of subrogation in favour of the third party, a non-corporate Commonwealth entity is required to use best endeavours to ensure the contract includes a provision requiring the third party and its agents – to comply with Appendix B of the Directions and to consult with the entity if paragraphs 2 and 10 of the Directions arises in the course of undertaking the litigation.	The ACQSC should consider developing template contracts that have a standard provision relating to compliance with Appendix B and the need for a consultation. The Guidance Manual for the internal legal team should provide information on when it would be relevant to include such a provision and direction on where a template provision can be found (if any).	As above.
13 – Exemptions from complying with Directions	The Attorney-General may decide that a non-corporate Commonwealth entity is not required to comply with some/all of the Directions or should comply with modified obligations. If such a decision is made, the Attorney-General should notify the entity.	The ACQSC should remain aware of any decision by the Attorney-General regarding compliance with the Legal Service Direction and ensure that any decisions are promptly communicated to the internal legal team to ensure that their processes and any guidance materials are updated to reflect the decision. Records should be maintained of any such approvals.	As above.
Appendix A – 7 and 8 – When to consult with the Office of International Law and Non-tied providers doing tied work are to provide copies of opinions to OLSC	<p>A non-corporate Commonwealth entity should notify the Office of International Law when it requests for advice on a public international law issue from AGS, to provide an opportunity for the Office to express a view on the matter.</p> <p>If a non-tied provider has been approved to do tied work, the opinion or advice should be given to OLSC in an electronically searchable form.</p>	The Guidance Manual for the internal legal team should contain information on the need to notify the Office of International Law, and the need to share advice/opinion with OLSC where a non-tied provider has been approved to do tied work. Appropriate records should be maintained of any such work and communications with OLSC.	As above.
Appendix B – The Commonwealth’s obligation to act as a model litigant	A non-corporate Commonwealth entity has an obligation to act as a model litigant in the conduct of litigation (including a merits review proceedings). This involves acting honestly and fairly in handling claims and litigation brought by or against the Commonwealth. The Commonwealth should only start court proceedings after considering other methods of dispute resolution.	Refer to response above for paragraph 4.2.	As above.
Appendix C – Handling monetary claims	A non-corporate Commonwealth entity should settle monetary claims, where there is the existence of at	Refer to response above for paragraph 4.4.	As above.

	<p>least a meaningful prospect of liability being established, in accordance with legal principle and practice.</p> <p>If a claim cannot be settled for \$100,000 or less, it may only be settled when written advice is received from AGS/an external legal adviser that the settlement is in accordance with legal principle and practice, and the accountable authority of the entity agrees with the settlement.</p>		
Appendix D – Engagement of counsel	<p>A non-corporate Commonwealth entity should select counsels for their skills and competency independently of their gender, and to ensure that arbitrary and prejudicial factors do not operate to exclude the engagement of female barristers or to limit the range of barristers being considered for the brief.</p> <p>Where a counsel does not have an approved rate for performing Commonwealth legal work, the entity should ask OLSC to approve an initial rate.</p>	<p>Refer to response above for paragraph 6.1 and 6.2.</p> <p>Additionally, the Guidance Manual should set out a process for any communications with OLSC.</p>	As above.
Appendix E – Assistance to Commonwealth employees for legal proceedings	<p>A non-corporate Commonwealth entity can approve expenditure to provide assistance to an employee who is a defendant in civil or criminal proceedings where the proceedings arose out of an incident that relates to the employee’s employment with the entity, and the employee acted reasonably and responsibly.</p> <p>Expenditure may also be approved for an employee:</p> <ul style="list-style-type: none"> • to be legally represented in connection with an inquest/inquiry and other related costs; • for the costs of legal representation and other related costs in responding to a subpoena; • to assist them in instituting proceedings in a matter arising from their employment. 	Refer to response above for paragraph 9.1.	As above.
Appendix F – Procurement of Commonwealth legal work	<p>If the Attorney-General’s Department or the Attorney-General launches an inquiry into an entity’s procurement of external legal services, the entity must provide all reasonable assistance in response to the inquiry, including in response to a request for documents or information relating to the procurement.</p> <p>A non-corporate Commonwealth entity should also take into account:</p> <ul style="list-style-type: none"> • the amount and kind of pro bono legal work the provider has undertaken or will undertake; 	Refer to response above for paragraph 9A.1.	As above.

	<ul style="list-style-type: none">• whether the provider has signed up to the National Pro Bono Aspirational Target of the Australian Pro Bono Centre; <p>in deciding whether to use a particular external legal service provider to undertake Commonwealth legal work.</p>		
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Assurance Audit Process – Cover page
Long Service Leave (Commonwealth Employees) Act 1976

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Long Service Leave (Commonwealth Employees) Act 1976</i>	18 October 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

**Assurance Audit Process – Legislative Framework Summary
 Long Service Leave (Commonwealth Employees) Act 1976**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 11(1)	<p>Subject to the Act, the period of service for an employee of ACQSC is the period they have been continuously employed in Government Service.</p> <p>See: section 10 for the meaning of ‘employment in Government Service’.</p>	<p>Ensure the employee’s HR records are kept up to date with the period of Government Service and long service leave entitlements.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential employee claim to Fair Work Ombudsman.</p>
Section 11(2)	<p>If an employee of the ACQSC was previously employed continuously in:</p> <ul style="list-style-type: none"> • any service of a State; • any service of an authority of a State; • the Public Service of a Territory, the ACT teaching service, or the Teaching Service of the Northern Territory; • any service of an authority of the Northern Territory, not being employment at a time when the authority was a public authority of the Commonwealth; • any service of an authority of the Australian Capital Territory, not being employment at a time when the authority was a public authority of the Commonwealth; • any service of an authority established or constituted by or under a law of an external Territory; • the Public Service of the former Territory of Nauru; or • other relevant service; <p>and the period for that employment was continuous with their current ACQSC employment, then for the</p>	<p>Ensure HR keeps a record of any new ACSQC staff that have prior applicable service that would count towards their period of service.</p>	<p>As above.</p>

	purposes of long service leave, that employment counts towards their continuous service.		
Section 11(3)	<p>If an ACQSC employee has been employed:</p> <ul style="list-style-type: none"> • in 2 or more of the services referred to in paragraphs 11(2)(a), (b), (c), (ca), (d), (e) and (f); or • in 1 or more of those services and, at any time prior to his or her current period of employment, in Government Service; <p>and the periods the employee was employed are continuous with one another and with their current employment with ACSQC, then the sum of the employment will be included in their period of service.</p>	As above.	As above.
Section 11(4)	<p>The period of service of an ACQSC employee does not include any period during which:</p> <ul style="list-style-type: none"> • they were or are employed in a qualifying service in an honorary capacity and were not or are not also employed in a qualifying service in some other capacity, not being employment in respect of which they were or are remunerated by fees, allowances or commission only; or • they were or are remunerated in respect of employment in a qualifying service, by fees, allowances or commission only and were not or are not remunerated in respect of other employment in a qualifying service in some other manner 	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act.	As above.
Section 11(5)	<p>“Other relevant service” under s 11(2)(f) includes employment:</p> <ul style="list-style-type: none"> • as a member of the Defence Force; • as a person holding an office, or employed, under the <i>Reserve Bank Act 1959</i> or the <i>Commonwealth Banks Act 1959</i>; or • outside Australia as a person appointed or engaged by the Commonwealth after the commencement of this Act for employment outside Australia only. 	Ensure HR keeps a record of any incoming ACSQC employees that have prior applicable service that would count towards continuous service.	As above.
Section 12(1)	An employee of ACQSC has not broken continuity of service if they take an unapproved absence, unless that absence is more than 12 months. However, this period will not be counted as service.	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and concise employee service records are kept.	As above.

Section 12(2)	An employee of ACQSC has not broken continuity of service if they have been on leave without pay, with pay or with part pay – subject to section 12(3) and (4).	As above.	As above.
Section 12(3)	<p>(Subject to s 12(4)) Where an employee of ACQSC has been absent from their employment on leave of absence without pay (not being leave of absence on account of illness or in respect of a period of specified defence service referred to in s 12(10)) and the period during which they were or are absent would, but for this subsection, be included in their period of service, the period during which they were or are absent on that leave does not form part of their period of service for the purposes of this Act:</p> <ul style="list-style-type: none"> • unless the Commissioner, or the person who granted the leave, determined (otherwise than under this Act), either at the time of the grant or at a later time, that the period of absence be included in the person’s period of service for the purpose of the granting of long service leave; or • unless the Commissioner determines under this Act that the period during which they were or are so absent be included in their period of service for the purposes of this Act. 	As above.	As above.
Section 12(4)	<p>Where an employee is or has been absent from their employment at ACQSC on leave granted for the purpose of enabling them to occupy an executive office as provided in s 12(11):</p> <ul style="list-style-type: none"> • the period of the absence shall be reckoned as part of their period of service for the purpose of determining whether a provision of this Act that applies only to and in relation to employees whose periods of service are at least 1 year or 10 years, as the case may be, applies to and in relation to him or her; and • the person shall be deemed not to have been employed in that service during the period of absence for any other purpose. 	As above.	As above.
Section 12(5)	Where a continuous period of employment of an employee of ACQSC has commenced after, but not more than 12 months after, the expiration of a continuous period of previous employment of the employee in a qualifying service, those periods of	As above.	As above.

	employment shall, for the purposes of this Act, be deemed to be continuous with one another.		
Section 12(6)	<p>For the purposes of s 12(5), where a person, having ceased to be employed in a qualifying service, has undertaken a course of full-time training:</p> <ul style="list-style-type: none"> • under a scheme established by the Commonwealth for the training of persons who have served in the Defence Force; or • under a prescribed training scheme; <p>before resuming employment in a qualifying service, the resumption of their employment in a qualifying service shall be deemed to have occurred not more than 12 months after they ceased to be so employed if the period between his or her ceasing to be so employed and the resumption of that employment, less the period of their course of full-time training under that scheme, does not exceed 12 months.</p>	<p>Ensure HR keeps a record of any incoming ACSQC employees that have prior applicable service that would count towards continuous service.</p> <p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act.</p>	As above.
Section 12(7)	<p>Where a continuous period of employment of a person in a service, being Government Service or a service referred to in paragraph 11(2)(c), (d), (e) or (f), has commenced after, but not immediately after, the expiration of a continuous period of previous employment of the person in such a service, those periods of employment shall, for the purposes of this Act, be deemed to be continuous with one another if the approving authority is satisfied that:</p> <ul style="list-style-type: none"> • the termination of their employment at the expiration of that period of previous employment was due to ill-health; and • the commencement of that first-mentioned period of employment occurred not more than 12 months after their health became so restored as to enable them to perform duties of a kind that were suitable to be performed by them having regard to the duties performed by them immediately before the expiration of that period of previous employment. 	Ensure HR keeps a record of any incoming ACSQC employees that have prior applicable service that would count towards continuous service.	As above.
Section 12(8)	<p>Where:</p> <ul style="list-style-type: none"> • a continuous period of employment of a person in a service, being a service referred to in paragraph 11(2)(a) or (b), has commenced after, 	As above.	As above.

	<p>but not immediately after, the expiration of a continuous period of previous employment of the person in a service, being Government Service or a service referred to in paragraph 11(2)(c), (d), (e) or (f); or</p> <ul style="list-style-type: none"> • a continuous period of employment of a person in a qualifying service has commenced after, but not immediately after, the expiration of a continuous period of previous employment of the person in a service referred to in paragraph 11(2)(a) or (b); <p>those periods of employment referred to in paragraph (a) or (b) of this subsection, whichever is applicable, shall, for the purposes of this Act, be deemed to be continuous with one another if the approving authority is satisfied that:</p> <ul style="list-style-type: none"> • the termination of his or her employment at the expiration of that period of previous employment was due to ill-health; • the person was, due to his or her ill-health, unemployed for a period immediately following the expiration of that period of previous employment; and • the commencement of the period of employment first- mentioned in paragraph (a) or (b), whichever is applicable, occurred not more than 12 months after the expiration of the period of unemployment referred to in paragraph (d). 		
<p>Section 12(9)</p>	<p>An employee of ACQSC shall not be deemed, for the purposes of this Act, to have been employed in a qualifying service during a period that would, but for ss 12(5), (6), (7) or (8), have broken the continuity of their service.</p>	<p>Ensure HR keeps a record of any incoming ACSQC employees that have prior applicable service that would count towards continuous service.</p> <p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act.</p>	<p>As above.</p>
<p>Section 12(10)</p>	<p>For the purposes of s 12(3), an employee of ACQSC shall be taken to have been absent in respect of a period of specified defence service if they were, during that period, serving:</p> <ul style="list-style-type: none"> • on continuous full-time service in the Reserves (within the meaning of the <i>Defence Act 1903</i>); or 	<p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and concise employee service records with regard to an employee’s defence service are kept.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> in a part of the Reserves for such a period as was fixed by or in accordance with regulations in force under the <i>Defence Act 1903</i> as in force at the relevant time; or on national service. 		
Section 12(11)	<p>For the purposes of s 12(4), an employee of ACQSC shall be taken to occupy an executive office if and only if:</p> <ul style="list-style-type: none"> the employee is an officer or employee, within the meaning of the <i>Fair Work (Registered Organisations) Act 2009</i>, of an organisation within the meaning of that Act; or they occupy an office that is a prescribed office for the purposes of this subsection; <p>and they are required to devote the whole of their time to the duties of the office.</p>	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and concise employee service records are kept.	As above.
Section 14(1)	Where the period of service of an employee includes a period of employment in a qualifying service that is wholly or partly concurrent with a period of employment in another qualifying service, ss 14(3), (4) and (5) apply for the purpose of determining the extent (if any) to which each of those periods is to count in ascertaining the period of leave that may at any time be granted to the employee under this Act or the payment that may at any time be made under this Act to or in respect of the employee.	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act.	As above.
Section 14(2)	<p>In applying ss 14(3), (4) and (5) to and in relation to an employee:</p> <p>(a) s14(3) shall, if applicable, be applied before ss 14(4) or (5); and</p> <p>(b) s 14(4) shall, if applicable, be applied before s5(5).</p>	As above.	As above.
Section 14(3)	Where, on the day on which leave is granted to an employee under this Act or an employee ceases to be an employee, the employee is also employed in a qualifying service other than Government Service, so much of their current period of employment in that first-mentioned service as is or was concurrent with any of their employment in Government Service does not count as employment in that first-mentioned service.	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and concise employee service records are kept.	As above.
Section 14(4)	Where a person is or was employed in a qualifying service in a full-time capacity, any employment in a	As above.	As above.

	qualifying service in a part-time capacity that is or was concurrent with that first-mentioned employment does not count as employment in such a service.		
Section 14(5)	Where a person who is or was employed in a qualifying service in a part-time capacity renders or rendered on a day service for a period in accordance with the terms of their employment and the person also renders or rendered service for a further period on that day in accordance with the terms of other employment in a part-time capacity in a qualifying service, their period of employment on that day shall be taken to be a period equal to the sum of those periods.	As above.	As above.
Section 16(1)	Subject to section 17, an employee is not eligible to be granted long service leave unless his or her period of service is at least 10 years.	As above.	As above.
Section 16(4)	<p>Subject to ss 16(5) and (6), where an employee whose period of service is at least 10 years ceases to be an employee otherwise than by death, the ACQSC shall authorize payment to them of an amount equal to:</p> <ul style="list-style-type: none"> • in the case of a category A employee¹—the amount of salary that would be payable to them for a period of service equal to the period of their long service leave credit immediately before they ceases to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of section 21, the rate applicable to them in relation to their long service leave immediately before they cease to be an employee; or • in the case of a category B employee²—the sum of: <ul style="list-style-type: none"> ○ the amount of salary that would be payable to them for a period of service equal to the period of their long service leave credit related to their full-time service immediately before they ceases to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of section 21, the rate applicable to them in relation to their long service leave related to 	Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and leave entitlements are paid to outgoing employees as required under this subsection.	As above.

¹ s 4: **Category A employee** means:

(a) an employee the whole of whose employment that counts as employment in a qualifying service for the purposes of this Act has been employment in a full-time capacity; or
(b) an employee the whole of whose employment that counts as employment in a qualifying service for the purposes of this Act has been employment in a part-time capacity.

² s 4: **Category B employee** means an employee other than a category A employee.

	<p>their full-time service immediately before they cease to be an employee; and</p> <ul style="list-style-type: none"> ○ the amount of salary that would be payable to them for a period of service equal to the period of their long service leave credit related to their part-time service immediately before they cease to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of section 21, the rate applicable to them in relation to their long service leave related to their part-time service immediately before they cease to be an employee. 		
<p>Section 17(2)</p>	<p>Subject to subsections (3) and (4), where an employee whose period of service is less than 10 years but not less than 1 year:</p> <ul style="list-style-type: none"> • ceases to be an employee, otherwise than by reason of their death, on, or subsequent to, their attaining the minimum retiring age; • ceases to be an employee by reason of their retrenchment; or • ceases to be an employee and satisfies the Commissioner that their so ceasing is due to ill health of such a nature as to justify their so ceasing; <p>the Commissioner shall authorize payment to them:</p> <ul style="list-style-type: none"> • (d) in the case of a category A employee—of an amount equal to the amount of salary that would be payable to them for a period of service equal to the period of their long service leave credit immediately before they cease to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of section 21, the rate applicable to them in relation to their long service leave immediately before they ceases to be an employee; or • (e) in the case of a category B employee—of an amount equal to the sum of: <ul style="list-style-type: none"> ○ the amount of salary that would be payable to them in respect of a period of service equal to the period of their long service 	<p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and leave entitlements are paid to specific types of outgoing employees (as described by a-c) as required under this subsection.</p>	<p>As above.</p>

	<p>leave credit related to their full-time service immediately before they cease to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of s 21, the rate applicable to them in relation to their long service leave related to their full-time service immediately before they cease to be an employee; and</p> <ul style="list-style-type: none"> ○ the amount of salary that would be payable to them for a period of service equal to the period of their long service leave credit related to their part-time service immediately before they cease to be an employee if salary were payable to them in respect of that period at the rate that is, by virtue of s 21, the rate applicable to them in relation to their long service leave related to their part-time service immediately before they cease to be an employee. 		
Section 18	For calculation of long service leave credit for ss 16 and 17, refer to the table in the Act.	Ensure the HR Policy in relation to ss 16 and 17 directs the officer to the calculation contained in s 18.	As above.
Section 20(1)	<p>Where a category A employee is granted long service leave under ss 16 or 17 on full salary, ACQSC must pay the employee’s salary in respect of the leave if:</p> <ul style="list-style-type: none"> • the employee has been employed in a full time capacity throughout their period of service: at the rate that their current salary is in respect of that part of the leave; • the employee has been employed in a part-time capacity throughout their period of service, and there has been no change during that period in the number of hours per week that employee worked: at the rate per week that they would be paid otherwise during that period; or • (c) the employee has been employed in a part-time capacity throughout their period of service, but there has been a change during that period in the number of hours per week that they worked: at the rate per week ascertained by multiplying the relevant rate per hour in respect of that part of the leave by a number equal to the prescribed average number of hours of their service. 	Ensure the HR Policy reflects the appropriate rate to pay category A employees during their period of long service leave.	As above.

<p>Section 20(2)</p>	<p>Where a full-time category B employee is granted long service leave under ss 16 or 17 on full salary:</p> <ul style="list-style-type: none"> • salary is payable to the employee in respect of any part of that leave that is granted to them in relation to their full-time service; and • salary is payable to them in respect of any part of that leave that is granted to them in relation to their part-time service—at a weekly rate, being the lesser of: <ul style="list-style-type: none"> ○ the rate that is their current rate of salary per week in respect of that part of the leave; and ○ the rate per week ascertained in accordance with the formula: (ab/c) where: <p>a is the rate that is his or her current rate of salary per week in respect of that part of the leave;</p> <p>b is the prescribed average number of hours of his or her service; and</p> <p>c is the number of hours of service that he or she was, on the relevant day, required by the terms of his or her employment to render during a week.</p> 	<p>Ensure the HR Policy reflects the appropriate rate to pay full time category B employees during their period of long service leave.</p>	<p>As above.</p>
<p>Section 20(3)</p>	<p>Where a part-time category B employee is granted long service leave under ss 16 or 17 on full salary:</p> <ul style="list-style-type: none"> • salary is payable to them at the rate which they would otherwise be paid if not on leave during that period; and • salary is payable to them at the rate per week ascertained by multiplying their relevant rate per hour for that part of their leave, by the average number of hours of their service. 	<p>Ensure the HR Policy reflects the appropriate rate to pay part time category B employees during their period of long service leave.</p>	<p>As above.</p>
<p>Section 21(1)</p>	<p>For ss 16 and 17 where an employee ceases to be an employee, the rate applicable to them in relation to their long service leave immediately before they cease to be an employee is the rate at which full salary would be payable to them in respect of their employment on the day on which they cease to be an employee if (the terminating day) if:</p> <ul style="list-style-type: none"> • they were absent from duty on the terminating day in accordance with a period of long service leave as the case requires, that had been granted to them on full salary to commence on the terminating day; and • on the day immediately before the terminating day they had completed the period of service that they complete on the terminating day. 	<p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act and leave entitlements are paid to outgoing employees as required under this subsection.</p>	<p>As above.</p>

<p>Section 22</p>	<p>Any employee of the ACQSC, including the Commissioner, is not entitled to be paid long service leave benefits under any other legislation.</p>	<p>Ensure HR Policy is kept up to date with the long service leave entitlements as granted under this Act.</p>	<p>As above.</p>
<p>Section 23</p>	<p>When making payments for a deceased employee (with at least 1 year of service) in accordance with ss 16(7) or 17(5), then the Commissioner must have regard to the following.</p> <p>If the deceased has 2 or more dependants, then the Commissioner must have regard to the respective losses of those dependants as a result of the loss of earnings of the employee.</p> <p>If the Commissioner has not authorised a payment/s under ss 16(7) or 17(5), they may authorise payment of an amount equal to the amount referred to in whichever of those subsections is applicable to the legal personal representative of the deceased employee.</p> <p>If the Commissioner has not authorised a payment to a dependant/s of the deceased employee or to the legal personal representative of the deceased employee of an amount equal to the amount referred to in ss 16(7) or 17(5) within 12 months after the death of the employee, then the Commissioner shall authorise payment of that amount to the legal personal representative of the employee.</p> <p>If the person whom money is payable is under a legal disability (e.g. age), then that money can be placed into trust for their benefit (see s 23(4) for detailed information).</p> <p>If an amount payable in relation to a deceased employee would be "unowned property", then this Act does not authorise this payment.</p>	<p>Ensure HR Policy is kept up to date with the long service leave entitlements with respect to deceased employees as granted under this Act.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Maternity Leave (Commonwealth Employees) Act 1973

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Maternity Leave (Commonwealth Employees) Act 1973</i>	1 September 2021	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Maternity Leave (Commonwealth Employees) Act 1973

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 6(1)	<p>Female employees who become pregnant before or during their employment with the ACQSC are entitled to maternity leave, not exceeding 52 weeks commencing from:</p> <ul style="list-style-type: none"> • 6 weeks prior to her due date; or • if confined before that time, from her confinement. • on application, the employee may seek leave for a further period. <p>Once an employee passes those dates, they can take that leave even if they have not formally applied for the leave.</p>	The ACQSC should ensure relevant policies reflect the maternity leave benefits under the Act and that the policy is known and accessible to employees.	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potential employee claim to Fair Work Ombudsman.</p>
Section 6(2)	If a pregnancy ends by termination, other than by way of confinement, the employee is not entitled to maternity leave, even if that leave was already approved.	As above.	As above.
Section 6(3)	<p>Subject to sections 6(4), (4C) and (4F) of the Act, an employee who has been confined and is taking leave in accordance with section 6, the employee is entitled to pay:</p> <ul style="list-style-type: none"> • in a case where the period of absence, or the sum of the periods of absence, exceeds 12 weeks—for the first 12 weeks of that absence; and • in any other case—for the whole of that absence. 	As above.	As above.
Section 6(4)	An employee is not entitled to maternity pay for leave that occurs before or after the continuous period.	As above.	As above.
Section 6(4C)	If an employee is absent from duty on an unauthorised absence immediately before the commencement of their maternity leave the provisions of the Act do not apply to her in connection with her confinement, she will absent herself from duty, however is not entitled to pay, and the unauthorised absence is continuous through the “maternity leave”.	The ACQSC should ensure relevant policies reflect the maternity leave benefits for employees, specifically in relation to “unauthorised absences” and the option for the ACQSC to exempt employees in extenuating circumstances.	As above.

	<p>If the employee’s “unauthorised absence” is in accordance with s 6(1), it is not an “unauthorised absence”. This section does not affect an employee’s entitlement to pay for any period of long service leave, annual leave or sick leave.</p> <p>The Commissioner may determine that the “unauthorised absence” occurs in extenuating circumstances and exempt an employee from this section.</p>	<p>The ACQSC could consider preparing guidance material on what may constitute an “extenuating circumstance” for the purposes of the Act.</p>	
Section 6(4E)	<p>If a female employee has been granted leave without pay and becomes pregnant before or after the commencement of that leave, her leave without pay during any part of the period of 52 weeks (in accordance with s 6(1)) is deemed to be absence from duty in accordance with permission granted under s 6(1).</p>	<p>Ensure HR policy is updated to reflect the maternity leave benefits for employees.</p>	<p>As above.</p>
Section 6(5)	<p>If an employee is entitled to pay under s 6(3), then that employee shall receive the full pay that they would have received if, for that period, they were granted a leave of absence on full pay on account of illness.</p>	<p>As above</p>	<p>As above.</p>
Section 6(7)	<p>If the employee has been granted leave under s 6(1) and applies for a period of leave with any kind of pay during the whole or part of that period (excluding a period during they are eligible for pay under s 6(3)), then that leave will be granted.</p>	<p>As above.</p>	<p>As above.</p>
Section 7(1)	<p>A female employee may provide to the leave officer a medical certificate confirming they will be fit for duty until a specified date. The leave officer may give written permission for the employee to continue to work until that date.</p> <p>This must be provided not less than 6 weeks before the expected due date or on or before she was last given permission to work until, under this subsection.</p>	<p>Ensure HR policy is updated to reflect the maternity leave benefits for employees and medical certificates are sought for any employees who intend to work beyond 6 weeks prior to their due date, or otherwise in accordance with this subsection.</p>	<p>As above.</p>
Section 7A	<p>An employee who is granted maternity leave under s 6(1) may seek, in writing, to return to work early. Within 7 business days, the leave officer must determine to grant or refuse that request and advise the employee in writing of the decision.</p> <p>The date of return must not be within 7 business days of the request, unless there are special circumstances justifying the request.</p> <p>If the leave officer refuses to grant an application to return to work early, and the application was received</p>	<p>Ensure HR policy is updated to reflect the process and requirements surrounding employees who request to return to work early.</p>	<p>As above.</p>

	<p>not less than 21 business days before the proposed return to work date, then the leave officer must particularise to the employee the grounds on which it would not be in the interests of the ACQSC for them to resume work. Within 7 days, the employee may request the Commissioner to review that decision and particularise any matters they wish for the Commissioner to consider in their review.</p> <p>The Commissioner must affirm or quash that decision and advise the employee of that decision in writing within 7 days of receipt.</p> <p>The application to return to work must be granted (either by the leave officer or the commissioner), unless it would not be in the interests of the ACQSC to grant that application.</p>		
<p>Section 7B</p>	<p>If an employee is absent from duty for a period in accordance with s 6 and has been paid in respect of the period, or part of the period, the period for which she was paid forms part of her period of service or employment for the purposes of this, or any other Act.</p> <p>If an employee is absent from duty for a period in accordance with s 6 and has <u>not</u> been paid in respect of that period, or part of that period, the period for which she was not paid does not form part of her period of service or employment for the purposes of this, or any other Act. However, this unpaid absence does not break her continuity of service.</p> <p>If an employee was not employed for a continuous period of 12 months prior to her confinement, and is absent in accordance with s 6, then the period of absence or the first 12 weeks of that period (the lesser amount) forms part of her period of service or employment for the purposes of this, or any other Act.</p>	<p>Ensure HR policy is updated to reflect the maternity leave benefits for employees.</p>	<p>As above.</p>
<p>Section 9</p>	<p>If a temporary employee is absent from work in accordance with s 6, her employment will not terminate while she is absent.</p> <p>If, on return to work, that employment is terminated or notice of termination is provided, and that woman then applies to the ACQSC for employment in a temporary capacity, the ACQSC must give preference to her over all other persons (other than another women this</p>	<p>Ensure HR policy is updated to reflect the maternity leave benefits for temporary employees.</p>	<p>As above.</p>

	section applies to) for employment on work for which she is qualified.		
Section 10	The ACQSC must not discriminate against possible or actual pregnancy of a women in refusal of employment or dismissal of employment.	<p>The ACQSC should ensure its employees understand what constitutes discrimination against actual or possible pregnancy and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of inclusive hiring policies and procedures • Regular training and information sessions to promote awareness (amongst broader discrimination training) • Education about indirect and direct • Ensuring HR, managers and supervisors have independent training which outlines what can and cannot be considered when recruiting prospective employees. 	<p>Potential legal ramifications from discriminatory hiring or termination practices, including discrimination complaints and unfair dismissal applications to the Fair Work Commission.</p> <p>The potential legal ramifications may also lead to reputational damage of the ACQSC.</p>

Assurance Audit Process – Cover page
National Anti-Corruption Commission Act 2022

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>National Anti-Corruption Commission Act 2022</i>	31 May 2024	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Legal Services

Assurance Audit Process – Legislative Framework Summary
National Anti-Corruption Commission Act 2022

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 33	<p>An agency head who becomes aware of a corruption issue must refer the issue to the National Anti-Corruption Commissioner if:</p> <ul style="list-style-type: none"> • the issue concerns the conduct of a person who is, or was, a staff member of the agency while that person is, or was, a staff member; and • the agency head suspects that the issue could involve corrupt conduct that is serious or systemic. <p>The referral must state the reasons why the agency head suspects that the issue could involve corrupt conduct that is serious or systemic.</p>	<p>Ensuring the agency head (the Commissioner) has a procedure in place within the ACQSC to refer corruption issues to the NACC, as soon as reasonably practicable.</p> <p>The procedure should explain that the Commissioner must explain why they suspect the corruption issue could involve conduct that is serious or systemic and that they must also provide the NACC with all information or documents relating to the issue.</p>	<p>The NACC will not be able to investigate a corruption issue if the matter has not been referred to the NACC for consideration.</p> <p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>If there is non-compliance with the mandatory referral obligations, the corrupt conduct may continue and/ or the ACQSC may likely be subject to corruption risks and vulnerabilities. This may also raise potential reputational risks for the ACQSC.</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions.</p>
Section 35(2)	<p>(Applies if a PID officer in performing functions or powers under Division 1 or 2 of Part 3 of the PID Act becomes aware of a corruption issue that concerns a current or previous staff member or could involve corrupt conduct that is serious or systemic).</p> <p>The PID officer must refer the corruption issue to:</p> <ul style="list-style-type: none"> • in the case of a Commonwealth agency other than an intelligence agency—the National Anti-Corruption Commissioner; or • in the case of an intelligence agency—the IGIS or the National Anti-Corruption Commissioner. 	<p>Ensuring the ACQSC’s PID procedure includes information when a corruption issue must be referred to the NACC.</p> <p>Ensuring that public officials with responsibilities under the PID Act understand what a corruption issue is and/ or corrupt conduct.</p> <p>Considering training for public officials who have responsibilities under the PID Act to ensure they have understanding of this obligation.</p>	As above.
Section 35(5)	<p>If the PID officer became aware of the corruption issue as a result of an internal disclosure made under the PID Act, the PID officer must, as soon as reasonably</p>	As above.	As above.

	practicable, notify the discloser of the PID officer’s referral of the issue under this section.		
Section 38(1), section 38(2) and section 38(3)	<p>A person who is required to refer a corruption issue under Division 2 of Part 5 of the NACC Act must:</p> <ul style="list-style-type: none"> do so as soon as reasonably practicable after becoming aware of the issue or within such later time as is allowed by the National Anti-Corruption Commissioner; include with the referral all information relevant to the issue that is in the person’s possession or control at the time the referral is made; if the person becomes aware of any further information that is relevant to the issue, give the further information to the recipient of the referral as soon as possible. 	As above.	As above.
Section 44(2)	<p>(Applies if despite any direction given by the National Anti-Corruption Commissioner, action in s 44(1) can be taken without permission)</p> <p>If action is taken relying on s 44(1), the agency head must:</p> <ul style="list-style-type: none"> as soon as practicable, but no later than 48 hours after the action is taken, provide details of the action to the National Anti-Corruption Commissioner; and take reasonable steps to: <ul style="list-style-type: none"> ensure that the action does not prejudice the investigation of a corruption issue or any other NACC Act process; and preserve evidence that is, or could be, relevant for the purposes of conducting a NACC Act process. 	<p>Ensuring that ACQSC is aware of the action that can be taken by the ACQSC without permission (in circumstances where the National Anti-Corruption Commissioner has given a direction under s 43(1)).</p> <p>Ensuring the ACQSC has a process in place to provide details of the action to the National Anti-Corruption Commissioner, as soon as practicable (but no later than 48 hours after action is taken).</p>	<p>No civil penalty or offence provision attached to this section however, reputational risks may be associated with non-compliance.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>
Section 51(3)	<p>(Applies if the National Anti-Corruption Commissioner gives the agency directions about the planning and conduct of an investigation)</p> <p>The agency head must ensure the agency follows the National Anti-Corruption Commissioner’s directions.</p>	Ensuring the Commissioner is provided information about this obligation, should a direction by the National Anti-Corruption Commissioner be given.	As above.

<p>Section 54(2)</p>	<p>(Applies if the National Anti-Corruption Commissioner requires the agency head to prepare a completion report)</p> <p>The agency head must comply with the request.</p>	<p>Ensuring the Commissioner is provided information about a completion report and what this entails, should the National Anti-Corruption Commissioner require a completion report.</p>	<p>As above.</p>
<p>Section 57(4)</p>	<p>(Applies if a direction is given by the National Anti-Corruption Commissioner under s 57)</p> <p>The agency head must comply with the request as soon as practicable.</p>	<p>Ensuring the Commissioner is provided information as to how to respond to a direction to provide information or documents.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Paid Parental Leave Act 2010
Paid Parental Leave Rules 2021

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Paid Parental Leave Act 2010</i>	26 March 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture Information and Records Management Governance & Risk, Finance
Subordinate legislation				
<i>Paid Parental Leave Rules 2021</i>	21 June 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture Information and Records Management Governance & Risk, Finance

Assurance Audit Process – Legislative Framework Summary
Paid Parental Leave Act 2010
Paid Parental Leave Rules 2021

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<i>Paid Parental Leave Act 2010</i>			
Section 63	Parental leave pay must be paid to a person in instalments.	The ACQSC need to ensure its payroll processes and/or software systems account for the requirement to pay parental leave by instalments.	Internal complaints from affected persons.
Section 64	<p>If the ACQSC is paying the person’s instalment, and the person has a regular pay period:</p> <ul style="list-style-type: none"> the instalment period is each regular period the person worked; and pay day is the usual day the person would be paid for the instalment period <p>If the ACQSC is paying the person’s instalment and the person does not have a regular pay period:</p> <ul style="list-style-type: none"> the instalment period is each calendar month; and pay day is the first day after the relevant instalment period 	<p>The ACQSC should ensure information about the person’s regular pay period is accessible to the payroll team and able to be incorporated into any payroll software.</p> <p><i>Note – we understand the payroll team may already have access to this information by way of previous payslips, employment contract etc.</i></p>	Internal complaints from affected persons.
Section 69	The ACQSC may deduct an amount from an instalment payable to a person if it is required to deduct the amount under section 46 or 72A of the <i>Child Support (Registration and Collection) Act 1988</i> .	<p>The ACQSC could consider preparing:</p> <ul style="list-style-type: none"> guidance material for the payroll team on what constitutes an allowable deduction for the purposes of the Act internal procedure for steps to be taken if a notice is provided to the ACQSC under the <i>Child Support (Registration and Collection) Act 1988</i>. 	
Section 70	<p>The ACQSC must not deduct from an instalment amount except as authorised by:</p> <ul style="list-style-type: none"> the relevant person (in writing, specifying the amount of the deduction and can be withdrawn at any time) for PAYG withholding; and section 46 or 72A of the <i>Child Support (Registration and Collection) Act 1988</i> 	As above	<p>The Fair Work Ombudsman can issue ACQSC with a compliance notice.</p> <p>Infringement notice issued under Part 5 of the Regulatory Powers Act.</p> <p>Civil penalty provision – 60 penalty units.</p>

<p>Section 72(1)</p>	<p>If:</p> <ul style="list-style-type: none"> • an instalment is payable to a person; and • an employer determination is in force and is applicable to the ACQSC and person; and • as at the payroll cut-off date for the instalment, the ACQSC has been paid enough to fund the instalment <p>the ACQSC must pay the instalment to a person.</p>	<p>The ACQSC should ensure payroll cut off periods are known to employees responsible for making PPL payments.</p> <p>The ACQSC could consider preparing an internal policy or procedure for actioning an employer determination (if the ACQSC does not intend to review the determination), including:</p> <ul style="list-style-type: none"> • being ready to confirm information about the ACQSC with Services Australia • consider setting up different Payment Destinations if there is more than one employee getting PPL 	<p>The Fair Work Ombudsman can issue ACQSC with a compliance notice.</p> <p>Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 60 penalty units</p>
<p>Section 72(2)</p>	<p>If:</p> <ul style="list-style-type: none"> • the ACQSC is required to pay an instalment for a child after the start of the person’s continuous flexible period for that child; and • an earlier instalment is taken to have become payable to the person under s 91 of the Act; and • the ACQSC has been paid enough to fund the earlier instalment at the payroll cut-off date <p>the ACQSC must pay the earlier instalment on the payday.</p> <p>Continuous flexible period for the child is the period that:</p> <p>starts on the first day in the relevant period; and ends on the earlier of the following days:</p> <ul style="list-style-type: none"> • the last day in the relevant period; • the day before the child’s first birthday 	<p>The ACQSC could consider preparing guidance material on the <i>continuous flexible period</i> to ensure the payroll work unit</p> <p>The ACQSC should ensure there is a process for reviewing payment advice sent by Services Australia to check the correct funds have been deposited.</p>	<p>Internal complaints from affected persons. The Fair Work Ombudsman can issue ACQSC with a compliance notice. Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 60 penalty units.</p>
<p>Section 74</p>	<p>The ACQSC must pay an instalment in money by one or several of the following methods:</p> <ul style="list-style-type: none"> • cash • cheque, money order, postal order or similar order to the person • electronic funds transfer system to the person’s account. 	<p>The ACQSC should ensure current payroll processes allow for payment of the kinds permitted in the Act.</p>	<p>Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 60 penalty units.</p>
<p>Section 80</p>	<p>After paying an instalment to a person, the ACQSC must give the person the information prescribed in the PPL rules and in the prescribed form before the end of the next working day.</p>	<p>The ACQSC could consider preparing an internal procedure setting out the prescribed information and should utilise template letters to ensure the correct information is provided to the employee within the prescribed time – before the end of the next working day.</p>	<p>The Fair Work Ombudsman can issue ACQSC with a compliance notice. Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 30 penalty units</p>

<p>Section 81</p>	<p>Where an employer determination applies to the person, the ACQSC must:</p> <ul style="list-style-type: none"> • make and keep the records prescribed by the PPL Rules; • keep the records for 7 years 	<p>The ACQSC should consider its current records management frameworks and existing policies to determine whether these obligations are clearly set out.</p> <p>The ACQSC will have other record keeping obligations under the <i>Archives Act 1983</i>, <i>Freedom of Information Act 1982</i>, and <i>Financial Management and Accountability Act 1997</i>.</p> <p>Consider whether current training covers some or any of the above frameworks and whether additional training should be added for certain work units – for example, information and records management and people and culture/legal services.</p>	<p>The Fair Work Ombudsman can issue ACQSC with a compliance notice.</p> <p>Infringement notice issued under Part 5 of the Regulatory Powers Act.</p> <p>Civil penalty provision – 30 penalty units</p>
<p>Section 82</p>	<p>Where the Secretary makes an employer determination applicable to the person and the ACQSC, the ACQSC must notify the Secretary if any of the following occurs:</p> <ul style="list-style-type: none"> • the ACQSC bank account information changes; • the person’s instalment period changes; • the day on which the person would usually be paid in relation to the person’s performance of work for instalment periods for the person changes; • the payroll cut-off for instalments payable to the person changes; • the ACQSC ceases or is likely to cease to carry on a business; • the person performs more than one hour of paid work for the ACQSC at any time during the person’s continuous flexible period for the child; • the person ceases to be employed by the ACQSC before the end of the person’s continuous flexible period for the child; • the person is not paid an instalment the ACQSC is required to pay to the person; • the ACQSC is not paid enough to fund a particular instalment for the person as at the payroll cut-off for the instalment; • if the Secretary has agreed to pay a particular PPL funding amount to the employer—the ACQSC is not paid the PPL funding amount as agreed; • in any case—a PPL funding amount paid to the ACQSC is more than the sum of the amounts of the instalments payable to the person for the days for which the PPL funding amount has been paid; 	<p>The ACQSC could consider preparing an internal procedure which comprehensively sets out the events that require notification to the Secretary.</p> <p>A work unit within the ACQSC should be definitively tasked with this obligation to ensure any updates can be prepared within the prescribed time.</p> <p>The use of templates will help ensure information is provided in the prescribed form.</p>	<p>Infringement notice issued under Part 5 of the Regulatory Powers Act.</p> <p>Civil penalty provision – 60 penalty units.</p>

	<ul style="list-style-type: none"> the sum of the PPL funding amounts paid to the ACQSC for the person is more than the sum of the amounts of the instalments that are payable by the ACQSC to the person. <p>The notice must be:</p> <ul style="list-style-type: none"> given as soon as practicable after the ACQSC becomes aware of the event; or if the ACQSC is ceasing or likely to cease to carry on, not more than 30 days before; and in the form prescribed by the Secretary. 		
Section 95	<p>If:</p> <ul style="list-style-type: none"> the ACQSC is required to pay an instalment to the person on the payday for an instalment for a later instalment period; and the later instalment is not payable by the ACQSC <p>The ACQSC must pay that instalment on the payday that would have been for the later instalment if it was payable.</p> <p><i>Note – if the instalment cannot be paid that day, the payment should be made as soon as reasonably practicable after that day.</i></p>	The ACQSC should ensure its payroll processes and/or software systems can make out of cycle payments to account for this obligation.	Internal complaint by affected persons.
Section 103	<p>If ACQSC receives a notice form the Secretary of an employer determination, ACQSC must:</p> <ul style="list-style-type: none"> Give the Secretary notice (Acceptance Notice); or Apply for a review of the employer determination within 14 days of receipt. 	<p>A work unit within ACQSC should be definitively tasked with this obligation to ensure the prescribed time frames are met.</p> <p>The AQSC should consider preparing a template for the acceptance of employer determinations which includes the prescribed information under the Act.</p>	<p>Infringement notice issued under Part 5 of the Regulatory Powers Act</p> <p>Civil penalty provision – 60 penalty units</p>
Section 104	<p>The Acceptance Notice must contain the following:</p> <ul style="list-style-type: none"> Declaration of ACQSC’s acceptance of the obligation to pay instalments to the person ACQSC’s bank account information to which PPL funding amounts to be paid Pay cycle information for the person Any other information the PPL rules prescribed 	As above.	<p>Failure to provide an Acceptance Notice with the prescribed information may result in the notice being deemed invalid or not accepted by the Secretary. This could lead to an infringement notice or civil penalty provision as the acceptance is required to be provided within 14 days of receipt (see above).</p>
Section 105	<p>If a Secretary provides notice to the ACQSC under section 105 of the Act, the ACQSC must provide following information to the Secretary within 14 days of the date of the notice:</p> <ul style="list-style-type: none"> the ACQSC’s bank account information the pay cycle information for the person any other information prescribed by PPL rules 	As above.	<p>Infringement notice issued under Part 5 of the Regulatory Powers Act.</p> <p>Civil penalty provision – 60 penalty units.</p>

<p>Section 109</p>	<p>If the ACQSC elects to pay instalments to one or more employees, the ACQSC must give notice to the Secretary. The notice must:</p> <ul style="list-style-type: none"> • Be in the approved form; and • Contain the ACQSC’s bank account information 	<p>As above.</p>	<p>Failure to provide the election notice with the prescribed information may result in the notice being deemed invalid or not accepted by the Secretary. This could lead to ACQSC conducting the scheme in a manner that the Secretary is not aware of.</p>
<p>Section 122</p>	<p>The ACQSC must comply with a notice from the Secretary under sections 117 and 118 of the Act to give information or produce documents. <i>Note – section 117(1)(d) is exempt from this provision as it deals with bank account information.</i></p>	<p>A work unit within the ACQSC should be definitively tasked with this obligation to ensure the requested information is provided in accordance with the notice from the Secretary.</p> <p>The FOI and Privacy work unit would be well placed to deal with these types of notices.</p>	<p>If the ACQSC refuses to comply with a notice from the Secretary containing a requirement to give information or produce documents without a reasonable excuse, the penalty is imprisonment for 6 months.</p>
<p>Section 207</p>	<p>If the ACQSC requests a review of an employer determination that relates to the ACQSC, the application for review must:</p> <ul style="list-style-type: none"> • specify the condition or conditions that the employer believes are not satisfied; and • if relevant - state whether the employer believes that an election under section 109 applies to the person; and • be signed by a person authorised by the ACQSC; and • be accompanied by: <ul style="list-style-type: none"> ○ documentary evidence supporting the application; or ○ if the applicant is unable to provide documentary evidence—a statutory declaration supporting the application <p>and be made within 14 days of receipt of the employer determination from the Secretary.</p>	<p>The ACQSC should consider preparing an internal procedure setting out the requirements for submitting an application for review including the relevant time period and the work unit responsible for reviewing/clearing the application.</p> <p>A template application could be prepared to ensure consistency across the ACQSC in applications for review of this nature.</p> <p>The ACQSC should ensure there is a clear role that is responsible for signing applications, and/or an appropriate delegation instrument is in effect.</p>	<p>The ACQSC may lose its opportunity to challenge an employer determination if an application is not filed within the prescribed time period or signed by a person with the appropriate authorisation.</p>
<p>Section 208</p>	<p>If the ACQSC requests a review of a funding amount decision, the application for review must:</p> <ul style="list-style-type: none"> • be signed by a person authorised by the ACQSC; and • made within 14 days after the second payroll cut-off for the instalment for the person. 	<p>As above.</p>	<p>As above.</p>
<p>Section 224</p>	<p>Applications to the AAT for review of a reviewable employer decision must:</p> <ul style="list-style-type: none"> • must be made in writing; and • must be accompanied by a statutory declaration verifying the application; and • if the application is for review of an employer determination decision—must: <ul style="list-style-type: none"> ○ specify the condition or conditions that the employer believes are not satisfied; and 	<p>As above.</p>	<p>The ACQSC may lose its opportunity to apply for an AAT review if an application is not filed within the prescribed time.</p>

	<ul style="list-style-type: none"> ○ if relevant—state whether the employer believes that an election under section 109 applies to the person. <p>The application must be made within 14 days from the day the reviewable employer decision was made.</p>		
<i>Paid Parental Leave Rules 2021</i>			
Section 32	<p>After paying on or more instalments, the ACQSC must give the following information in a prescribed form to the person:</p> <ul style="list-style-type: none"> • the ACQSC’s name and ABN; • the person’s name; • the period or periods to which the PPL payment relates; • the date the PPL payment was paid; • the gross amount of the PPL payment, as determined excluding any deductions by the Secretary under Part 3-1 of the Act, and a statement identifying that amount as parental leave pay; • if no other payments are made by the ACQSC to the person on that day for the period or periods; • the net amount of the PPL payment; and • the amount withheld from the PPL payment under section 12-110 in Schedule 1 to the <i>Taxation Administration Act 1953</i>; • if other payments are made by the ACQSC to the person on that day for the period or periods in addition to the PPL payment: <ul style="list-style-type: none"> ○ the total net amount paid to the for the period or periods; and ○ the total amount withheld from payments to the person for the period or periods under Part 2-5 in Schedule 1 to the <i>Taxation Administration Act 1953</i>; • if the ACQSC has deducted one or more amounts from the PPL payment under section 67 or 69 of the Act—for each deduction: <ul style="list-style-type: none"> ○ the amount deducted; and ○ if the amount deducted has been or will be paid to an entity, or into an account of that entity—the name of that entity and, if applicable, the details of that account. 	<p>The ACQSC should review its current payslips or separate written advice (whether in written or electronic form) to ensure prescribed information is included in each record of payment.</p> <p>Section 32(3) of the Rules outlines the prescribed form.</p>	<p>Internal complaints from affected persons. The Fair Work Ombudsman can issue ACQSC with a compliance notice. Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 30 penalty units</p>

<p>Section 33</p>	<p>A record required to be made and kept by the ACQSC under s 81 of the Act (see above) must be:</p> <ul style="list-style-type: none"> • in the English language; and • legible; and • readily accessible by the Secretary and any authorised delegates and the Fair Work Ombudsman. <p>The information prescribed is as follows:</p> <ul style="list-style-type: none"> • the name of the person to whom the record relates • for each PPL funding amount the ACQSC receives for a person: <ul style="list-style-type: none"> ○ the amount received; and ○ the flexible PPL days for a child of the person for which the PPL funding amount was paid • for each PPL payment by the ACQSC to a person on a day: <ul style="list-style-type: none"> ○ the date the PPL payment was paid; and ○ the period or periods to which the PPL payment relates; and ○ the gross amount of the PPL payment, as determined excluding any deductions by the Secretary under Part 3-1 of the Act, and a statement identifying that amount as parental leave pay; and ○ if no other payments are made by the employer to the person on that day for the period or periods: <ul style="list-style-type: none"> ○ the net amount of the PPL payment; and ○ the amount withheld from the PPL payment under section 12-110 in Schedule 1 to the Taxation Administration Act 1953; and ○ if other payments in addition to the PPL payment are made by the employer to the person on that day for the period or periods: <ul style="list-style-type: none"> ○ the total net amount paid to the person for the period or periods; and ○ the total amount withheld from payments to the person for the period or periods under Part 2-5 in Schedule 1 to the Taxation Administration Act 1953; and ○ the total of any amounts deducted from the PPL payment under section 67 or 69 of the Act. 	<p>The ACQSC should consider its current record management frameworks and existing policies to determine whether these obligations are clear.</p> <p>The ACQSC will have other record keeping obligations under the <i>Archives Act 1983</i>, <i>Freedom of Information Act 1982</i>, and <i>Financial Management and Accountability Act 1997</i>. Consider whether current training covers some or any of the above frameworks and whether additional training should be added for certain work units – for example, information and records management and people and culture/legal services.</p>	<p>The Fair Work Ombudsman can issue ACQSC with a compliance notice. Infringement notice issued under Part 5 of the Regulatory Powers Act. Civil penalty provision – 30 penalty units</p>
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Assurance Audit Process – Cover page
Parliamentary Privileges Act 1987

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Parliamentary Privileges Act 1987</i>	21 October 2016	5 August 2024	<i>[For the Commission to fill in]</i>	Parliamentary Services and Media

Assurance Audit Process – Legislative Framework Summary
Parliamentary Privileges Act 1987

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 12(1)	A person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given or to be given before a House or a committee, or induce another person to refrain from giving any such evidence.	<p>Ensure the ACQSC is aware that the effect of this privilege is that a witness cannot be made the subject of any sanction for giving evidence before, or submitting documents to a committee, apart from any penalty for the offence of giving false or misleading evidence to the committee.</p> <p>Consider developing a checklist for witnesses attending before a House or committee to ensure they are thoroughly prepared (for example, be familiar with the committee’s terms of reference).</p> <p>Encourage a person attending as a witness to review the <i>APS Values and Code of Conduct</i>.</p>	In the case of a natural person, imprisonment for 6 months or 50 penalty units.
Section 12(2)	<p>A person shall not inflict any penalty or injury upon, or deprive of any benefit, another person on account of:</p> <ul style="list-style-type: none"> • the giving or proposed giving of any evidence; or • any evidence given or to be given; <p>before a House or a committee.</p>	As above.	As above.
Section 13	<p>A person shall not, without the authority of a House or a committee, publish or disclose:</p> <ul style="list-style-type: none"> • a document that has been prepared for the purpose of submission, and submitted, to a House or a committee and has been directed by a House or a committee to be treated as evidence taken in camera; or • any oral evidence taken by a House or a committee in camera, or a report of any such oral evidence; 	Ensure the ACQSC is aware of the restrictions on publishing and disclosing documents used as evidence in the House or committee.	As above.

	<ul style="list-style-type: none"> unless a House or a committee has published, or authorised the publication of, that document or that oral evidence. 		
Section 14(3)	A person who is required to attend before a House of Parliament or a committee on a day, shall not be required to attend before a court or tribunal and cannot be arrested or detained in a civil cause.	If a staff member of the ACQSC is required to appear before a House or a committee, the ACQSC should ensure the person does not attend a court or a tribunal and cannot be arrested or detained in a civil cause.	Section 7(5)(b) – a fine not exceeding \$25,000 for an offence against that House determined by that House to have been committed by that person
Section 16(3)	<p>In proceedings in any court or tribunal, it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in Parliament, by way of, or for the purpose of:</p> <ul style="list-style-type: none"> questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings in Parliament; otherwise questioning or establishing the credibility, motive, intention or good faith of any person; or drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in Parliament. 	<p>Ensure the ACSQC is aware that for example, a witness’s evidence to a committee cannot be used as a basis for an attack on his or her credit in court or other proceedings.</p> <p>The ACQSC should take care when disclosing information including and should have a policy/ procedure in place for guidance. For example, correspondence with individual members of Parliament may not attract privilege and staff should be careful not to disclose defamatory or self-incriminating information in the absence of the privilege.</p>	Section 7(5)(b) – a fine not exceeding \$25,000 for an offence against that House determined by that House to have been committed by that person

Assurance Audit Process – Cover page
Privacy Act 1988
Privacy (Tax File Number) Rule 2015
Privacy (Persons Reported as Missing) Rule 2024
Privacy (Australian Government Agencies – Governance) APP Code 2017

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Privacy Act 1988 (Cth)</i>	22 May 2024	5 August 2024	Privacy Policy Privacy Framework	FOI and Privacy
Subordinate legislation				
<i>Privacy (Persons Reported as Missing) Rule 2024</i>	27 March 2024	5 August 2024		
<i>Privacy (Tax File Number) Rule 2015</i>	4 March 2015	5 August 2024		
<i>Privacy (Australian Government Agencies – Governance) APP Code 2017</i>	1 July 2018	5 August 2024		

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Whole of Government policies, frameworks and Codes applicable to the Commission’s functions and activities			
Australian Government Agencies Privacy Code	27 October 2017	Privacy Policy Privacy Framework	FOI and Privacy

Assurance Audit Process – Legislative Framework Summary
Privacy Act 1988
Privacy (Tax File Number) Rule 2015
Privacy (Persons Reported as Missing) Rule 2024
Privacy (Australian Government Agencies – Governance) APP Code 2017

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Privacy Act 1988			
Section 15	The ACQSC must not do an act, or engage in a practice, that breaches an Australian Privacy Principle (APP).	The ACQSC should review its information security and privacy policies to ensure its processes for the collection, storage, use, and disclosure of personal information aligns with its obligations as an APP entity under the Act.	Reputational damage. Affected personal may lodge a complaint with the ACQSC or the Privacy Commissioner. The ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. The ACQSC can also be ordered to pay a civil penalty for very serious breaches. Depending on the nature of the data breach, affected persons health and safety may be at risk.
Section 26A	The ACQSC must not do an act, or engage in a practice, that breaches a registered APP code to which the ACQSC is bound to.	As above.	As above.
Section 26WH	If the ACQSC is aware that: <ul style="list-style-type: none"> there are reasonable grounds to suspect that there may have been an eligible data breach; and is not aware that there are reasonable grounds to believe that the relevant circumstances amount to an eligible data breach the ACQSC must carry out a reasonable and expeditious assessment of whether there may have been an eligible data breach.	The ACQSC should confirm and satisfy itself that there are documented and clearly accessible procedures for: <ul style="list-style-type: none"> identification; notification; and investigation of an eligible data breach. This should include ensuring all ACQSC employees are trained to identify what an eligible data breach is, and the relevant privacy contact to notify if they become one aware may have occurred. Training could involve: <ul style="list-style-type: none"> case scenario testing, for example, what would ACQSC do if faced with this particular privacy issue; 	Failure to conduct an assessment may result in the ACQSC misdiagnosing an eligible data breach, which may result in: <ul style="list-style-type: none"> reputational damage. affected personal may lodge a complaint with the ACQSC or with the Privacy Commissioner the ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. the ACQSC can also be ordered to pay a civil penalty for very serious breaches. depending on the nature of the data breach, affected persons health and safety may be at risk.

		<ul style="list-style-type: none"> • sending out bulletins focusing on a particular APP, Privacy Commissioner determination or a particular part or section of the Privacy Act <p>Training should be periodic.</p>	
<p>Section 26WK</p>	<p>If the ACQSC is aware that there are reasonable grounds to believe that there has been an eligible data breach, the ACQSC must as soon as practicable:</p> <ul style="list-style-type: none"> • prepare a statement that sets out: <ul style="list-style-type: none"> ○ the ACQSC identity and contact details ○ description of the eligible data breach and that there are reasonable grounds to believe the breach has happened; ○ the kinds of information concerned; and ○ recommendations about steps individuals should take in response to the data breach • give a copy of the statement to the Privacy Commissioner. 	<p>The ACQSC should ensure there are internal policies and procedures in place to address and minimise privacy risks arising. Where an eligible breach does occur, the ACQSC should ensure:</p> <ul style="list-style-type: none"> • there are documented policies in place for handling eligible data breaches; • personnel are appropriately trained to prepare a privacy impact statement which accurately captures all relevant details; and • there is a process for notify the Commissioner, for example a template letter or email <p>The requirement to conduct a reasonable and expeditious assessment begins when ACQSC becomes aware of reasonable grounds to suspect that an eligible data breach may have occurred.</p> <p>Where the ACQSC cannot reasonably complete an assessment within 30 days, ACQSC needs to demonstrate:</p> <ul style="list-style-type: none"> • that all reasonable steps have been taken to complete the assessment within the 30 days; • the reasons for delay; and • that the assessment was reasonable and expeditious. <p>ACQSC must provide clear written communication to all employees, stakeholders and service providers that the assessment is required, if possible, to be completed within 30 days;</p> <ul style="list-style-type: none"> • prioritisation of this matter above other routine matters; • assigning accountability for ensuring the completion of the assessment and/or parts of the assessment; <p>For Commonwealth APP entities, there is usually a privacy team whose duties and responsibilities include familiarisation with the ACQSC’s privacy</p>	<p>Failure to provide the Privacy Commissioner a statement may result in the ACQSC not identifying an eligible data breach which may result in:</p> <ul style="list-style-type: none"> • reputational damage. • affected personal may lodge a complaint with the ACQSC or with the Privacy Commissioner • the ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. • the ACQSC can also be ordered to pay a civil penalty for very serious breaches. • depending on the nature of the data breach, affected persons health and safety may be at risk. <p>Failure to provide the statement may also result in the Privacy Commissioner using its compulsory powers to obtain the information which carries penalties for non-compliance.</p>

		<p>obligations and responding to privacy incidents including eligible data breaches. The FOI and Privacy work unit within ACQSC should receive periodic training in their duties and responsibilities, if not already.</p> <p>External privacy lawyers and advisers may be engaged if the ACQSC considers an eligible data breach to have occurred.</p>	
<p>Section 26WL</p>	<p>Where the ACQSC has reasonable grounds to believe that there has been an eligible data breach and it has prepared a statement in accordance with s 26WK (above), the ACQSC must, as soon as reasonably practicable after the completion of the statement:</p> <ul style="list-style-type: none"> • take such steps as are reasonable in the circumstances to notify the contents of the statement to each of the individuals to whom the relevant information relates if it is practicable to do so; • take such steps as are reasonable in the circumstances to notify the contents of the statement to each of the individuals who are at risk from the eligible data breach if it is practicable to do so. • if neither of the above two paragraphs apply: <ul style="list-style-type: none"> ○ publish a copy of the statement on the ACQSC website; and ○ take reasonable steps to publicise the contents of the statement. 	<p>Where a potential eligible data breach has been identified, the ACQSC should ensure there are documented policies in place for handling eligible data breaches and appropriately trained personnel who are able to contact affected individuals (where appropriate) and implement management strategies to minimise the ongoing risks of the.</p> <p>The following processes should commence as soon as a potential eligible data breach is identified:</p> <ul style="list-style-type: none"> • monitoring progress of the assessment and investigation; • maintain evidence of the steps taken to complete an assessment and/or investigation into the matter as the OAIC will be requesting this information if it looks into the matter; • seeking assistance from legal representatives or other experts at an early stage, as a matter of priority; • ensure the assessment of the data breach includes an analysis of the suspected compromised personal information included in the relevant database accessed (i.e. email account), and not just an investigation of the circumstances of the unauthorised access. This may involve running multiple workstreams concurrently; and • planning effectively from the outset, including by having a data breach response plan in place. 	<p>Failure to attempt to contact the affected persons or publish a copy of the statement on the ACQSC website will likely result in:</p> <ul style="list-style-type: none"> • reputational damage • affected personal may lodge a complaint with the ACQSC or with the Privacy Commissioner • depending on the nature of the data breach, affected persons health and safety may be at risk.

<p>Section 26WR</p>	<p>If the ACQSC receives written notice from the Commissioner directing ACQSC to prepare a statement to give to the Commissioner, the ACQSC must ensure the statement sets out:</p> <ul style="list-style-type: none"> • the ACQSC’s identity and contact details; and • a description of the eligible data breach that the Commissioner has reasonable grounds to believe has happened; and • the kind or kinds of information concerned; and • recommendations about the steps that individuals should take in response to the eligible data breach that the Commissioner has reasonable grounds to believe has happened. 	<p>If the Privacy Commissioner requests any information, the ACQSC (and its privacy team) should provide timely response with all required details. Template statements could be prepared to streamline the process.</p> <p>Preparation of a statement regarding an eligible data breach should take no more than one to two days.</p>	<p>Failure to attempt to contact the affected persons or publish a copy of the statement on the ACQSC website will likely result in:</p> <ul style="list-style-type: none"> • reputational damage • affected personal may lodge a complaint with the ACQSC or with the Privacy Commissioner • depending on the nature of the data breach, affected persons health and safety may be at risk.
<p>Section 33D</p>	<p>The ACQSC must comply with a direction of the Commissioner to provide a privacy impact assessment.</p>	<p>The ACQSC should ensure it has an up to date Privacy Impact Assessment Policy that covers a full range of activities or initiatives in the ACQSC that may have privacy implications such as:</p> <ul style="list-style-type: none"> • policy proposals • new or amended legislation • new or amended programs, activities, systems or databases • new methods or procedures for service delivery or information handling • changes to how information is stored <p>The OAIC has a 10 step guide for undertaking a PIA. This is considered best practice and should be incorporated into (if not already) any PIA policy.</p>	<p>If the ACQSC fails to comply with the direction, the Privacy Commissioner must advise the portfolio Minister of the failure to comply.</p>
<p>Section 52A</p>	<p>If the ACQSC is required to prepare a statement about its conduct following a determination and declaration of the Commission under section 52(1)(b)(iia) or (1A)(ba), within 14 days of receiving the determination the ACQSC must:</p> <ul style="list-style-type: none"> • prepare a statement in consultation with the Commissioner setting out: <ul style="list-style-type: none"> ○ ACQSC’s identity and contact details ○ Description of the conduct engaged in by ACQSC that constitutes an interference with privacy of an individual; ○ The steps taken by ACQSC to ensure the conduct is not repeated; ○ Any other information required by the declaration • Any other requirement of the declaration; and 	<p>Template statements should be prepared to ensure the prescribed timeframes can be met. External privacy lawyers and advisers may be engaged if the ACQSC considers it would assist in drafting the statement.</p>	<p>If the ACQSC fails to comply with this obligation, an application may be made by either the affected person or the Privacy Commissioner to the Federal Court or the Federal Circuit Court for an order directing ACQSC to comply.</p>

	<ul style="list-style-type: none"> Give the Commissioner evidence of ACQSC's compliance with the requirement of the declaration within 14 days after the end date in the declaration. 		
Section 53A	<p>If the Commissioner makes a determination that applies in relation to a contractor engaged by ACQSC and includes recommendations, ACQSC must advise the Commissioner in writing of any action it proposed to take in relation to the recommendation. This advice must be provided within 60 days of ACQSC receiving the recommendation.</p>	As above.	Failure to provide the statement in the prescribed period of time may result in the Privacy Commissioner using its compulsory powers to obtain the information which carries penalties for non-compliance.
Section 58	<p>If the ACQSC is the subject of a determination under section 52 of the Act, ACQSCS:</p> <ul style="list-style-type: none"> must not repeat or continue conduct that is covered by a declaration included in the determination must take the steps that are specified in a declaration included in the determination within the specified period; and must perform the act or course of conduct that is covered by a declaration included in the determination 	<p>The ACQSC should develop an internal policy or procedure that details:</p> <ul style="list-style-type: none"> the work unit responsible for implementing a determination of the Privacy Commissioner; and a general implementation process (for example, consulting with other work units, reviewing policies and procedures to determine whether amendments are required) <p>Depending on the nature of the determination, the ACQSC may also consider briefing an external provider to assist with any implementation process.</p>	If the ACQSC fails to comply with this obligation, an application may be made by either the affected person or the Commissioner to the Federal Court or the Federal Circuit and Family Court for an order directing the ACQSC to comply.
Section 65(1)	<p>A person shall not:</p> <ul style="list-style-type: none"> refuse or fail to attend before the Commissioner; or refuse or fail to be sworn or make an affirmation <p>when so required under this Act.</p>	Guidance material should be prepared in the event the ACQSC staff have to appear before the Privacy Commissioner.	Non-compliance is an offence punishable by 12 months imprisonment or 20 penalty units, or both.
Section 65(3)	A person shall not furnish information or make a statement to the Commissioner knowing that it is false or misleading in a material particular.	Guidance material should be prepared in the event ACQSC staff have to appear before the Privacy Commissioner	Non-compliance is an offence punishable by 12 months imprisonment or 20 penalty units, or both.
Section 66(1)	<p>A person shall not refuse or fail:</p> <ul style="list-style-type: none"> to give information; or to answer a question or produce a document or record; <p>when required to under this Act.</p>	<p>Guidance material should be prepared in the event the ACQSC staff have to appear before the Privacy Commissioner or are requested to provide information or produce a document.</p> <p>Any responses prepared by the ACQSC in response to a notice from the Privacy Commissioner should be cleared by the Governance and Risk work unit.</p>	<p>Non-compliance is an offence punishable by 12 months imprisonment or 20 penalty units, or both</p> <p>Infringement notice issued by the Privacy Commissioner.</p> <p>Non-compliance by body corporate – 100 penalty units.</p>
Section 95B	<p>If the ACQSC has engaged a contracted service provided, the ACQSC must ensure:</p> <ul style="list-style-type: none"> it takes contractual measures to ensure the contracted service provider does not do an act, 	<p>The ACQSC should ensure any Commonwealth contract sets out:</p> <ul style="list-style-type: none"> who maintains effective control over the personal information in the possession of the contracted service provider; 	Failure to effectively monitor and review contracted service providers may result the ACQSC being responsible for the contracted service provider engaging in an act or practice that would breach an APP, resulting in:

	<p>or engage in a practice, that would breach an APP if the ACQSC engaged in the act or practice</p> <ul style="list-style-type: none"> • ensure that the Commonwealth contract does not authorise a contracted service provider to engage in the act or practice • ensure that the Commonwealth contract contains provisions to ensure the act or practice is not authorised by a subcontract. 	<ul style="list-style-type: none"> • exactly what information personal information the contracted service provider is authorised to collect or access ensuring the principle of data minimisation is adhered to; • the purpose for which they are authorised to collect or access personal information; • who they are authorised to disclose that information to; • whether or not they are authorised to disclose it to an overseas recipient and if so, to who and under what circumstances; • the security standards which must apply to storage of the personal information, including a requirement for the provider to have in place a tried and tested data breach response plan; • the location in which personal information must be stored, if applicable for example, within Australia – not forgetting to include backups and emergency storage in those requirements; • notification obligations in relation to matters such as suspected data breaches, complaints and enquiries and breaches on contractual clauses; and • what is to occur when the contract comes to an end or is terminated, for example, should the personal information held by the contracted service provider be deleted or returned • that the contracted service provider adheres to the Commonwealth Privacy Act when performing the contracted services <p>The ACQSC should also ensure implement proactive contract management:</p> <ul style="list-style-type: none"> • regularly reviewing and monitoring contract service provider performance • ensure their contract clauses enable them to conduct audits of service provider premises, systems and processes to ensure they are meeting their contractual obligations with respect to privacy and data security. 	<ul style="list-style-type: none"> • Reputational damage. • Affected personal may lodge a complaint with ACQSC or with the Privacy Commissioner • ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. • ACQSC can also be ordered to pay a civil penalty for very serious breaches. • Depending on the nature of the data breach, affected persons health and safety may be at risk.
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<p>APP 1.2</p>	<p>The ACQSC must take such steps as are reasonable in the circumstances to implement practices, procedures and systems relating to its functions or activities that:</p> <ul style="list-style-type: none"> • will ensure the ACQSC complies with the Australian Privacy Principles (APP) and any binding registered APP code (if any); and • enables the ACQSC to deal with inquiries or complaints from individuals about its compliance with the APP or such a code. 	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act. Some non-exhaustive examples of measures that can be taken to ensure compliance with APP 1 include:</p> <ul style="list-style-type: none"> • creating procedures for identifying and responding to privacy breaches, handling access and correction requests and receiving and responding to complaints and inquiries • mechanisms to ensure that agents and contractors in the service of, or acting on behalf of, the ACQSC comply with the APPs • procedures for identifying and managing privacy risks at each stage of the information lifecycle, including collection, use, disclosure, storage, destruction or de-identification 	<p>Failure to comply with an APP may result in the following:</p> <ul style="list-style-type: none"> • reputational damage. • affected personal may lodge a complaint with the ACQSC or the Privacy Commissioner. • the ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. • the ACQSC can also be ordered to pay a civil penalty for very serious breaches. • depending on the nature of the data breach, affected persons health and safety may be at risk.
<p>APP 1.3 and APP 1.4</p>	<p>The ACQSC must have a clearly expressed and up to date policy about the management of personal information. This information must at least include:</p> <ul style="list-style-type: none"> • the kinds of personal information that the ACQSC collects and holds; • how the ACQSC collects and holds personal information; • the purposes for which the ACQSC collects, holds, uses and discloses personal information • how an individual may access personal information about the individual that is held by the ACQSC and seek the correction of such information; • how an individual may complain about a breach of the Australian Privacy Principles, or a registered APP code (if any) that binds the entity, and how the ACQSC will deal with such a complaint; 	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> whether the ACQSC is likely to disclose personal information to overseas recipients <p>if the ACQSC is likely to disclose personal information to overseas recipients—the countries in which such recipients are likely to be located if it is practicable to specify those countries in the policy.</p>		
APP 1.5	<p>The ACQSC must take such steps as are reasonable in the circumstances to make its APP privacy policy available:</p> <ul style="list-style-type: none"> free of charge; and in such form as is appropriate. 	As above.	As above.
APP 1.6	<p>The ACQSC must take such steps as are reasonable to provide a copy of its privacy policy to a person or body requesting it.</p>	As above.	As above.
APP 2.1	<p>Individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with an APP entity in relation to a particular matter.</p>	<p>As above.</p> <p>Some non-exhaustive examples of measures that can be taken to ensure compliance with APP 2 include:</p> <ul style="list-style-type: none"> if telephone calls to the ACQSC are routed through an automated message, informing callers in that message that they are not required to provide personal information if individuals can contact the ACQSC by using an online or printed form, stating on the form that personal identification boxes (such as name and address) are not mandatory fields 	As above.
APP 3.1	<p>The entity must not collect personal information (other than sensitive information) unless the information is reasonably necessary for, or directly related to, one or more of the entity’s functions or activities.</p>	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>The ACQSC should consider a guidance document setting out the factors relevant to when determining whether a collection of personal information is reasonable necessary, some factors could include:</p> <ul style="list-style-type: none"> the primary purpose of collection how the personal information will be used in undertaking a function or activity of the ACQSC (for example, in most circumstances collection on the basis that 	As above.

		<p>personal information could become necessary for a function or activity in the future, would not be reasonably necessary)</p> <ul style="list-style-type: none"> whether the ACQSC could undertake the function or activity without collecting that personal information, or by collecting a lesser amount of personal information. <p>This guidance material should be used to assist decision making about whether the collection of personal information is reasonably necessary in the circumstances.</p>	
APP 3.3	<p>An APP entity must not collect sensitive information about an individual unless:</p> <ul style="list-style-type: none"> the individual consents to the collection of the information and the information is reasonably necessary for, or directly related to, one or more of the ACQSC’s functions or activities; or subclause 3.4 applies in relation to the information. <p><i>Subclause 3.4 – sensitive information about an individual which includes:</i></p> <ul style="list-style-type: none"> <i>the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or</i> <i>a permitted general situation exists in relation to the collection of the information by the ACQSC or</i> <i>the ACQSC reasonably believes that:</i> <ul style="list-style-type: none"> <i>the collection of the information is reasonably necessary for, or directly related to, one or more of the ACQSC’s functions or activities.</i> 	As above.	As above.
APP 3.5	The ACQSC must collect personal information only by lawful and fair means.	As above.	As above.
APP 3.6	<p>The ACQSC must collect personal information about an individual only from the individual unless:</p> <ul style="list-style-type: none"> the individual consents to the collection of the information from someone other than the individual; or ACQSC is required or authorised by or under an Australian law, or a court/tribunal order, to collect the information from someone other than the individual; or 	As above.	As above.

	<ul style="list-style-type: none"> it is unreasonable or impracticable to do so. 		
APP 4.1	<p>If:</p> <ul style="list-style-type: none"> the ACQSC receives personal information; and it did not solicit the information; <p>the ACQSC must, within a reasonable period after receiving the information, determine whether or not it could have collected the information APP 3 if it had solicited the information.</p>	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>The ACQSC should consider the following matters:</p> <ul style="list-style-type: none"> whether it has received unsolicited personal information? whether it have collected that personal information under APP 3? is the personal information contained in a Commonwealth record? what constitutes unsolicited information for the purpose of this APP should unsolicited personal information held by the entity be destroyed or de-identified, or should it be retained and dealt with in accordance with APP 5–13? 	As above.
APP 4.3	<p>If:</p> <ul style="list-style-type: none"> the ACQSC determines that it could not have collected the personal information; and the information is not contained in a Commonwealth record; <p>the ACQSC must, as soon as practicable, but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.</p>	As above.	As above.
APP 5.1	<p>At or before the time or, if that is not practicable, as soon as practicable after, the ACQSC collects personal information about an individual, it must take such steps (if any) as are reasonable in the circumstances:</p> <ul style="list-style-type: none"> to notify the individual of such matters referred to in subclause 5.2 as are reasonable in the circumstances; or to otherwise ensure that the individual is aware of any such matters. <p><i>Matters in subclause 5.2 are as follows:</i></p> <ul style="list-style-type: none"> <i>the identity and contact details of ACQSC;</i> <i>if:</i> 	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>Some non-exhaustive examples of what may constitute reasonable steps include:</p>	As above.

	<ul style="list-style-type: none"> ○ ACQSC collects the personal information from someone other than the individual; or ○ the individual may not be aware that the ACQSC has collected the personal information; ○ the fact that ACQSC collects or has collected, the information and the circumstances of that collection • if the collection of the personal information is required or authorised by or under an Australian law or a court/tribunal order—the fact that the collection is so required or authorised (including the name of the Australian law, or details of the court/tribunal order, that requires or authorises the collection); • the purposes for which ACQSC collects the personal information; • the main consequences for the individual if all or some of the personal information is not collected by ACQSC • if ACQSC usually discloses this type of information to any other body or person • that ACQSC’s privacy policy contain information about how individuals may access their personal information held by ACQSC and seek correction of same • that ACQSC’s privacy policy contains information about how an individual may complain about a breach of the APP or a registered APP code and how ACQSC will deal with the complaint • whether ACQSC is likely to disclose information to overseas recipients, and if so, the relevant countries if practicable to specify. 	<ul style="list-style-type: none"> • if the ACQSC collects personal information directly from an individual or online, clearly and prominently displaying the APP 5 matters in the form or online so it is readily accessible to the person • if the ACQSC collects personal information from another entity, ensuring that the other entity has notified or made the individual aware of the relevant APP 5 matters on its behalf (such as through an enforceable contractual arrangement). 	
<p>APP 6.1</p>	<p>If ACQSC holds personal information about an individual that was collected for a particular purpose (the primary purpose), ACQSC must not use or disclose the information for another purpose (the secondary purpose) unless:</p> <ul style="list-style-type: none"> • the individual has consented to the use or disclosure of the information; or • subclause 6.2 or 6.3 applies in relation to the use or disclosure of the information 	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p>	<p>As above.</p>

		<p>The ACQSC’ should review its current guidance material (or create material) which clearly sets out:</p> <ul style="list-style-type: none"> • the meaning of “primary” and “secondary: • the meaning of “use”, “hold” and “disclose” • the relevant exceptions to APP 6 • record keeping obligations. <p>This guidance material should form part of the overall training the ACQSC’s provides in relation to privacy.</p>	
APP 6.2	<p>This subclause applies in relation to the use or disclosure of personal information about an individual if:</p> <ul style="list-style-type: none"> • the individual would reasonably expect the ACQSC to use or disclose the information for the secondary purpose and the secondary purpose is: <ul style="list-style-type: none"> ○ if the information is sensitive information—directly related to the primary purpose; or ○ if the information is not sensitive information—related to the primary purpose; or • the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or • a permitted general situation exists in relation to the use or disclosure of the information by the ACQSC; or • a permitted health situation exists in relation to the use or disclosure of the information by the entity; or • the ACQSC reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body. 	As above.	As above.
APP 6.3	<p>This subclause applies in relation to the disclosure of personal information about an individual by the ACQSC if:</p> <ul style="list-style-type: none"> • it is not an enforcement body; and • the information is biometric information or biometric templates; and 	As above.	As above.

	<ul style="list-style-type: none"> the recipient of the information is an enforcement body; and the disclosure is conducted in accordance with the guidelines made by the Commissioner for the purposes of this paragraph. 		
APP 6.5	The ACQSC must make a written record of the use and disclosure of personal information it uses and discloses because it had a reasonable belief the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.	As above.	As above.
APP 7.1	<p>The ACQSC cannot use or disclose personal information about an individual for the purpose of direct marketing except in the following exceptions outlined in 7.2.</p> <p><i>Exceptions:</i></p> <ul style="list-style-type: none"> <i>ACQSC collected the information from the individual; and</i> <i>the individual would reasonably expect ACQSC to use or disclose the information for that purpose; and</i> <i>ACQSC provides a simple means by which the individual may easily request not to receive direct marketing communications from ACQSC; and</i> <i>the individual has not made such a request to ACQSC</i> 	The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.	As above.
APP 8.1	<p>Before the ACQSC, discloses personal information about an individual to an overseas recipient:</p> <ul style="list-style-type: none"> who is not in Australia or an external Territory; and who is not the entity or the individual; <p>the ACQSC must take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the APP (other than APP 1) in relation to the information.</p> <p><i>APP 8.1 does not apply if:</i></p> <ul style="list-style-type: none"> <i>the ACQSC reasonably believes that:</i> <ul style="list-style-type: none"> <i>the recipient of the information is subject to a law, or binding scheme, that has the effect of protecting the information in a way that, overall, is at least substantially similar to the way in which the Australian Privacy Principles protect the information; and</i> <i>there are mechanisms that the individual can access to take action to enforce that</i> 	As above.	As above.

	<p><i>protection of the law or binding scheme;</i> <i>or</i></p> <ul style="list-style-type: none"> • <i>the disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or</i> • <i>a permitted general situation exists in relation to the disclosure of the information by the ACQSC or</i> • <i>the ACQSC is an agency and the disclosure of the information is required or authorised by or under an international agreement relating to information sharing to which Australia is a party; or</i> • <i>the ACQSC:</i> <ul style="list-style-type: none"> ○ <i>reasonably believes that the disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body;</i> ○ <i>the recipient is a body that performs functions, or exercises powers, that are similar to those performed or exercised by an enforcement body.</i> 		
<p>APP 9.1</p>	<p>The ACQSC must not adopt a government related identifier of an individual as its own identifier of the individual unless:</p> <ul style="list-style-type: none"> • the adoption of the government related identifier is required or authorised by or under an Australian law or a court/tribunal order; or • the provisions in subclause 9.3 apply: <ul style="list-style-type: none"> ○ the identifier is prescribed by the regulations; and ○ the ACQSC is prescribed by the regulations, or is included in a class of organisations prescribed by the regulations; and ○ the adoption, use or disclosure occurs in the circumstances prescribed by the regulations. <p><i>Note – The ACQSC is included in a class of organisations prescribed under section 17(2) of the Privacy Regulations 2013</i></p>	<p>As above.</p>	<p>As above.</p>
<p>APP 9.2</p>	<p>ACQSC must not use or disclose a government related identifier of an individual unless:</p> <ul style="list-style-type: none"> • the use or disclosure of the identifier is reasonably necessary for ACQSC to verify the 	<p>As above.</p>	<p>As above.</p>

	<p>identity of the individual for the purposes of its activities or functions; or</p> <ul style="list-style-type: none"> • the use or disclosure of the identifier is reasonably necessary for ACQSC to fulfil its obligations to an agency or a State or Territory authority; or • the use or disclosure of the identifier is required or authorised by or under an Australian law or a court/tribunal order; or • a permitted general situation (exists in relation to the use or disclosure of the identifier; or • ACQSC reasonably believes that the use or disclosure of the identifier is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or • subclause 9.3 applies in relation to the use or disclosure if: <ul style="list-style-type: none"> ○ the identifier is prescribed by the regulations; and ○ ACQSC is prescribed by the regulations, or is included in a class of organisations prescribed by the regulations; and ○ the adoption, use or disclosure occurs in the circumstances prescribed by the regulations <p><i>Note – The ACQSC is included in a class of organisations prescribed under section 17(2) of the Privacy Regulations 2013.</i></p>		
<p>APP 10.1</p>	<p>The ACQSC must take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that it collects is accurate, up-to-date and complete.</p>	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>Some non-exhaustive examples of what may constitute reasonable steps include:</p> <ul style="list-style-type: none"> • implementing protocols that ensure personal information is collected and recorded in a consistent format • contacting the individual to verify the quality of personal information when it is used or disclosed, particularly if there has been a lengthy period since collection 	<p>As above.</p>

		<ul style="list-style-type: none"> providing individuals with a simple means to review and update their personal information on an on-going basis, for example through an online portal. 	
APP 10.2	The ACQSC must take such steps (if any) as are reasonable in the circumstances to ensure that the personal information it uses or discloses is, having regard to the purpose of the use or disclosure, accurate, up-to-date, complete and relevant.	As above.	As above.
APP 11.1	<p>If the ACQSC holds personal information, it must take such steps as are reasonable in the circumstances to protect the information:</p> <ul style="list-style-type: none"> from misuse, interference and loss; and from unauthorised access, modification or disclosure. 	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>Some non-exhaustive examples of areas in which the ACQSC could implement strategies to protect information include:</p> <ul style="list-style-type: none"> governance, culture and training ICT security Access security Third party providers (including cloud computing if relevant). <p>The ACQSC should conduct an audit of its security framework for personal information against the OAIAC’s Guide to Securing Personal Information to ensure it is engaging with best practice methods.</p>	As above.
APP 11.2	<p>If:</p> <ul style="list-style-type: none"> the ACQSC holds personal information about an individual; and the ACQSC no longer needs the information for any purpose for which the information may be used or disclosed under this Schedule; and the information is not contained in a Commonwealth record; and the ACQSC is not required by or under an Australian law, or a court/tribunal order, to retain the information <p>the ACQSC must take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.</p>	As above.	As above.

<p>APP 12.1</p>	<p>If ACQSC holds personal information about an individual, the entity must, on request by the individual, give the individual access to the information. <i>Exceptions to this obligation are set out in 12.3:</i></p> <ul style="list-style-type: none"> • <i>the ACQSC reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or</i> • <i>giving access would have an unreasonable impact on the privacy of other individuals; or</i> • <i>the request for access is frivolous or vexatious; or</i> • <i>the information relates to existing or anticipated legal proceedings between the entity and the individual, and would not be accessible by the process of discovery in those proceedings; or</i> • <i>giving access would reveal the intentions of the ACQSC in relation to negotiations with the individual in such a way as to prejudice those negotiations; or</i> • <i>giving access would be unlawful; or</i> • <i>denying access is required or authorised by or under an Australian law or a court/tribunal order; or</i> • <i>both of the following apply:</i> <ul style="list-style-type: none"> ○ <i>the ACQSC has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to its functions or activities has been, is being or may be engaged in;</i> ○ <i>giving access would be likely to prejudice the taking of appropriate action in relation to the matter; or</i> • <i>giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or</i> • <i>giving access would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process</i> 	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p> <p>The ACQSC should develop guidance material addressing the exceptions to this obligation and in what circumstances it may be preferable for the ACQSC to suggest the applicant make a request under the FOI Act.</p> <p>Internal policy and procedure should be established which sets out the prescribed timeframes and access obligations in APP 12.</p> <p>The guidance material and internal policy and procedure will help to ensure consistency in the decision making process and outcomes.</p>	<p>As above.</p>
<p>APP 12.4</p>	<p>The ACQSC must:</p> <ul style="list-style-type: none"> • respond to the request for access to the personal information within 30 days after the request is made; and • give access to the information in the manner requested by the individual, if it is reasonable and practicable to do so. 	<p>As above.</p>	<p>As above.</p>

<p>APP 12.5</p>	<p>If the ACQSC refuses:</p> <ul style="list-style-type: none"> to give access to the personal information because of subclause 12.2 or 12.3; or to give access in the manner requested by the individual <p>the ACQSC must take such steps (if any) as are reasonable in the circumstances to give access in a way that meets the needs of the entity and the individual</p>	<p>As above.</p>	<p>As above.</p>
<p>APP 12.7</p>	<p>The ACQSC must not charge an individual for the making of the request or for giving access to the personal information.</p>	<p>As above.</p>	<p>As above.</p>
<p>APP 12.9</p>	<p>If the ACQSC refuses to give access to the personal information because of subclause 12.2 or 12.3, or to give access in the manner requested by the individual, ACQSC must give the individual a written notice that sets out:</p> <ul style="list-style-type: none"> the reasons for the refusal except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and the mechanisms available to complain about the refusal; and any other matter prescribed by the regulations 	<p>As above.</p>	<p>As above.</p>
<p>APP 13.1</p>	<p>If:</p> <ul style="list-style-type: none"> ACQSC holds personal information about an individual; and either: <ul style="list-style-type: none"> ACQSC is satisfied that, having regard to a purpose for which the information is held, the information is inaccurate, out-of-date, incomplete, irrelevant or misleading; or the individual requests the entity to correct the information <p>the ACQSC must take such steps (if any) as are reasonable in the circumstances to correct that information to ensure that, having regard to the purpose for which it is held, the information is accurate, up-to-date, complete, relevant and not misleading.</p>	<p>The FOI and Privacy work unit should conduct an audit of the ACQSC’s current policies and procedures relating to privacy and security within ACQSC against the Australian Privacy Principles Guidelines as published on the OIAC website. The APP Guidelines are considered best practice and comprehensively set out the measures an agency should implement in order to comply with their obligations under the Act.</p>	<p>As above.</p>
<p>APP 13.2</p>	<p>If:</p> <ul style="list-style-type: none"> the ACQSC entity corrects personal information about an individual that the entity previously disclosed to another APP entity; and the individual requests the ACQSC to notify the other APP entity of the correction 	<p>As above.</p>	<p>As above.</p>

	the ACQSC must take such steps (if any) as are reasonable in the circumstances to give that notification unless it is impracticable or unlawful to do so.		
APP 13.3	If the ACQSC refuses to correct the personal information as requested by the individual, it must give the individual a written notice that sets out: <ul style="list-style-type: none"> the reasons for the refusal except to the extent that it would be unreasonable to do so; and the mechanisms available to complain about the refusal; and any other matter prescribed by the regulations. 	As above.	As above.
APP 13.4	If: <ul style="list-style-type: none"> the ACQSC refuses to correct the personal information as requested by the individual; and the individual requests the ACQSC to associate with the information a statement that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading the ACQSC must take such steps as are reasonable in the circumstances to associate the statement in such a way that will make the statement apparent to users of the information.	As above.	As above.
APP 13.5	If a request is made under subclause 13.1 or 13.4, the ACQSC must: <ul style="list-style-type: none"> respond to the request within 30 days after the request is made; and must not charge the individual for the making of the request, for correcting the personal information or for associating the statement with the personal information (as the case may be). 	As above.	As above.
<i>Privacy (Persons Reported as Missing) Rule 2024</i>			
Section 6	If the ACQSC uses or discloses personal information about a person reported as missing, it must make a written note of the disclosure.	The ACQSC could consider preparing a register which sets out the personal information that has been disclosed in these circumstances.	Whilst there does not appear to be any obvious consequences of non-compliance, this is an obligation on the ACQSC and it should be met.
<i>Privacy (Australian Government Agencies – Governance) APP Code 2017</i>			
Section 9	The ACQSC must have a privacy management action plan and must measure and document its performance against its privacy management action plan at least annually. This privacy management action plan must:	Compliance with an APP Code is mandatory under the Act. The ACQSC should utilise the interactive privacy management action plan prepared by the OAIC to	Failure to comply with this obligation may result in an internal complaint or a complaint to the Privacy Commissioner.

	<ul style="list-style-type: none"> identifies specific, measurable privacy goals and targets; and sets out how an agency will meet its compliance obligations under APP 1.2. 	<p>ensure the ACQSCs plan is in accordance with best practice.</p> <p>The ACQSC should ensure the person or team responsible for completing the plan has a combination of the following skills:</p> <ul style="list-style-type: none"> experience in undertaking audits, assessments or assurance activities; and specialist knowledge of privacy and personal information management. <p>The ACQSC should create a policy (if not already) about reviewing the plan to ensure:</p> <ul style="list-style-type: none"> reviews are conducted on at least an annual basis the Privacy Champion reviews the plan <p>The ACQSC may also like to consider briefing an external service provider to review the plan if a degree of independence or impartiality is necessary.</p>	<p>More broadly, this obligation goes to ACQSC’s privacy and security culture and overall governance framework. Engaging in practices and conduct that does not promote a strong security and privacy culture will likely lead to data breaches with the following effects:</p> <ul style="list-style-type: none"> Reputational damage. Affected personal may lodge a complaint with the ACQSC or the Privacy Commissioner. ACQSC can be ordered to pay compensation to affected persons for financial or non-financial loss. ACQSC can also be ordered to pay a civil penalty for very serious breaches. Depending on the nature of the data breach, affected persons health and safety may be at risk.
<p>Section 10</p>	<p>The ACQSC must:</p> <ul style="list-style-type: none"> have at least one privacy officer at all times keep the OAIC notified of its privacy officer/s contact details in writing ensure the functions of its privacy officers are carried out: <ul style="list-style-type: none"> handling of internal and external privacy enquiries, privacy complaints, and requests for access to and correction of personal information made under the Act; maintaining a record of the agency’s personal information holdings; assisting with the preparation of Privacy Impact Assessments (PIAs) conducted under section 12; maintaining ACQSC’s register of PIAs measuring and documenting ACQSC’s performance against the privacy management plan at least annually 	<p>Compliance with an APP Code is mandatory under the Act.</p> <p>The ACQSC should create an internal policy or procedure for the selection of privacy officers setting out:</p> <ul style="list-style-type: none"> how often privacy officers should be selected how many privacy officers the ACQSC is required to have link to the relevant contact details requirement to notify OAIC when a new privacy officer is selected. Link to the OAIC privacy officer toolkit page <p>The ACQSC should ensure its privacy officers have the appropriate skills and qualifications to undertake the role and are provided with the appropriate resourcing and support.</p>	<p>As above.</p>
<p>Section 11</p>	<p>The ACQSC must:</p> <ul style="list-style-type: none"> have a Privacy Champion at all times who is a senior official within the ACQSC ensure the functions of the Privacy Champion is carried out: <ul style="list-style-type: none"> promoting a culture of privacy within the ACQSC that values and protects personal information; 	<p>The ACQSC should ensure the Privacy Champion:</p> <ul style="list-style-type: none"> is suitably qualified for the position and has appropriate skills such as <ul style="list-style-type: none"> the ability to understand the ACQSC strategic priorities and key projects involving the use of personal information 	<p>As above.</p>

	<ul style="list-style-type: none"> ○ providing leadership within the ACQSC on broader strategic privacy issues; ○ reviewing and/or approving the ACQSC privacy management plan, and documented reviews of its progress against the privacy management plan; and ○ providing regular reports to the ACQSC executive, including about any privacy issues arising from the handling of personal information. 	<ul style="list-style-type: none"> ○ understanding the systems and processes the ACQSC uses to handle personal information ○ strong communication skills to speak with a wide range of stakeholders, including senior executives and staff from other work units ○ an understanding of privacy dispute resolution and complaint-handling methods and processes ● is aware of its role to drive a strong privacy and security culture within the ACQSC; ● is provided with the necessary support and resourcing to carry out its functions. 	
Section 12	<p>The ACQSC must conduct a Privacy Impact Assessment for all high privacy risk projects.</p> <p><i>High privacy risk project – where the ACQSC reasonably considers that the project involves any new or changed ways of handling personal information that are likely to have a significant impact on the privacy of individuals.</i></p>	<p>The FOI and Privacy work unit should conduct an audit of ACQSCs current policies and procedures relating to Privacy Impact Assessments against the Guide to undertaking Privacy Impact Assessments as published by the OAIC.</p> <p>The OAIC guidelines are considered best practice and should to the extent possible be mirrored in the ACQSC’s policies and procedures.</p> <p>The ACQSC could also consider briefing external providers to conduct a Privacy Impact Assessment where the project is complex or serious in nature.</p>	As above.
Section 14	<p>If the ACQSC prepares a joint Privacy Impact Assessment with another agency, the ACQSC must retain a copy of the Privacy Impact Assessment.</p>	<p>The Privacy Impact Assessment Policy should clearly set out this requirement.</p>	As above.
Section 15	<p>The ACQSC must maintain a register of the Privacy Impact Assessment it conducts and publish the register on its website.</p>	<p>ACQSC should create and internal policy procedure setting out:</p> <ul style="list-style-type: none"> ● the work unit responsible for updating the register ● the frequency of the updates 	As above.
Section 16	<p>The ACQSC must ensure it includes appropriate privacy education training in employee induction programs, the programs must include:</p> <ul style="list-style-type: none"> ● privacy obligations on the employees; and ● relevant ACQSC policies or procedures relating to privacy 	<p>The ACQSC’s privacy education training should:</p> <ul style="list-style-type: none"> ● clearly define the responsibilities of staff members in the ACQSC (this can range from general responsibilities of employees who do not have access to personal 	As above.

	The ACQSC must take reasonable steps to ensure employees who have access to personal information in the course of their duties receive annual privacy education training.	<p>information to the Privacy Champion and FOI and Privacy work unit)</p> <ul style="list-style-type: none"> • be tailored in its content and frequency to relevant work units/persons • clearly set out where staff can access relevant policies or procedures • be reviewed for currency and efficacy on a periodic basis. 	
Section 17	<p>The ACQSC must regularly review, update and monitor its privacy practices, procedures, and systems to ensure currency and compliance. The scope of the review must include any:</p> <ul style="list-style-type: none"> • privacy policies prepared for the purpose of APP 1; and • privacy notices for the purposes of APP 5. 	<p>The ACQSC could also ensure a strong governance framework by putting in place ICT governance protocols which clarify the persons or positions responsible for the accreditation and approval of personal information security controls to ensure that each control is effective and appropriate.</p> <p>Those controls relate to:</p> <ul style="list-style-type: none"> • who can have access to a system which contains personal information; • the purposes for which certain individuals will be allowed to have access; • what exactly they can have access to; and • the pre-conditions to enabling access (for example, this might include a requirement to hold a specific level security clearance and have undertaken privacy and other relevant training prior to being allowed access). <p>The ACQSC should ensure there is a clear and concise data retention and destruction plan in relation to personal information.</p>	As above.
Privacy (Tax File Number) Rule 2015			
Section 7	The ACQSC must not use a person’s Tax File Number (TFN) as part of a national identification system.	The ACQSC should not be requesting TFN information as part of its identification documents.	As above.
Section 8	<p>If the ACQSC or its employees requests a TFN, it must take reasonable steps to ensure:</p> <ul style="list-style-type: none"> • the relevant person is informed: <ul style="list-style-type: none"> ○ of the taxation law, personal assistance law or superannuation law which authorises the TFN recipient to request or collect the TFN ○ of the purpose(s) for which the TFN is requested or collected 	<p>The ACQSC should update its website to include the following information:</p> <ul style="list-style-type: none"> • the legislative authority for requesting the TFN information • why it is being collected and for what purposes • declining to provide TFN information is not an offence but may have other consequences. 	As above.

	<ul style="list-style-type: none"> ○ that declining to quote a TFN is not an offence ○ about the consequences of declining to quote a TFN ● the manner of collection does not unreasonably intrude on the individual’s affairs, and ● information is only requested or collected that is necessary and relevant to the purpose of collection under applicable taxation law, personal assistance law or superannuation law. 	<p>The ACQSC should also satisfy itself that the collection of TFN information is in accordance with one of the prescribed laws, the ACQSC could consider obtaining external legal advice in this regard.</p>	
Section 9	<p>If the ACQSC is provided with a TFN for a purpose not connected with taxation law, personal assistance law or superannuation law, the ACQSC must not use or disclose the TFN or record the TFN in a way that is inconsistent with:</p> <ul style="list-style-type: none"> ● Taxation Administration Act 1953 (TAA) ● This Rule 	<p>The ACQSC should ensure its employees are aware of their obligations under this rule by:</p> <ul style="list-style-type: none"> ● conducting regular employee training sessions ● reminding employees who regularly handle TFN information of their obligations under the TFN Rule and the TAA during meetings, by email or on the intranet especially in relation to prescribed uses ● requiring relevant employees to review the TFN Rule, the Classes of lawful tax file number recipients document and this fact sheet as part of induction and/or annual training. 	As above.
Section 10	<p>The ACQSC must only use or disclose the TFN information for the following reasons:</p> <ul style="list-style-type: none"> ● for a purpose authorised by taxation law, personal assistance law or superannuation law, or ● for the purpose of giving an individual any TFN information that the TFN recipient holds about that individual. 	As above.	As above.
Section 11	<p>The ACQSC must take reasonable steps to:</p> <ul style="list-style-type: none"> ● protect TFN information from misuse and loss, and from unauthorised access, use, modification or disclosure ● ensure that access to records containing TFN information is restricted to individuals who need to handle that information for taxation law, personal assistance law or superannuation law purposes ● destroy or permanently deidentify TFN information that is no longer required by law to be retained or necessary for a purpose under 	<p>The ACQSC should ensure TFN information is only accessed by employees who require the information to carry out duties/functions, this can be achieved by:</p> <ul style="list-style-type: none"> ● using audit logs and audit trails and monitoring access by both internal and external persons ● enforcing password or passphrase complexity. 	As above.

	<p>taxation law, personal assistance law or superannuation law purposes</p>	<p>The ACQSC can also consider ICT security and physical mechanisms (where relevant) to protect TFN information, including:</p> <ul style="list-style-type: none"> • software testing to ensure that there are no flaws which can result in privacy breaches • ensuring the latest versions of software and applications are in use • employing and maintaining an intrusion prevention and detection system and regularly analysing event logs • developing procedures to manage the transmission of TFNs via email, as email is not a secure form of communication • considering privacy and security when designing the workspace • making provisions for securing physical files containing TFN information. 	
<p>Section 12</p>	<p>The ACQSC must take reasonable steps to ensure:</p> <ul style="list-style-type: none"> • employees are aware of the need to protect individual’s privacy when handling TFN information • employees who collect or handle TFN information are aware of: <ul style="list-style-type: none"> ○ the circumstances where TFN information may be collected ○ the prohibitions on the use and disclosure of TFN information ○ the need to protect individuals’ privacy when handling TFN information, including under the TFN Rule and under the Privacy Act ○ the penalties or other sanctions that apply for breaching the TFN Rule or applicable laws relating to the handling of TFNs. 	<p>As above and see section 9 under this Rule.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Public Governance, Performance and Accountability Act 2013,
Public Governance Performance and Accountability Rule 2014
Public Governance, Performance and Accountability (Financial Reporting) Rule 2015

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Public Governance, Performance and Accountability Act 2013</i>	23 August 2017	5 August 2024	[For the Commission to fill in]	Governance & Risk, Finance Procurement
Subordinate legislation				
<i>Public Governance Performance and Accountability Rule 2014</i>	1 September 2023	5 August 2024	[For the Commission to fill in]	Governance & Risk, Finance Procurement
<i>Public Governance, Performance and Accountability (Financial Reporting) Rule 2015</i>	19 November 2022	5 August 2024	[For the Commission to fill in]	Governance & Risk, Finance Procurement

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Whole of Government policies, frameworks and Codes applicable to the Commission’s functions and activities			
Australian Government Charging Framework	21 June 2023	[For the Commission to fill in]	Governance & Risk, Finance
Australian Government Guidelines on Information and Advertising Campaigns by Non-Corporate Commonwealth Entities	December 2022		Engagement, Education and Communication
Australian Government Investigations Standards	October 2023	[For the Commission to fill in]	Integrity, Fraud and Security
Commonwealth Fraud Control Framework 2017 (applies until 30 June 2024)	23 August 2017	[For the Commission to fill in]	Integrity, Fraud and Security
Commonwealth Fraud and Corruption Control Framework 2024 (will apply from 1 July 2024)	March 2024		
Commonwealth Grants Rules and Guidelines 2017 (made under section 105(1) of the PGPA Act)	2017	[For the Commission to fill in]	Governance & Risk, Finance
Commonwealth Performance Framework	27 September 2023	[For the Commission to fill in]	Corporate Performance, Assurance and Risk
Commonwealth Procurement Rules**	13 June 2023	[For the Commission to fill in]	Governance & Risk, Finance
Commonwealth Resource Management Framework (supporting compliance with the Finance Law more generally)	8 June 2022	[For the Commission to fill in]	Governance & Risk, Finance
Commonwealth Risk Management Policy	29 November 2022	[For the Commission to fill in]	Governance & Risk, Finance

* The ACQSC should note that the Commonwealth Procurement Rules will be replaced by a new version effective 1 July 2024, which is available here: https://www.finance.gov.au/sites/default/files/2024-06/Commonwealth_Procurement_Rules-1-July-2024.pdf.

** In addition to the revised CPRs, the Department of Finance has also introduced the mandatory requirement to apply the Commonwealth Supplier Code of Conduct, which will apply to the ACQSC’s procurement processes and contract management from 1 July 2024.

Digital and ICT Reuse Policy	11 April 2023	[For the Commission to fill in]	Governance & Risk, Finance
Digital Sourcing Consider First Policy	11 April 2023	[For the Commission to fill in]	Governance & Risk, Finance
Digital Sourcing Fair Criteria Policy	11 April 2023	[For the Commission to fill in]	Governance & Risk, Finance
Digital Sourcing Contract Limits and Reviews Policy	13 September 2023	[For the Commission to fill in]	Governance & Risk, Finance
Digital Sourcing Panels Policy	28 May 2021	[For the Commission to fill in]	Governance & Risk, Finance
Environmentally Sustainable Procurement Policy	July 2024	[For the Commission to fill in]	Governance & Risk, Finance
Indigenous Procurement Policy	December 2020	[For the Commission to fill in]	Governance & Risk, Finance
Payment Times Procurement Connected Policy	28 July 2023	[For the Commission to fill in]	Governance & Risk, Finance
Protective Security and Policy Framework (PSPF)	N/A	[For the Commission to fill in]	Integrity, Fraud and Security; Cyber, Property, P&C
Regulator Performance Guide (RMG 128)	4 July 2023	[For the Commission to fill in]	Governance & Risk, Finance
Shadow Economy Procurement Connected Policy	March 2019	[For the Commission to fill in]	Governance & Risk, Finance
Skills Guarantee Procurement Connected Policy	13 May 2024	[For the Commission to fill in]	Governance & Risk, Finance
Supplier Pay On-Time or Pay Interest Policy	7 June 2024	[For the Commission to fill in]	Governance & Risk, Finance
Workplace Gender Equality Procurement Principles	N/A	[For the Commission to fill in]	Governance & Risk, Finance

Note: The Department of Finance produces Resource Management Guides (**RMGs**) that provides guidance to Commonwealth officials on their obligations and compliance with several Commonwealth legislations and policies. We have not included a detailed list of the relevant RMGs, however this is available publicly.

* The ACQSC should note that the Commonwealth Procurement Rules will be replaced by a new version effective 1 July 2024, which is available here: https://www.finance.gov.au/sites/default/files/2024-06/Commonwealth_Procurement_Rules-1-July-2024.pdf.

* In addition to the revised CPRs, the Department of Finance has also introduced the mandatory requirement to apply the Commonwealth Supplier Code of Conduct, which will apply to the ACQSC’s procurement processes and contract management from 1 July 2024.

Assurance Audit Process – Legislative Framework Summary
Public Governance, Performance and Accountability Act 2013,
Public Governance Performance and Accountability Rule 2014 and Public Governance
Performance and Accountability (Financial Reporting) Rule 2015

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Public Governance, Performance and Accountability Act 2013 (PGPA Act)			
Section 15	<p>The accountable authority of the ACQSC must govern the entity in a way that promotes the:</p> <ul style="list-style-type: none"> • proper use and management of public resources that the authority is responsible for; • achievement of the purposes of the entity; and • financial sustainability of the entity 	<p>The accountable authority should ensure the ACQSC has robust governance frameworks in place. This includes policies and procedures are current, fit for purpose, and compliant with law and policy, and its activities are defensible if subject to scrutiny. Further, the accountable authority must govern the entity in a way that is not inconsistent with the policies of the Australian Government (s 21 of the PGPA Act).</p> <p>Any internal policies, or documents detailing decision-making processes should be readily accessible and well-documented.</p> <p>Policies and procedures should exist for all relevant functions and processes of the ACQSC.</p> <p>The accountable authority must also ensure all decision-making is defensible, documented, and in compliance with all relevant obligations under law and policy (see further detail at obligations for s 26 of the PGPA Act relating to the duty to act honestly, in good faith and for a proper purpose).</p>	<p>The PGPA Act does not contain penalties and sanctions for the ACQSC directly.</p> <p>Accountable authorities who are found to have breached the general duties may be subject to employment sanctions under their relevant employment framework.</p> <p>Accountable authorities are also subject to investigation by the National Anti-Corruption Commission under the <i>National Anti-Corruption Commission Act 2022 (NACC Act)</i> for conduct which adversely affects the exercise of powers or performance of duties.</p> <p>Further, all Australian Public Servants also required to remain compliant with all Australian Law (including the PGPA Act), under the APS Code of Conduct as provided in s 13 of the <i>Public Service Act 1999</i>. Breaches of the APS Code of Conduct are addressed in section 15 of the <i>Public Service Act 1999</i>, and responsible individuals may be subject to sanctions. These may be posed by the Agency Head and take the form of:</p> <ul style="list-style-type: none"> (a) termination of employment; (b) reduction in classification; (c) re-assignment of duties; (d) reduction in salary; (e) deductions from salary, by way of fine; (f) a reprimand. <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Failure of the accountable authority to carry out their duties to the ACQSC could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions.</p>

<p>Section 16</p>	<p>The accountable authority of the ACQSC must ensure the entity has a comprehensive risk management framework and compliance program.</p>	<p>The accountable authority should enable the availability of training on strategic, legal and operational risks faced by the firm. The accountable authority should satisfy itself that clearly documented and readily accessible policies and procedures are up-to-date and aligned with legal obligations, and relevant risks are able to be managed.</p> <p>Relevant policies and procedures include governance processes, risk and fraud identification and mitigation policies and procedures, work health and safety plans, business continuity, disaster recovery planning, information security (including cybersecurity), quality and legal assurance and regulatory compliance.</p>	<p>Failure of the accountable authority to establish and maintain systems relating to risk and control could expose the ACQSC to higher and unnecessary levels of risk.</p>
<p>Section 17</p>	<p>The accountable authority of the ACQSC must encourage officials of the entity to cooperate with others to achieve common objectives where practicable.</p>	<p>The accountable authority should ensure ACQSC values and culture fosters an environment of cooperation.</p>	<p>Failure of the accountable authority to establish values and culture that fosters an environment of cooperation could expose the ACQSC and the accountable authority to unnecessary risk.</p>
<p>Section 18</p>	<p>When imposing requirements on others in relation to the use or management of public resources for which the accountable authority of the ACQSC is responsible, the accountable authority must take into account risks with that use or management, and the effects of imposing these requirements.</p>	<p>The accountable authority of the ACQSC should ensure that they (and all delegated decision-makers) comply with relevant obligations when exercising decision-making responsibilities under law, policy and probity. This includes but is not limited to the Commonwealth Procurement Rules, Commonwealth Grants Rules and Guidelines, and procurement connected policies.</p>	<p>Failure of the accountable authority to establish clear processes supporting management of public resources could expose the ACQSC and the accountable authority to unnecessary risk.</p>
<p>Section 19</p>	<p>The accountable authority of the ACQSC must keep the responsible Minister informed of the ACQSC’s activities, and provide the Minister and Finance Minister reports, documents and information upon request. If a significant issue arises, the ACQSC must notify the responsible Minister.</p>	<p>The accountable authority of the ACQSC must ensure that line areas, technical teams, internal or external advisers (including legal advisers) are in a position to proactively brief the accountable authority on all activities and issues of the ACQSC, to enable notification to Minister and/or Finance Minister when necessary. They should be supported with clear reporting and record-keeping processes to meet these requirements.</p>	<p>Failure of the accountable authority to establish appropriate and clear reporting mechanisms could expose the ACQSC and the accountable authority to unnecessary risk.</p>
<p>Section 25</p>	<p>An official must exercise their powers, perform their functions and discharge their duties with the degree of care and diligence that a reasonable person would exercise if the person was an official and occupied the same position with the same responsibilities.</p> <p>Note: ‘official’ includes any individual who is in, or forms part of the ACQSC, including officers, employees, members, or a person or member of a class of persons prescribed by any rules made under the PGPA Act to be an official. If provided for under the Commissioner’s Instructions, an official may also capture a contractor to the extent the contractor has been authorised to carry out approved functions on the ACQSC’s behalf.</p>	<p>This reasonable person test is similar to the common law reasonable person test. An official must ensure that they have taken all reasonable steps that a similarly skilled person would take in their role to ensure that they exercise their powers, perform their functions and discharge their duties with the degree of care and diligence. Reasonable steps mean the official is appropriately informed, capable, aware of the law, and fair minded. This means the following factors are considered and weighed prior to acting or making a decision:</p> <ul style="list-style-type: none"> • foreseeable risk of harm created against the utility (commercial, functional, etc.) 	<p>The PGPA Act does not contain penalties and sanctions for the ACQSC directly.</p> <p>Officials who are found to have breached their general duties may be subject to employment sanctions under their relevant employment framework.</p> <p>Officials are also subject to investigation by the National Anti-Corruption Commission under the <i>National Anti-Corruption Commission Act 2022 (NACC Act)</i> for conduct which adversely affects the exercise of powers or performance of duties.</p>

		<ul style="list-style-type: none"> • having all relevant information and care in making a decision • holding the required skills, qualifications and experience to perform their role; • seeking advice where required to support them in discharging their role. <p>Officials may consult or seek input from internal or external advisers such as legal counsel or technical experts in order to ensure they considers all relevant factors (and no irrelevant factors). For example, matters involving a high-risk high value procurement or where legal advice is provided directly to a Minister’s Office.</p>	<p>Further, all Australian Public Servants also required to remain compliant with all Australian Law (including the PGPA Act), under the APS Code of Conduct as provided in s 13 of the <i>Public Service Act 1999</i>. Breaches of the APS Code of Conduct are addressed in section 15 of the <i>Public Service Act 1999</i>, and responsible individuals may be subject to sanctions. These may be posed by the Agency Head take the form of:</p> <ul style="list-style-type: none"> (a) termination of employment; (b) reduction in classification; (c) re-assignment of duties; (d) reduction in salary; (e) deductions from salary, by way of fine; (f) a reprimand. <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Failure of the official to comply with the obligations of their role could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions. It can also lead to reputation damage for the ACQSC.</p>
<p>Section 26</p>	<p>An official must exercise their powers, perform their functions and discharge their duties honestly, in good faith and for a proper purpose.</p>	<p>Acting honestly, in good faith and for a property purpose means that officials must act in a sincere or honest way for a purpose they are employed to do and empowered to take.</p> <p>‘Proper’ means in an efficient, effective, economical and ethical manner – which in the context of procurements, aligns with the ACQSC’s obligations under the Commonwealth Procurement Rules.</p> <p>The ACQSC should have policies, procedures or guidance materials that can assist of officials in understanding their role, functions and scope of services they can provide to the business areas and the manner that these services should be delivered. Officials should also be provided induction (upon engagement) and ongoing training that advises them of their obligations as ACQSC officials.</p>	<p>In addition to the above, failure to comply with the duty to act honestly, in good faith and for a proper purpose may lead to ACQSC’s stakeholders losing faith in the ACQSC’s capacity to do business, and reduce the likelihood of stakeholder and industry engagement leading to diminished competition and the ACQSC’s potential to receive value for money.</p>
<p>Section 27</p>	<p>An official must not improperly use their position to:</p> <ul style="list-style-type: none"> • gain/seek to gain a benefit or advantage for themselves or any other person; • cause/seek to cause detriment to the ACQSC, the Commonwealth or any other person 	<p>This links closely with the duty specified in section 2 – in relation to use of information.</p> <p>The ACQSC officials must ensure the ACQSC has policies, procedures or guidance materials which sets out obligations regarding confidentiality, conflicts of interest, gifts and hospitality and integrity generally, and ensure they remain compliant with these at all times.</p>	<p>Part 5.6 of the Criminal Code contains 11 general secrecy offences in relation to harm caused by unauthorised communication or, or other dealings with government information including security classified information, which apply to the ACQSC officials. If found criminally liable for these offences, the ACQSC officials may be prosecuted, and subject to the relevant penalty.</p> <p>The unauthorised disclosure of information obtained due to their position may be prejudicial to the ACQSC’s</p>

		<p>Officials should familiarise themselves with related and concurrently operating secrecy provisions such as sections 191, 200A and 193S of the <i>Aboriginal and Torres Strait Islander Act 2005</i>.</p> <p>Where the ACQSC considers it requires further guidance, review of its existing processes, or advice on potential risks arising from confidentiality and conflicts of interest issues—it may consider engaging a probity adviser for this purpose.</p>	commercial interests, or risk harm to individuals, depending on the character of the information.
Section 28	<p>An official who obtains information because they are an official must not improperly use the information to:</p> <ul style="list-style-type: none"> gain/seek to gain a benefit for themselves or any other person; cause/seek to cause detriment to the ACQSC, the Commonwealth or any other person. 	Same as above	Same as above
Section 29	<p>An official who has a material personal interest relating to the affairs of the ACQSC must disclose details of the interest.</p>	<p>The ACQSC should have policies or guidance materials which sets out the obligation and process in identifying, disclosing and managing conflicts of interest. These policies or guidance materials should specify what constitutes a relevant interest (including interests which are real, potential, or perceived), and include a process for assessing the materiality of these interests and determining appropriate management strategies where required.</p> <p>The ACQSC officers should be aware that the obligation to declare conflicts of interests is a live and ongoing one, and ideally should be regularly prompted to consider whether any new interests are arising at regular intervals.</p> <p>There must be clear processes to comply with this duty in relation to any decision that relates to the expenditure or commitment of public money, for example through a procurement or grants process. The ACQSC should ensure its procurement templates (including Probity Plan, Confidentiality Deeds and Conflict of Interest documents) are regularly reviewed and implemented to ensure officials are aware of their obligations and can comply with them.</p>	Same as above.

<p>Section 34-36</p>	<p>The ACQSC must comply with planning and reporting requirements in relation to budget estimates, corporate plan, and key priorities and objectives.</p>	<p>The ACQSC must publish every reporting period (annually every financial year) a Corporate Plan and budget estimates.</p> <p>The Corporate Plan should set out how the activities of the ACQSC will contributing to achieving relevant Australian Government key priorities and objectives. This is to be provided to the Minister for Health and Aged Care, and the Finance Minister.</p> <p>Budget estimates should detail the estimated financial impacts of the ACQSC’s activities for the reporting period, accompanied by any relevant supporting documents, and address any information as directed by the Finance Minister. This is to be provided to the Finance Minister and the Finance Secretary.</p>	<p>A failure to publish these documents by the required timeframes, impacts transparency of government processes for the public, which could lead to increased scrutiny and negative commentary from the media and Australian public.</p>
<p>Section 37-49</p>	<p>The ACQSC must comply with performance record-keeping, and performance and financial audit and reporting requirements.</p>	<p>The ACQSC must ensure it maintains records of its activities particularly in regard to how it is achieving its purpose.</p> <p>This includes a number of reporting requirements in relation to performance and finances, and compliance with periodic audits. Financial reports must be issued monthly, with an annual consolidated financial statement produced and audited. A performance statement must be produced annually and audited.</p>	<p>Same as above.</p>
<p>Section 60, 63</p>	<p>The Finance Minister only, may grant an waiver, indemnity, guarantee or warranty on behalf of the ACQSC.</p>	<p>The ACQSC must ensure the Finance Minister’s formal written approval is received prior to granting a waiver, indemnity, guarantee or warranty. The ACQSC should appropriately provide the Finance Minister with relevant factors for consideration to assist with the decision. Where this authority has been delegated, the ACQSC should ensure this is clearly recorded and implemented.</p>	<p>Same as above.</p>
<p>Public Governance, Performance and Accountability Rule 2014 (PGPA Rule)</p>			

<p>Section 9</p>	<p>For the purposes of the PGPA Rules the following persons are officials of the ACQSC for the purposes of the PGPA Rules:</p> <p>Any of the following persons whose services are made available to the entity in connection with the performance of any of the entity’s functions:</p> <ul style="list-style-type: none"> (a) an official of the ACQSC; (b) an employee of the ACQSC; (c) an officer or employee of a State or Territory; (d) an officer or employee of an authority of a State or Territory <p>OR</p> <p>a persons to whom all of the following apply:</p> <ul style="list-style-type: none"> (a) the person is an individual who is: <ul style="list-style-type: none"> (i) engaged as a consultant or independent contractor to provide services to the entity; or (ii) (ii) an employee of a person engaged as a consultant or independent contractor to provide services to the entity; (b) the services require the exercise of a particular power, the performance of a particular function, or the discharge of a particular duty, conferred on any person by: <ul style="list-style-type: none"> (i) the Act or a rule made under it; or (ii) the Financial Framework (Supplementary Powers) Act 1997; (c) the individual is capable of being identified by name by the accountable authority of the entity in relation to the exercise of the power, the performance of the function or the discharge of the duty. 	<p>This provision provides further detail on the meaning of official – which is relatively broad and expansive. The ACQSC must ensure its external contractors and advisers, where relevant, are aware of and compliant of obligations applicable to officials.</p>	<p>N/A</p>
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<p>Section 10</p>	<p>The ACQSC must take all reasonable measures to prevent, detect and deal with fraud relating to the entity, including:</p> <ul style="list-style-type: none"> regular fraud risk assessments (including where there are substantial changes to ACQSC) fraud control plan, and conducting risk assessments following identification of risk mechanisms for fraud prevention – awareness of what is fraud, and risk management confidential fraud reporting process fraud investigation process <p>Legislative Change</p> <p>Currently, there is only an obligation for accountable authorities to take reasonable measures to prevent, detect and deal with fraud. From 1 July 2024, accountable authorities will be required to take reasonable measures to prevent, detect <u>and respond to fraud and corruption</u>. The ACQSC must also undertake more reasonable measures to comply with their obligation including:</p> <ul style="list-style-type: none"> conducting periodic reviews of the effectiveness of the ACQSC’s fraud and corruption controls; and ensuring that the ACQSC: <ul style="list-style-type: none"> has governance structures and processes to effectively oversee and manage risks of fraud and corruption; and has officials who are responsible for managing risks of fraud and corruption; and keeps records identifying those structures, processes and officials. 	<p>This supplements the s 16 provision of the PGPA Act and specifies in more detail the responsibilities of accountable authorities and officials of the ACQSC to ensure the listed measures are implemented and fit for purpose.</p>	<p>The PGPA Rule does not contain penalties and sanctions for the ACQSC directly.</p> <p>Officials and accountable authorities who are found to have breached the general duties may be subject to employment sanctions under their relevant employment framework.</p> <p>Officials and accountable authorities are also subject to investigation by the National Anti-Corruption Commission under the <i>National Anti-Corruption Commission Act 2022 (NACC Act)</i> for conduct which adversely affects the exercise of powers or performance of duties.</p> <p>Further, all Australian Public Servants also required to remain compliant with all Australian Law (including the PGPA Act), under the APS Code of Conduct as provided in s 13 of the <i>Public Service Act 1999</i>. Breaches of the APS Code of Conduct are addressed in section 15 of the <i>Public Service Act 1999</i>, and responsible individuals may be subject to sanctions. These may be posed by the Agency Head take the form of:</p> <ol style="list-style-type: none"> termination of employment; reduction in classification; re-assignment of duties; reduction in salary; deductions from salary, by way of fine; a reprimand. <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Failure of the accountably authority to carry out their duties to the ACQSC could also undermine public faith in the integrity of the ACQSC and its ability to undertake its functions.</p> <p>A lack of appropriate fraud prevention, detection and dealing policies and processes will increase the risk of fraudulent activities and delay detection.</p>
<p>Section 11</p>	<p>Accountable authority of the ACQSC has the responsibility to pursue recovery of debts unless it considers it is not economical to pursue recovery, the debt is not legally recoverable, or the debt has been written off as authorised under law.</p>	<p>The accountable authority of the ACQSC must ensure it makes informed decisions on whether to pursue reasonable debt-recovery activities and that there are clear processes implemented for debt recovery. The accountable authority should ensure that authority has been delegated where required to support debt recovery, including debt write-off and waivers.</p> <p>This may include the requirement to seek legal and financial advice prior to making a decision as to what constitutes reasonable and economical efforts to recover</p>	<p>Same as above</p>

		debt, or to determine when debt is not legally recoverable.	
Section 12, 13, 16, 16A, 16B	<p>r12 ACQSC officials do not need to disclose interests in the following circumstances:</p> <ul style="list-style-type: none"> • official remuneration • liability insurance • indemnity arrangements • membership of governing body or subsidiary <p>r13, 16, 16A, 16B, 16C Officials and accountable authorities (including those who are also ex official members of a body) Disclosure of relevant interests should occur in the following circumstances for ACQSC</p> <ul style="list-style-type: none"> • material personal interest relevant to the entity (other than as specified in r 12) <ul style="list-style-type: none"> ○ relevant details to declare include nature and extent of the interest, how the interest relates to the affairs of the entity • as soon as practicable after becoming aware of the interest • where there is a change in nature of extent of the interest after initial disclosure 	This provision provides guidance and further detail to the duty provided by s29 of the PGPA Act. ACQSC should ensure its conflict of interest policy aligns with the process specified here.	Same as above
Section 15	Where an official has disclosed an interest, the official should refrain from participating in discussion and voting of the matter relating to the interest, unless the responsible Minister or other officials has declared otherwise	This provision provides guidance and further detail to the duty provided by s29 of the PGPA Act. The ACQSC should ensure its conflict of interest policy aligns with the process specified here.	Same as above
Section 16E	<p>The ACQSC's corporate plan must cover a period of at least 4 reporting periods, and include:</p> <ul style="list-style-type: none"> • Introduction stating that the plan is prepared for paragraph 35(1)(b) of the PGPA Act, the reporting period for which the plan is prepared, and reporting periods covered • Purposes of the ACQSC • Key activities of the ACQSC to achieve its purposes • Operating context • Performance <p>The ACQSC's corporate plan must be published by the last day of the second month of the reporting period for which the plan is prepared (i.e. the last day of August)</p>	The ACQSC must ensure its Corporate Plan is aligned with the format specified and contains all the relevant sections and information listed. This provision provides guidance to the requirement to produce a Corporate Plan under s 35 of the PGPA Act.	Same as above

<p>Section 16EA, 16F, 17AA-17J</p>	<p>r16EA defines performance measures as those which</p> <ul style="list-style-type: none"> • Relates to the purpose or key activities of ACQSC; • Provides an unbiased way to measure and assess performance; • (where possible) involves both quantitative and qualitative measures; • Measures ACQSC outputs of efficiency and effectiveness; and • Can be considered over time <p>r16F Annual performance statements must be in the following format and measure the ACQSC’s performance:</p> <ul style="list-style-type: none"> • Statement that this performance statement is prepared for s39 of the PGPA Act • The relevant reporting period • Confirmation that in the view of the Accountable Authority, the performance statement accurately presents the entity’s performance and complies with s 39(2) of the PGPA Act <p>r17 Minimum requirements of the ACQSC audit committee</p> <ul style="list-style-type: none"> • Functions <ul style="list-style-type: none"> ○ Performance reporting; ○ System of risk oversight and management; ○ System of internal control • Membership <p>Not ACQSC officials</p> <ul style="list-style-type: none"> ○ Majority must be persons who are not officials of any Commonwealth entity <p>r17AA-J Format and content requirements for annual ACQSC report: plain English, clear design, using digital reporting tool, contents (17BE), information on management and accountability, and relevant approvals obtained.</p>	<p>The ACQSC must ensure its annual report is aligned with the format specified and contains all the content required. This provision provides guidance to the requirement to produce a Corporate Plan under s 46 of the PGPA Act.</p>	<p>Same as above</p>
<p>Section 17CA-CE</p>	<p>Remuneration information for key management personnel, senior executives, and other highly paid staff (those with salaries in a band of one or more increment(s) of \$25,000 above \$220,000) must be included in the ACQSC annual report. Relevant remuneration information includes base salary, bonuses, benefits and allowances, superannuation contributions provided by the ACQSC, long-service leave and other long-term benefits, standard termination and overall package.</p>	<p>The ACQSC must ensure its annual report contains all remuneration details required. This provision provides guidance to the requirement to produce a Corporate Plan under s46 of the PGPA Act.</p>	<p>Same as above</p>

<p>Section 18</p>	<p>The accountable authority (or official with delegation) of the ACQSC must approve the commitment of relevant money must record in writing as soon as practicable after approval is given, and in accordance with any instructions, or instruments (if relevant) if provided under a delegation.</p>	<p>The accountable authority (or official acting under a delegation) must exercise power consistent with s15 of the PGPA Act and within the approved and relevant parameters of their authority, or in the case of a delegate the instructions and conditions of the delegation.</p> <p>This provision provides guidance to the requirement to conduct procurement processes and in compliance with s26 of the PGPA Act.</p>	<p>Same as above</p>
<p>Public Governance, Performance and Accountability (Financial Reporting) Rule 2015</p>			
<p>Section 6</p>	<p>The ACQSC must prepare financial statements in accordance with this rule.</p>	<p>The ACQSC should develop a guidance document, manual or policy which sets out the process for preparing financial statements which aligns with the various requirements under the PGPA (Financial Reporting) Rule 2015.</p> <p>The ACQSC should also consider developing template financial statements that can be used as a starting point for preparing financial statements. It would be helpful to include explanatory notes throughout the template to assist relevant personnel with using the template.</p> <p>As financial statements prepared by the ACQSC needs to comply with all applicable AAS and interpretations issued by the AASB. The ACQSC can seek to organise opportunities for relevant personnel to attend formal training sessions to gain a better understanding of the AAS.</p>	<p>The PGPA (Financial Reporting) Rule 2015 does not contain penalties and sanctions for the ACQSC directly for non-compliance with the rule.</p> <p>However, under s42 of the PGPA Act, there is an obligation on the accountable authority to prepare annual financial statements that complies with the accounting standards and any other requirements prescribed by the rules.</p> <p>Therefore, non-compliance with the rules will mean non-compliance with the PGPA Act, in which consequences may arise as a result. Please see above response in s15 and 16 of the PGPA Act regarding consequences for accountable authorities for non-compliance with the PGPA Act.</p>
<p>Section 7</p>	<p>The financial statements prepared by the ACQSC must comply with:</p> <ul style="list-style-type: none"> all applicable requirements of this rule – where the information resulting from applying this rule is considered or specifically stated in this rule to be material; applicable Australian Accounting Standards (AAS) and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period. <p>Note: materiality is assessed in accordance with the relevant AAS (r 7(2) of the rule).</p>	<p>As above.</p>	<p>As above.</p>

<p>Section 8</p>	<p>The financial statements prepared by the ACQSC must:</p> <ul style="list-style-type: none"> distinguish between ‘departmental’ and ‘administered’ for all disclosures outlined in this rule; present items as ‘departmental’ and ‘administered’ in accordance with Cabinet decisions on their classification. <p>The ACQSC must not make changes to the classification of existing items without the approval of Cabinet or the Finance Minister.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 9</p>	<p>The financial statements prepared by the ACQSC for administered items must:</p> <ul style="list-style-type: none"> provide a brief description of the activities being administered on behalf of the Australian Government; and <p>be in a different background shading to ‘department’.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 10</p>	<p>The ACQSC must present a statement signed by its accountable authority and the Chief Financial Officer stating:</p> <ul style="list-style-type: none"> whether the financial statements (in their opinion) comply with subsection 42(2) of the PGPA Act; whether the financial statements, in their opinion have been prepared based on properly maintained financial records as per subsection 41(2) of the PGPA Act; whether (in their opinion) there are reasonable ground to believe that the entity will be able to pay its debts as and when they fall due, when the statement was made; when additional information is included in the notes to comply with subsection 42(2) of the PGPA Act, and the reasons and location of the additional notes; the particulars of any exemptions of this rule applying to the entity; and <p>the date on which the statement is made.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 11</p>	<p>The Finance Minister may grant a written exemption to the accountable authority from specific requirements of this rule.</p> <p>Where the ACQSC has been granted an exemption subject to conditions, the ACQSC should ensure that these conditions are met.</p> <p>Where the ACQSC elects to apply an exemption granted by the Finance Minister, information that would otherwise be reported must be available for consolidation into the Australian Government consolidated financial statements.</p>	<p>As above.</p>	<p>As above.</p>

<p>Section 12-18</p>	<p>When preparing financial statements, the ACQSC should ensure that the accounting treatments prescribed in Part 3 of the rule is complied with where relevant.</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 18A</p>	<p>Where there is information required for consolidation into the Australian Government consolidated financial statements and this information is not reported in the ACQSC’s financial statements, the ACQSC must:</p> <ul style="list-style-type: none"> • prepare the information on the basis of accounts and records kept in accordance with section 41 of the PGPA Act; and • ensure that the information undergoes a management assurance process equivalent to that which the entity’s financial statements must undergo. <p>This information is to be made available to the Department of Finance at the time and format requested by the Department (including a statement by the CFO of the ACQSC that the information is complete and accurate, and has been prepared in accordance with the above points).</p>	<p>As above.</p>	<p>As above.</p>
<p>Section 19 and 23</p>	<p>The ACQSC may only adopt an AAS or AASB Interpretation earlier than its effective date of application where it has approval from the accountable authority of the Department of Finance, has been instructed by the Department of Finance to adopt an interpretation early, or where it is permitted or required by this rule.</p> <p>Regarding liabilities relating to dividends, the ACQSC must:</p> <ul style="list-style-type: none"> • recognise a liability for any dividend or distribution determined by the Minister(s) at the date of the Ministerial determination, where there is legislation that provides a Minister(s) may determine the amount to be paid as a dividend or similar distribution; • recognise a liability for dividend if those amounts are known before the date of completion of the financial statements (otherwise disclose a contingent liability), where the ACQSC is required to pay its profit for the year to the Australian Government after the deduction of certain amounts. 	<p>As above.</p>	<p>As above.</p>

<p>Section 24-27</p>	<p>The ACQSC should ensure that it complies with the requirements in this rule regarding the:</p> <ul style="list-style-type: none"> • calculation of employee benefits; • reporting for post-employment plans including superannuation; • reporting and disclosure for when a restructure of administrative arrangements has occurred; and • disclosure of key management personnel remuneration. 	<p>As above.</p>	<p>As above.</p>
<p>Section 29-34C</p>	<p>The ACQSC should ensure that it complies with the additional financial reporting and disclosure requirements in Part 5 of this rule regarding:</p> <ul style="list-style-type: none"> • unquantifiable contingencies and financial guarantees; • the management and maintenance of heritage and cultural assets; • assets held in trust by the ACQSC; • administered investments held on behalf of the Commonwealth; • administered investments held for sale on behalf of the Commonwealth; • regulatory charging activities; • current and non-current assets and liabilities; • revenue or impairment losses recognised from contracts with customers. 	<p>As above.</p>	<p>As above.</p>
<p>Section 35-48</p>	<p>The ACQSC should ensure that it deals with appropriations, and report appropriations in its financial statements in accordance with Part 6 of this rule.</p>	<p>As above.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Public Interest Disclosure Act 2013
Public Interest Disclosure Standard 2013

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Public interest Disclosure Act 2013</i>	17 October 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture
Subordinate legislation				
<i>Public Interest Disclosure Standard 2013</i>	1 July 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Public Interest Disclosure Act 2013
Public Interest Disclosure Standard 2013

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Public Interest Disclosure Act 2013			
Section 19	A person commits an offence if they take a reprisal that results in detriment (or a threat to cause detriment) to another person.	<p>The ACQSC should ensure that their PID Procedure includes information about reprisals and the protections for the Discloser and witnesses.</p> <p>The ACQSC needs to ensure that public officials who make PIDs are supported and protected from reprisal.</p>	Imprisonment for 2 years or 120 penalty units, or both.
Section 20(1)	A person commits an offence if they disclose or use identifying information.	<p>The ACQSC should ensure that their PID Procedure includes information about the confidentiality obligations. This should include outlining confidentiality, anonymity and secrecy considerations at all stages of the ACQSC’s handling of a PID.</p> <p>The ACQSC should ensure that managers and supervisors be careful to observe confidentiality requirements.</p> <p>The ACQSC could consider providing training to staff (in particular, managers and supervisors) on the PID scheme.</p>	Imprisonment for 6 months or 30 penalty units, or both.
Section 26(3)	<p>In determining whether a disclosure is not, on balance, contrary to the public interest, regard must be had to the following:</p> <ul style="list-style-type: none"> • whether the disclosure would promote the integrity and accountability of the Commonwealth public sector; • the extent to which the disclosure would expose a failure to address serious wrongdoing in the Commonwealth public sector; • the extent to which it would assist in protecting the discloser from adverse consequences relating 	<p>If a disclosure is made, the authorised officer (see: section 36) must have regard to this section to determine whether the disclosure satisfies all requirements for a public interest disclosure.</p> <p>The ACQSC should consider providing authorised officers with regular PID training to ensure they understand what constitutes a PID under this Act, their role and obligations (see section 59(8)).</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>A Discloser can also make a complaint to the Commonwealth Ombudsman about the way a PID was handled.</p>

	<p>to the disclosure if the disclosure were a public interest disclosure;</p> <ul style="list-style-type: none"> • the principle that disclosures by public officials should be properly investigated and dealt with; • the nature and seriousness of the disclosable conduct; • any risk that the disclosure could cause damage to the security, defence, international relations of the Commonwealth or relations between the Commonwealth and a State, the ACT, the NT or Norfolk Island; • if any of the information disclosed in the disclosure is Cabinet information—the principle that Cabinet information should remain confidential unless it is already lawfully publicly available; • if any of the information disclosed in the disclosure was communicated in confidence by or on behalf of: <ul style="list-style-type: none"> ○ a foreign government; or ○ an authority of a foreign government; or ○ an international organisation; the principle that such information should remain confidential unless that government, authority or organisation, as the case may be, consents to the disclosure of the information; • any risk that the disclosure could prejudice the proper administration of justice; • the principle that legal professional privilege should be maintained; • any other relevant matters. 		
<p>Section 43(3)</p>	<p>(Applies in relation to an allocation of a disclosure)</p> <p>An authorised officer of the recipient agency must:</p> <ul style="list-style-type: none"> • allocate the disclosure to one or more agencies (which may or may not be the recipient agency); or • if subsection (4) applies – decide not to allocate the disclosure to any agency. 	<p>In making a decision in relation to the allocation of a disclosure, the authorised officer must have regard to the criteria set out at section 43(5) and (6) of the PID Act (see below).</p> <p>The authorised officer must use the officer’s best endeavours to make a decision about the allocation of the disclosure within 14 days (see: section 43(11)).</p> <p>The principal officer (the Commissioner) must take reasonable steps to ensure that an authorised officer is given training</p>	<p>As above.</p>

		<p>and education appropriate for the position within a reasonable time of assuming that position (see: section 59(8)).</p> <p>The authorised officer should keep a written record of the matters in section 6 of the PID Standard.</p>	
Section 43(5)¹	<p>In making a decision under subsection (3) in relation to the allocation of a disclosure, the authorised officer must have regard to:</p> <ul style="list-style-type: none"> • the principle that an agency should not handle the disclosure unless one or more of the following circumstances apply: <ul style="list-style-type: none"> ○ in any case—some or all of the conduct disclosed relates to the agency; ○ if the agency is the Ombudsman—some or all of the conduct disclosed relates to an agency other than an intelligence agency, or Australian Criminal Intelligence Commission (ACIC) or the Australian Federal Police in relation to that agency’s intelligence functions or the Inspector-General of Intelligence and Security (IGIS); ○ if the agency is the IGIS—some or all of the conduct disclosed relates to an intelligence agency, or ACIC or the Australian Federal Police in relation to that agency’s intelligence functions; ○ if the agency is an investigative agency (other than the Ombudsman or the IGIS)—the investigative agency has power to investigate the disclosure otherwise than under this Act; and • any other matters the authorised officer considers relevant, including: <ul style="list-style-type: none"> ○ whether subsection (8) applies (which deals with the allocation of a disclosure within the same portfolio as the recipient agency); and ○ any recommendation of the Ombudsman or the IGIS under section 55 about the allocation of the disclosure. 	As above.	As above.
Section 43(6)	Before making the decision, the authorised officer must also consider whether the obligation in subsection 60(1)	As above.	As above.

¹ Note: in relation to reallocation of disclosures, section 43(5) to (12) and section 44 apply in relation to a decision.

	(which is about informing the discloser of certain matters) has been satisfied in relation to the disclosure.		
Section 43(7)	The authorised officer must not allocate a disclosure to the IGIS if the disclosure relates to action taken by an examiner of ACIC performing functions and exercising powers as an examiner.	As above.	As above.
Section 43(11)	The authorised officer must use the officer’s best endeavours to make a decision about the allocation of the disclosure within 14 days after whichever of the following days applies: (a) if no previous decision has been made about the allocation— the day the disclosure is made or given to an authorised officer; (b) if the decision is made following the reconsideration of a previous decision about the allocation in response to a recommendation by the Ombudsman or the IGIS under section 55—the day the principal officer of the recipient agency receives the recommendation under that section; (c) to the extent that a stop action direction under the NACC Act prevented the allocation of the disclosure—the day when the authorised officer becomes aware that the direction no longer applies.	As above.	As above.
Section 44(2)	(Applies in relation to a decision to allocate) The authorised officer must, as soon as reasonably practicable, give written notice to each person or agency covered by subsection (3) of this section of the following matters: <ul style="list-style-type: none"> • the allocation to the agency; • the information that was disclosed; • the conduct disclosed; • if the discloser’s name and contact details are known to the authorised officer, and the discloser consents to the persons and agencies covered by subsection (3) being informed—the discloser’s name and contact details. 	The authorised officer must give notice of a decision to allocate to: <ul style="list-style-type: none"> • the agency to which the disclosure was allocated; • the principal officer of that agency; • the Ombudsman; and • if reasonably practicable, the Discloser. The authorised officer must ensure that the notice includes the matters in section 44(2). For a notice to the Ombudsman, the authorised officer should use the template provided on the Ombudsman’s website (Form 1). The authorised officer should keep a written record of the matters in section 6 of the PID Standard.	As above.

<p>Section 44A(2)</p>	<p>(Applies in relation to a decision not to allocate and refer the conduct for investigation under another law or power)</p> <p>If the authorised officer is satisfied, on reasonable grounds, that the conduct disclosed would be more appropriately investigated under another law or power, the authorised officer must, as soon as reasonably practicable, take reasonable steps to refer the conduct disclosed, or to facilitate its referral, for investigation under the other law or power.</p>	<p>If this section applies, the authorised officer must give notice of the decision not to allocate to:</p> <ul style="list-style-type: none"> • the Discloser; and • the Ombudsman. <p>The notice must contain the matters in section 44A(3) (see below) including the details of any action taken or proposed to be taken in relation to the referral (see also: section 44A(4)).</p> <p>For a notice to the Ombudsman, the authorised officer should use the template provided on the Ombudsman’s website (Form 4).</p> <p>The authorised officer should keep a written record of the matters in section 6 of the PID Standard.</p>	<p>As above.</p>
<p>Section 44A(3)</p>	<p>As soon as reasonably practicable after making the decision not to allocate the disclosure, the authorised officer of the agency must:</p> <ul style="list-style-type: none"> • if reasonably practicable, give written notice to the discloser of: <ul style="list-style-type: none"> ○ the decision not to allocate the disclosure, and the reasons for the decision; and ○ if the authorised officer has taken action, or proposes to take action – the details of the action taken or proposed; and ○ if applicable, any courses of action that might be available to the discloser under another law or power; and • except to the extent, if any, to which the conduct disclosed relates to an intelligence agency, or ACIC or the Australian Federal Police in relation to that agency’s intelligence functions—give written notice to the Ombudsman of: <ul style="list-style-type: none"> ○ the decision not to allocate the disclosure, and the reasons for the decision; and ○ whether the authorised officer has taken action, or proposes to take action; and ○ if the authorised officer has taken, or proposes to take, such action—the details of such action; and 	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> to the extent, if any, to which the conduct disclosed relates to an intelligence agency, or ACIC or the Australian Federal Police in relation to that agency’s intelligence functions— give written notice to the IGIS of: <ul style="list-style-type: none"> the decision not to allocate the disclosure, and the reasons for the decision; and whether the authorised officer has taken action, or proposes to take action; and if the authorised officer has taken, or proposes to take, such action—the details of such action. 		
<p>Section 44B(2)</p>	<p>(Applies if a stop action direction is received from the NACC)</p> <p>The authorised officer must, as soon as reasonably practicable, give written notice of the matters in subsection (3) to:</p> <ul style="list-style-type: none"> (a) the Ombudsman (unless paragraph (b) of this subsection applies); or (b) the IGIS, if the disclosure concerns conduct relating to: <ul style="list-style-type: none"> (i) an intelligence agency; or (ii) the IGIS; or (iii) ACIC or the Australian Federal Police in relation to that agency’s intelligence functions. 	<p>If this section applies, the authorised officer must, as soon as reasonably practicable, give written notice to the Ombudsman.</p> <p>The notice must include the matters in section 44B(3) including:</p> <ul style="list-style-type: none"> the information that was disclosed; the conduct disclosed; if the discloser’s name and contact details are known to the authorised officer, and the discloser consents to the Ombudsman or the IGIS, as relevant, being informed—the discloser’s name and contact details; the stop action direction under the NACC Act that prevents allocation of some or all of the disclosure. <p>For a notice to the Ombudsman, the authorised officer should use the template provided on the Ombudsman’s website (Form 6).</p> <p>The authorised officer should keep a written record of the matters in section 6 of the PID Standard.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Potential reputational or legal ramifications.</p>
<p>Section 45A(2)</p>	<p>(Applies in relation to intelligence agencies and agencies with intelligence functions)</p> <p>If the discloser declares to the authorised officer or supervisor that the disclosure is urgent, the authorised officer must, as soon as reasonably practicable and in any case within 1 business day after the disclosure is received by the authorised officer, give a written notice to the IGIS of the following matters:</p>	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>The ACQSC could consider providing training to their authorised officers about the PID scheme, their role and obligations.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> • the making of the disclosure; • the agency to which the authorised officer belongs; • that the discloser has declared that the disclosure is urgent; • the information that was disclosed; • the conduct that was disclosed; <p>if the discloser’s name and contact details are known to the authorised officer, and the discloser consents to the IGIS being informed—the discloser’s name and contact details.</p>		
<p>Section 47(1)</p>	<p>The principal officer of an agency must investigate a disclosure if the disclosure is allocated to the agency.</p>	<p>Before commencing an investigation, the principal officer should become familiar with the PID Act and the ACQSC’s PID procedure.</p> <p>The principal officer must ensure that a discloser is given information about the principal officer’s powers (see: section 9 of the PID Standard).</p> <p>Note: The principal officer may decide not to investigate the disclosure, or to stop investigating it, if one of the discretionary grounds in section 48 applies.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>A Discloser can also make a complaint to the Commonwealth Ombudsman about the way a PID was handled.</p>
<p>Section 50</p>	<p>The principal officer of the agency must, as soon as reasonably practicable, give written notice to the discloser of the following (whichever is applicable):</p> <ul style="list-style-type: none"> • that the principal officer is required to investigate the disclosure; • that the principal officer has decided under section 48 or 49 not to investigate the disclosure under this Division, or not to investigate the disclosure further; • that the principal officer cannot investigate, or further investigate, the disclosure because of a stop action direction under the NACC Act. <p>If paragraph 50(1)(a) applies, see section(1A).</p> <p>If paragraph 50(1)(b) applies, see: section 50(2).</p> <p>Pursuant to subsection 50(4A) of the Act, the principal officer must, as soon as reasonably practicable, give written notice to the discloser if the principal officer</p>	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>Ensure the notices include the information required.</p> <p>Ensure details of the notifications are kept by the ACQSC.</p>	<p>As above.</p>

	investigates, or further investigates, a disclosure that is no longer subject to a stop action direction under the NACC Act.		
Section 50AA(2)	<p>(Applies if the principal officer decided to refer the disclosure for investigation under another law or power)</p> <p>The principal officer must, as soon as reasonably practicable, take reasonable steps to refer the conduct disclosed, or to facilitate its referral, for investigation under the other law or power.</p>	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>As soon as practicable, take steps to refer the conduct disclosed or facilitate its referral.</p> <p>Notify the Discloser and the Ombudsman (or the IGIS) that the investigation has stopped and provide details of the referral, including the steps taken or proposed to be taken by the investigator to refer the conduct or facilitate referral.</p>	As above.
Section 50A(1)	If the principal officer of the agency has decided under section 48 or 49 not to investigate the disclosure, or not to investigate the disclosure further, the principal officer must, as soon as reasonably practicable, give written notice to the Ombudsman of the decision, and of the reasons for the decision.	<p>The principal officer must:</p> <ul style="list-style-type: none"> • indicate whether they have taken action, or proposes to take action, under section 50AA in relation to the referral of the conduct disclosed for investigation under another law or power; and • if the principal officer has taken, or proposes to take, such action—include details of the following: <ul style="list-style-type: none"> ○ the other law or power; ○ the agency or other person or body to which the conduct has been, or is to be, referred; • the steps taken, or proposed to be taken, for the conduct to be referred or to facilitate its referral. 	As above.
Section 50A(4)	<p>If an action direction under the NACC Act prevents the principal officer of the agency from investigating, or further investigating, the disclosure under this Division, the principal officer must, as soon as reasonably practicable, give written notice of the stop action direction to:</p> <ul style="list-style-type: none"> • the Ombudsman (unless paragraph (b) applies); or • the IGIS, if the disclosure concerns conduct relating to: <ul style="list-style-type: none"> ○ an intelligence agency; or ○ the IGIS; or 	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>For a notice to the Ombudsman, the principal officer should use the template provided on the Ombudsman’s website (Form 6).</p>	As above.

	<ul style="list-style-type: none"> ○ ACIC or the Australian Federal Police in relation to that agency’s intelligence functions. 		
Section 51(1)	<p>On completing an investigation under this Division, the principal officer of the agency must prepare a report of the investigation.</p>	<p>The report must set out:</p> <ul style="list-style-type: none"> • the matters considered in the course of the investigation; and • the duration of the investigation; and • the principal officer’s findings (if any); and • the action (if any) that has been, is being, or is recommended to be, taken; and • claims of any reprisal taken against the discloser, or any other person, that relates to the matters considered in the course of the investigation, together with any related evidence; and • the agency’s response to any claims or evidence mentioned in paragraph (e). <p>In accordance with section 13 of the PID Standard, the report must, where relevant:</p> <ul style="list-style-type: none"> • identify whether there have been one or more instances of disclosable conduct; and • identify any regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates; and • explain the steps taken to gather evidence; and • set out a summary of the evidence, as well as any findings and recommendations made based on that evidence. 	As above.
Section 51(4)	<p>The principal officer must, within a reasonable time after preparing the report, give written notice of the completion of the investigation, together with a copy of the report, to:</p> <ul style="list-style-type: none"> • the discloser, if reasonably practicable; and • the Ombudsman. 	<p>The principal officer must ensure this provision is complied with.</p> <p>Note: the principal officer may delete from the copy given to the Discloser and the Ombudsman certain material including any identifying information (see: section 51(5) and (6)).</p>	As above.

<p>Section 52(1)</p>	<p>An investigation must be completed within 90 days after:</p> <ul style="list-style-type: none"> • in the case of an investigation following the initial allocation of the disclosure to the agency concerned—the day when the disclosure was initially allocated; or • in the case of an investigation following the reallocation of the disclosure to the agency concerned—the day when the disclosure was reallocated; or • in the case of a reinvestigation—the day when the principal officer of the agency concerned decided to reinvestigate the relevant disclosure; or • to the extent that a stop action direction under the NACC Act prevented the investigation—the day when the principal officer becomes aware that the direction no longer applies. 	<p>The principal officer should prepare the report of the investigation with 90 days or seek an extension of time from the Commonwealth Ombudsman.</p>	<p>Failure to complete the investigation within the time limit does not affect the validity of the investigation (pursuant to section 52(6)).</p>
<p>Section 52(5)</p>	<p>If the 90-day period is extended, or further extended the principal officer of the agency must, as soon as reasonably practicable after the extension or further extension, inform the discloser of the progress of the investigation.</p>	<p>The principal officer must as soon as reasonably practicable after the extension, provide the Discloser with an update as to the progress of the investigation.</p>	<p>As above.</p>
<p>Section 53(3) and (4)</p>	<p>In conducting the investigation, the principal officer must:</p> <ul style="list-style-type: none"> • comply with any standards in force under section 74 (i.e. the PID Standard); and • comply with any rules relating to fraud that are made for the purposes of the <i>Public Governance, Performance and Accountability Act 2013</i>. 	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>If the principal officer of a non-corporate Commonwealth entity is investigating a disclosure that concerns alleged fraud against the Commonwealth, the investigation must also comply with the Commonwealth Fraud Control Policy.</p> <p>Ensure that the investigation is being conducted in accordance with the Australian Government Investigation Standards which set out minimum case handling standards for fraud Investigations.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the Public Service Act 1999).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>A Discloser can also make a complaint to the Commonwealth Ombudsman about the way a PID was handled.</p>
<p>Section 59(1)</p>	<p>The principal officer of an agency must take reasonable steps to ensure that:</p> <ul style="list-style-type: none"> • the number of authorised officers of the agency is sufficient to ensure that they are readily accessible by public officials who belong to the agency; and • public officials who belong to the agency are aware of the identity of each authorised officer of the agency. 	<p>The principal officer should ensure:</p> <ul style="list-style-type: none"> • there are authorised officers available for staff; • the ACQSC’s PID Procedure outlines how a PID can be made and who to (the identify of; and • authorised officers receive training on their role and obligations; 	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the Public Service Act 1999).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>

		<ul style="list-style-type: none"> ensure authorised officers are familiar with the provisions of the PID Act so they can provide advice to disclosers and potential disclosers about the process and the protections available to them; and the contact details of authorised officers should be easy to find, for example, on the agency’s intranet or in staff bulletins. 	The inability for employees to make disclosures if they are not aware of who is an authorised officer.
Section 59(2)	<p>The principal officer of an agency must take reasonable steps to encourage and support:</p> <ul style="list-style-type: none"> public officials who make, or are considering making, public interest disclosures relating to the agency; and any other persons who provide, or are considering providing, assistance in relation to such public interest disclosures. 	<p>Reasonable steps taken by the principal officer could include:</p> <ul style="list-style-type: none"> ensuring there is a clear framework under which public officials can report wrongdoing (for example, making a PID procedure available to current and former public officials on the ACQSC’s website); ensuring managers/ supervisors at all levels support reporting of wrongdoing and are committed to ensuring appropriate action is taken in response; ensuring public officials are aware of the agency’s Employee Assistance Program (EAP); authorising additional free EAP sessions for a public official if appropriate in the circumstances; ensuring a person is aware of, or can contact, a support person within the agency. <p>The ACQSC should have regard to paragraph 3.2.3 and 3.2.4 of the Commonwealth Ombudsman’s Agency Guide to the PID Act.</p>	As above.
Section 59(3)	<p>The principal officer of an agency must, by instrument in writing, establish procedures for facilitating and dealing with public interest disclosures relating to the agency.</p>	<p>The ACQSC should regularly review and update the PID Procedure. The ACQSC should have regard to paragraph 3.2.2 of the Commonwealth Ombudsman’s Agency Guide to the PID Act as to what the PID procedure should contain.</p> <p>In accordance with section 6 of the PID Standard, the procedures established must require that when a decision is made, or a</p>	As above.

		<p>circumstance arises (either a decision to allocate a disclosure to one or more agencies, a decision to allocate a disclosure to any agency or a stop action direction under the NACC Act is made that prevents the allocation of a disclosure to any agency), an appropriate written record is made.</p> <p>In accordance with section 7 of the PID Standard, the procedures established by a principal officer must outline any support that will be made available to public officials who make disclosures relating to the ACQSC.</p>	
Section 59(4)	<p>The ACQSC’s PID procedure must:</p> <ul style="list-style-type: none"> • deal with the assessment of risks that reprisals may be taken in relation to those disclosures; and • provide for confidentiality of investigative processes; and • comply with any standards in force under subsection 74(1). 	As above.	As above.
Section 59(6)	<p>The principal officer of an agency must, as soon as reasonably practicable, ensure that appropriate action in relation to the agency is taken in response to any recommendations in a report under section 51.</p>	<p>ACQSC should ensure recommendations are implemented as soon as reasonably practicable.</p> <p>Actions might include:</p> <ul style="list-style-type: none"> • commencing Code of Conduct proceedings under the Public Service Act or another disciplinary process; • referring the matter to the police or another body that can take further action; • mediating or conciliating a workplace conflict; • an internal audit or other review of an issue or the operations of a particular unit; • implementing or changing policies, procedures or practices; and • conducting training and awareness sessions for staff. 	As above.
Section 59(7)	<p>The principal officer of an agency must take reasonable steps to provide ongoing training and education to public officials belonging to the agency about this Act including about:</p>	<p>The principal officer should provide regular training for authorised officers and supervisors on the PID scheme and their obligations.</p>	As above.

	<ul style="list-style-type: none"> • integrity and accountability; • how to make a public interest disclosure; • the protections available under this Act; • the performance by those officials of their functions under this Act; • the circumstances (if any) in which a public interest disclosure must be referred to an agency, or other person or body, under another law of the Commonwealth. 	<p>Consider the need to develop specialised training for different audiences for example, for supervisors, authorised officers and internal investigators.</p> <p>Additional or renewed training should be provided if a person’s functions or duties under the PID Act evolve or change or where refresher training would be beneficial.</p> <p>Ensure the ACQSC provides regular training and education to public officials for example by:</p> <ul style="list-style-type: none"> • providing regular training sessions on the PID scheme; • providing online resources about the PID scheme and training; and • referring public officials to the ACQSC’s PID Procedure. 	
Section 59(8)	The principal officer of an agency must take reasonable steps to ensure that a public official belonging to the agency who is appointed to a position that requires, or could require, the public official to perform the functions or duties, or exercise the powers, of an authorised officer or supervisor under this Act is given training and education appropriate for the position within a reasonable time after that appointment.	As above.	As above.
Section 59(9)	<p>The principal officer of an agency must take reasonable steps to protect public officials who belong to the agency against reprisals that have been, or may be, taken in relation to public interest disclosures that:</p> <ul style="list-style-type: none"> • have been made; or • may have been made; or • are proposed to be made; or • could be made; to an authorised officer or a supervisor belonging to the agency. 	<p>Principal officers should understand their role, obligations and the protections required to be put in place to ensure public officials know they can safely report/make disclosures.</p> <p>Ensuring the ACQSC has a pro-disclosure culture will also go some way to meeting a principal officer’s obligation to support staff, and to protect them from reprisals.</p>	As above.
Section 60(1)	<p>If:</p> <ul style="list-style-type: none"> • an individual discloses, or proposes to disclose, information to an authorised officer of an agency; and • the authorised officer has reasonable grounds to believe that: <ul style="list-style-type: none"> ○ the information concerns, or could concern, disclosable conduct; and ○ the individual may be unaware of the consequences of making the disclosure; 	<p>Ensure authorised officers receive training about their obligations under the Act.</p> <p>Consider developing a guidance document for authorised officers to understand their responsibilities (or reference their responsibilities in the ACQSC’s PID Procedure).</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>A Discloser can also make a complaint to the Commonwealth Ombudsman about the way a PID was handled.</p>

	<p>the authorised officer must:</p> <ul style="list-style-type: none"> inform the individual that the disclosure could be treated as an internal disclosure for the purposes of this Act; and explain what this Act requires in order for the disclosure to be an internal disclosure; and advise the individual about the circumstances (if any) in which a public interest disclosure must be referred to an agency, or other person or body, under another law of the Commonwealth; and advise the individual of any orders or directions of which the authorised officer is aware that are designated publication restrictions that may affect disclosure of the information. 	<p>Consider developing a template letter to prompt the inclusion of the information required by this section.</p>	
Section 60(2)	<p>An authorised officer of an agency must take reasonable steps to protect public officials who belong to the agency against reprisals that have been, or may be, taken in relation to public interest disclosures that the authorised officer suspects on reasonable grounds:</p> <ul style="list-style-type: none"> have been made or given to the officer; or may have been made or given to the officer; or are proposed to be made or given to the officer; or could be made or given to the officer. 	<p>Ensuring the authorised officer conducts a reprisal risk assessment as soon as possible after receiving a disclosure.</p> <p>Consider developing a reprisal risk assessment template that include a list of potential risks against which the Discloser’s situation is assessed against.</p> <p>Ensuring reprisal risk assessments are referred to and updated regularly as circumstances change.</p>	As above.
Section 60A(2)	<p>A supervisor must:</p> <ul style="list-style-type: none"> inform the discloser that the disclosure could be treated as an internal disclosure for the purposes of this Act; and explain to the discloser the procedures under this Act for such a disclosure to be <ul style="list-style-type: none"> given to an authorised officer; and allocated to the discloser’s agency or another agency; and investigated by the principal officer of that agency; and advise the individual about the circumstances (if any) in which a public interest disclosure must be referred to an agency or other person or body, under another law of the Commonwealth; and 	<p>Provide training to managers/ supervisors to ensure they understand their responsibilities under the PID Act.</p> <p>Consider developing a template letter to ensure that the information a supervisor is required to inform the Discloser of is included.</p> <p>Refer managers/ supervisors to the ACQSC’s PID Procedure and the Commonwealth Ombudsman’s ‘Guide – Supervisors and the PID Act’.</p>	As above.

	<ul style="list-style-type: none"> explain to the discloser the civil and criminal protections this Act provides to protect disclosers and those providing assistance in relation to such disclosures, from reprisals. 		
Section 60A(3)	The supervisor must, as soon as reasonably practicable after the disclosure is made, give the information to an authorised officer to the agency.	As above.	As above.
Section 61(1) and (4)	<p>A public official must use his or best endeavours to assist the principal officer of an agency in the conduct of an investigation.</p> <p>A public official must use the public official’s best endeavours to assist any other public official to exercise a right, or perform a duty or function, under this Act.</p>	<p>Regular training to ensure employees of the AQSC understand their responsibilities as public officials.</p> <p>During an investigation, reminding public officials of their responsibilities under the PID Act, particularly in circumstances where they might not want to attend an interview.</p>	As above.
Section 70(3)	<p>(Applies to individuals taken to be public officials)</p> <p>If the individual requests an authorised officer of an agency to make the determination, the authorised officer must, after considering the request:</p> <ul style="list-style-type: none"> (a) make the determination, and inform the individual accordingly; or (b) refuse to make the determination, and inform the individual of the refusal and the reasons for the refusal. 	Ensure the authorised officer informs the individual as to whether they will make the determination or refuse to make the determination.	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure to comply could result in ACQSC employees losing trust in the Commission to handle disclosures appropriately.</p> <p>A Discloser can also make a complaint to the Commonwealth Ombudsman about the way a PID was handled.</p>
Section 76(3)	The principal officer of an agency must give the Ombudsman such information and assistance as the Ombudsman reasonably requires in relation to the preparation of a report under this section.	<p>Pursuant to section 15(1) of the PID Standard, the principal officer must provide the following information to the Ombudsman for the purposes of a relevant report:</p> <ul style="list-style-type: none"> the number of public interest disclosures received by authorised officers of the agency during the period covered by the report; the kinds of disclosable conduct to which those public interest disclosures related; the number of disclosures allocated to the agency during the period covered by the report; the number of disclosure investigations that the principal officer conducted during the period covered by the report; 	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>The inability for employees to make disclosures if they are not aware of who is an authorised officer.</p>

		<ul style="list-style-type: none"> the time taken to conduct those investigations; the actions that the principal officer has taken during the period covered by the report in response to recommendations in reports relating to those disclosure investigations; any other information requested by the Ombudsman. <p>Pursuant to subsection 15(2) of the PID Standard, the principal officer must provide the information with a time requested by the Ombudsman or as otherwise agreed with the Ombudsman.</p>	
Public Interest Disclosure Standard 2013			
Section 5	The principal officer of an agency must ensure that the agency provides an effective means for potential disclosures to find out how to contact authorised officers.	The principal officer of the ACQSC must ensure that they provide an effective means for potential disclosers to find out how to contact authorised officers. This could be achieved by having regular training sessions, creating a webpage on the ACQSC’s intranet page and/ or including this information in the ACQSC’s PID Procedure.	As above.
Section 6	The ACQSC’s PID Procedure must require that when a decision is made, or a circumstance arises (either a decision to allocate a disclosure to one or more agencies, a decision to allocate a disclosure to any agency or a stop action direction under the NACC Act is made that prevents the allocation of a disclosure to any agency), an appropriate written record is kept.	Ensure the ACQSC’s PID Procedure include information about the recording of allocation and non-allocation of disclosures, and the matters that should be recorded.	As above.
Section 6A(2)	The ACQSC’s PID procedures must require that an appropriate written record is kept of the following matters: <ul style="list-style-type: none"> whether the notice (or a copy of the notice) was given to the discloser, and if not, why not; if the notice (or a copy of the notice) was given to the discloser, the following matters: <ul style="list-style-type: none"> the day and time the notice (or copy) was given to the discloser; the means by which the notice (or copy) was given to the discloser; the matters included in the notice. 	As above – in relation to records of notice of allocation decisions.	As above.

Section 7	The ACQSC’s PID Procedure must outline any support that will be made available to public officials who make disclosures relating to the agency.	Ensure the ACQSC’s PID Procedure includes information about the support available to public officials.	As above.
Section 8(2)	If a principal officer is required, when conducting the disclosure investigation, to act in accordance with any rules relating to fraud that are made for the purposes of the <i>Public Governance, Performance and Accountability Act 2013</i> , this instrument will apply only to the extent that it is not inconsistent with those rules.	<p>The ACQSC should ensure that their PID procedure includes information about this obligation.</p> <p>If the principal officer of a non-corporate Commonwealth entity is investigating a disclosure that concerns alleged fraud against the Commonwealth, the investigation must also comply with the Commonwealth Fraud Control Policy.</p> <p>Ensure that the investigation is being conducted in accordance with the Australian Government Investigation Standards which set out minimum case handling standards for fraud investigations.</p>	As above.
Section 9(1)	<p>The principal officer must ensure that a discloser is given information about the principal officer’s powers to:</p> <ul style="list-style-type: none"> • decide not to investigate the disclosure; or • decide not to investigate the disclosure further; or • decide to investigate the disclosure under a separate investigative power; or • decide to investigate the disclosure under another law or power 	<p>Where it is reasonably practicable to do so, the disclosure is given the information within 14 days after the disclosure is allocated to the agency.</p> <p>Consider developing a template letter to the Discloser which includes this information.</p> <p>Consider including information about this obligation in the ACQSC’s PID Procedure.</p>	As above.
Section 10(1)	<p>The principal officer must ensure that, if a person is interviewed as part of the investigation of a disclosure, the interview is informed of the following:</p> <ul style="list-style-type: none"> • the identity and function of each individual conducting the interview; • the process of conducting an investigation; • the authority of the principal officer under the Act to conduct the investigation; • the protections provided by Part 2 of the Act. 	<p>Ensure that the principal officer (or their delegate or an external investigator) complies with this obligation.</p> <p>Consider developing a template for those conducting interviews with witnesses to ensure that the requirements of the PID Standard are complied with.</p>	As above.
Section 10(2)	<p>The principal officer must ensure that:</p> <ul style="list-style-type: none"> • an audio or visual recording of the interview is not made without the interviewee’s knowledge; and • when an interview ends, the interviewee is given an opportunity to make a final statement or comment, or express a position; and 	As above.	As above.

	<ul style="list-style-type: none"> any final statement, comment or position by the interviewee is included in the record of the interview. 		
Section 11	The principal officer must ensure that a disclosure is investigated on the basis that a decision whether evidence is sufficient to prove a fact must be determined on the balance of probabilities.	Ensure a principal officer, or their delegate, does not make a finding that there has been disclosable conduct unless they are satisfied, on the basis of the evidence gathered during the investigation, it is more likely than not that the disclosable conduct occurred.	As above.
Section 12	The principal officer must ensure that a finding of fact is based on logically probative evidence and ensure that the evidence is relevant on in an investigation relevant.	<p>Ensure the evidence relied upon in an investigation is relevant.</p> <p>Ensure the principal officer (or their delegate or an external investigator) does not place any weight on information they might obtain during the investigation unless it is of consequence to one of the matters under investigation and tends to make it more or less probable that a relevant fact exists.</p>	
Section 13	<p>A report under section 51 of the Act must, where relevant:</p> <ul style="list-style-type: none"> identify whether there have been one or more instances of disclosable conduct; and identify any regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates; and explain the steps taken to gather evidence; and set out a summary of the evidence, as well as any findings and recommendations made based on that evidence 	<p>Ensure the section 51 investigation report includes the matters required by this section and section 51 of the PID Act.</p> <p>Consider developing a template report template to prompt inclusion of these matters.</p>	As above.
Section 15(1)	<p>The principal officer of the ACQSC must provide the following information to the Ombudsman for the purposes of a relevant report:</p> <ul style="list-style-type: none"> the number of public interest disclosures received by authorised officers of the agency during the period covered by the report; the kinds of disclosable conduct to which those public interest disclosures related; the number of disclosures allocated to the agency during the period covered by the report; the number of disclosure investigations that the principal officer conducted during the period covered by the report; the time taken to conduct those investigations; 	<p>Ensure the information requested by the Ombudsman is provided within the time requested by the Ombudsman.</p> <p>The principal officer should be proactive and reasonable as to when they anticipate providing this information to the Ombudsman. If further time is needed, they should seek the Ombudsman’s approval as soon as reasonably practicable.</p>	As above.

	<ul style="list-style-type: none"> • the actions that the principal officer has taken during the period covered by the report in response to recommendations in reports relating to those disclosure investigations; • any other information requested by the Ombudsman. 		
Section 15(2)	The principal officer must provide the information within a time requested by the Ombudsman or as otherwise agreed with the Ombudsman.	As above.	As above.

Assurance Audit Process – Cover page
Public Service Act 1999
Prime Minister’s direction under subsection 21(1)
Prime Minister’s direction under subsection 21(1) – 2020 (No. 1)
Public Service Classification Rules 2000
Public Service Regulations 2023
Australian Public Service Commissioner’s Directions 2022

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Public Service Act 1999</i>	29 December 2018	5 August 2024	[For the Commission to fill in]	People and Culture
Subordinate legislation				
<i>Prime Minister’s direction under subsection 21(1)</i>	24 December 2019	5 August 2024	[For the Commission to fill in]	People and Culture
<i>Prime Minister’s direction under subsection 21(1) – 2020 (No. 1)</i>	26 March 2020	5 August 2024	[For the Commission to fill in]	People and Culture
<i>Public Service Classification Rules 2000</i>	1 December 2014	5 August 2024	[For the Commission to fill in]	People and Culture
<i>Public Service Regulations 2023</i>	30 March 2023	5 August 2024	[For the Commission to fill in]	People and Culture
<i>Australian Public Service Commissioner’s Directions 2022</i>	1 February 2022	5 August 2024	[For the Commission to fill in]	People and Culture

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Assurance Audit Process – Legislative Framework Summary
Public Service Act 1999
Prime Minister’s direction under subsection 21(1)
Prime Minister’s direction under subsection 21(1) – 2020 (No. 1)
Public Service Classification Rules 2000
Public Service Regulations 2023
Australian Public Service Commissioner’s Directions 2022

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Public Service Act 1999 (PSA)			
Section 12	<p>An Agency Head must uphold and promote the APS Values and APS Employment Principles.</p> <p>Note: under section 33 of the <i>Aged Care Quality and Safety Commission Act 2018</i> (Cth), for the purposes of the PSA, the ACQSC and the staff of the ACQSC together constitute a Statutory Agency with the Commissioner being the Head of that Statutory Agency.</p>	<p>In briefing the Agency Head, it may be helpful for the ACQSC to prepare a simple one page infographic or summary of the APS Values and APS Employment Principles. It is expected that the Commissioner will be well across the relevant APS values and principles, but preparing a simple summary could assist as a helpful refresher.</p>	<p>Section 15 of the PSA states that the APS Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> • termination of employment; • reduction in classification; • re-assignment of duties; • reduction in salary; • deductions from salary, by way of fine; • a reprimand. <p>Where there has been an alleged breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in <i>the Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth),</p>

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			<p>the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p> <p>Non-compliance, including alleged and perceived non-compliance has the potential to undermine public faith of the ACQSC, and negatively impact the reputation and integrity of the ACQSC and the Australian Public Service generally.</p>
<p>Section 13</p>	<p>In connection with APS employment, APS employees must:</p> <ul style="list-style-type: none"> • behave honestly and with integrity • act with care and diligence; • treat everyone with respect and courtesy, and without harassment; • comply with all applicable Australian laws; • comply with any lawful and reasonable direction given by someone in the employee’s Agency who has authority to give the direction; • maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister’s member of staff; • take reasonable steps to avoid any conflict of interest (real or apparent) and disclose details of any material personal internet of the employee; • use Commonwealth resources in a proper manner and for a proper purpose; • not provide false or misleading information in response to a request for information that is made for official purposes; • not improperly use inside information or the employee’s duties, status, power or authority – to gain/seek to gain a benefit or advantage for the employee or any other person OR to cause/seek to cause detriment to the employee’s Agency, the Commonwealth or any other person; • at all times behave in a way that upholds – the APS Values, APS Employment Principles and the integrity and good reputation of the employee’s Agency and the APS; • at all times behave in a way that upholds the good reputation of Australia (when on duty overseas); and 	<p>In preparing any induction guides, the ACQSC should include a section on the APS Code of Conduct, the importance of the Code, and examples of how a person may comply with the Code in practice. The ACQSC should also develop training modules (if not already available) on the APS Code of Conduct that should be completed by all new staff as part of the onboarding process.</p> <p>The ACQSC may also develop detailed policies on certain aspects of the Code of Conduct. This will establish a common standard within the ACQSC and will assist ACQSC staff in complying with the Code. For example, the ACQSC could develop a conflict of interest policy where ACQSC staff are required to complete an annual declaration of any conflicts.</p> <p>The ACQSC may consider the guidance published by the Australian Public Service Commission: ‘Handling Misconduct: A human resource manager’s guide’ when considering or updating its current human resources policies.</p>	<p>As above.</p>

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	<ul style="list-style-type: none"> comply with any other conduct requirement that is prescribed by the regulations. 		
Section 14	Agency Heads are bound by the Code of Conduct in the same way as APS employees.	In assisting the Commissioner in complying with the Code of Conduct, the guide and training materials referred to above should also be made available to the Commissioner where appropriate.	As above.
Section 15	<p>An Agency Head may impose the following sanctions on an APS employee in the Agency who is found under the Act to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> termination of employment; reduction in classification; re-assignment of duties; reduction in salary; deductions from salary, by way of fine; a reprimand. <p>An Agency Head must establish written procedures (publicly available) for determining whether an APS employee or former APS employee has breached the Code of Conduct and the sanction (if any) that is to be imposed. The procedures must comply with basic procedural requirements set out in Commissioner’s Directions and have due regard to procedural fairness.</p>	<p>The Commissioner should be assisted by relevant ACQSC staff on establishing written procedures for determining whether a staff member has breached the Code of Conduct, and the sanctions that is to be imposed.</p> <p>This could involve designing procedures with reference to or adapting current procedures that are in place for other Commonwealth Departments and Agencies. This document should then be made available on the ACQSC’s website. ACQSC staff should also be notified of the publication of the document and be provided with a link to the document.</p>	As above.
Section 18	An Agency head must establish a workplace diversity program to assist in giving effect to the APS Employment Principles.	The Commissioner should be assisted by relevant ACQSC staff to establish a workplace diversity program. This could involve designing a program with reference to or adapting current programs that are in place for other Commonwealth Departments and Agencies. The Commissioner may also want to undertake consultation with ACQSC staff to obtain their views on what an effective diversity program may look like before finalising any program components.	As above.
Section 19A*	The Agency Head must implement measures (with regard to the work level standards for Classification Rules) that create a work environment within the Agency that enables decisions to be made by APS employees with classifications that the Agency Head considers are the lowest appropriate for those decisions.	The Commissioner should be assisted by relevant ACQSC staff to implement measures that can enable decisions to be made by APS employees at lowest appropriate classification. As part of implementing these measures, the ACQSC should prepare a guidance document to all ACQSC staff which sets out the level of classification that is required to make different types of decisions.	As above.
Section 22	The engagement of an APS employee must be:	The ACQSC should ensure that it only engages an APS employee within the circumstances outlined in this section. This could involve	As above.

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	<ul style="list-style-type: none"> • as an ongoing APS employee; • for a specified term or for the duration of a specified task; or • for duties that are irregular or intermittent. <p>An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so.</p>	<p>having a checklist (containing the relevant circumstances) for preparing recruitment advertisements, and ensuring that the checklist is completed before publishing an advertisement.</p> <p>As part of the application process or interview process, there should be a question regarding the applicant’s citizenship status. HR should also ensure that the ACQSC obtains relevant documentation of the applicant’s citizenship status before the applicant commences their role.</p>	
Section 23	<p>Agency Heads must comply with the Classification Rules – and may only reduce the classification of an APS employee without that employee’s consent in specified circumstances set out in the Act.</p> <p>If a relevant industrial instrument, determination under this Act or written contract of employment contains procedures to be followed when reducing the classification, then a reduction is of no effect unless those procedures are followed.</p>	<p>There should be a guidance document developed for the Commissioner which sets out the Classification Rules, the circumstances where there can be a reduction of an APS employee’s classification, and the process that needs to be followed in order to reduce a classification.</p> <p>It is encouraged that the Commissioner be asked to record their reasons for reducing a classification and to have relevant ACQSC staff maintain records of the reasons (e.g. on a register) for use in any employment disputes, or inquiries from the relevant employee who was affected by the reduction.</p>	As above.
Section 29	<p>For an ongoing employee, an Agency Head may at any time, by notice in writing, terminate the employment of an APS employee only on grounds that are specified in the Act. The notice must specify the ground(s) that are relied on for the termination.</p>	<p>The ACQSC can develop template termination notices that can be used by the ACQSC or the Commissioner when terminating the employment of an APS employee. This will ensure consistency and that all relevant information is contained within the notice, such as the ground(s) for termination.</p>	As above.
Section 38	<p>An Agency Head cannot terminate the employment of an SES employee unless the APS Commissioner has issued a certificate stating that:</p> <ul style="list-style-type: none"> • the relevant requirements of the Commissioner’s Directions have been satisfied in respect of the proposed termination; and • the Commissioner is of the opinion that the termination is in the public interest. 	<p>The ACQSC should have a standard termination process for ACQSC staff that aligns with all the requirements under the PSA. As part of the process, the ACQSC should only be allowed to finalise the termination of an SES employee where the relevant certificate (as described in this section) is available on file.</p>	As above.
Section 39	<p>An Agency Head must comply with any direction in writing by the Agency Minister directing the Agency Head to:</p> <ul style="list-style-type: none"> • engage a particular person as an APS employee so that the person can become a Head of Mission; • assign particular duties to an APS employee who has been appointed as a Head of Mission. 	<p>The ACQSC should have a specific recruitment/engagement process for engaging individuals to become Heads of Mission. To ensure that the written directions are provided to the relevant personnel for actioning, it may be helpful to set up a contact point within the ACQSC where written directions can be sent to.</p>	As above.

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<p>Section 42</p>	<p>Agency Heads and APS employees must comply with Commissioner’s Directions.</p>	<p>Where the Commissioner has issued Directions, there should be a ACQSC wide email:</p> <ul style="list-style-type: none"> • advising that a Commissioner’s Directions has been issued; • containing an explanation on what the Directions are about; • providing a reminder that all staff (including the Commissioner) are required to comply with the Directions; • providing a link to a copy of the Commissioner’s Directions; and • listing the relevant personnel that can be approached for queries about the Directions. 	<p>As above.</p>
<p>Section 44</p>	<p>An Agency Head must give the APS Commissioner whatever information the APS Commissioner requires for the purpose of preparing the State of Service report.</p>	<p>The ACQSC should establish a team (if such a team does not already exist) that assess and process all external information requests. To ensure that a request for information from the APS Commissioner is processed efficiently, it may be helpful to set up a contact point where information requests can be directed to. This contact information should also be publicly available on the ACQSC’s website.</p> <p>The ACQSC should develop relevant materials that provides guidance on how the team should respond to an information request and the type of information that can be shared.</p>	<p>As above.</p>
<p>Section 44A*</p>	<p>The Agency Head must cooperate with a capability review of the Agency under this section.</p>	<p>The Commissioner should be made aware that a capability review of the ACQSC can be undertaken, and be informed on what the review could involve. The ACQSC should also nominate a team(s) within the ACQSC that will be responsible for dealing and assisting with any capability reviews to ensure that the ACQSC is being cooperative.</p>	<p>As above.</p>
<p>Section 44B*</p>	<p>When a capability review of an Agency is undertaken under s44 and a written report is provided to the Agency Head. Within 90 days of receiving the report, the Agency Head must:</p> <ul style="list-style-type: none"> • prepare a written action plan that includes the Agency Head’s response to the findings included in the report; and • publish the action plan on an Agency website. <p>The person who caused the capability review may exempt the Agency Head from publishing the action plan.</p>	<p>The relevant ACQSC staff could assist the Commissioner in preparing the action plan by providing a briefing of the findings of the report. The ACQSC may also develop template action plans that can be used readily by the Commissioner. The ACQSC may also consider undertaking stakeholder consultation within the ACQSC to inform the action plan. The ACQSC should then ensure that the action plan is published on the ACQSC’s website.</p>	<p>As above.</p>
<p>Section 78B*</p>	<p>The Agency Head must prepare an action plan setting out their response to the APS census results (to the extent it relates to the Agency) as soon as practicable after being made known of those results.</p>	<p>The relevant ACQSC staff could assist the Commissioner in preparing the action plan by providing a briefing of the APS census results. The ACQSC may also develop template action plans that can be used readily by the Commissioner. The ACQSC may also consider undertaking stakeholder consultation within the ACQSC to inform the action plan. The ACQSC should then ensure that the action plan</p>	<p>As above.</p>

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	<p>The Agency Head must also publish the census results (to the extent it relates to the Agency) and the action plan.</p> <p>The Agency Head must remove any material that is reasonably likely to enable the identification of an individual from the copy of the census results or the action plan that is published by the Agency Head.</p>	<p>and census results is published on the ACQSC’s website, with the removal of any identifiable information.</p>	
<p>Prime Minister’s direction under subsection 21(1) – 2019</p>			
<p>Direction</p>	<p>An Agency Head must ensure volunteer leave is granted on full pay to all APS employees who are registered members of a recognised volunteer service (APS volunteers) and are deploying as part of an emergency service response, unless in agreement with the APS Commissioner that the leave if granted would significantly disrupt the provision of services to the Australian Public.</p> <p>An Agency Head must ensure a minimum of 20 working days (or 28 calendar days) is available to eligible APS volunteers per year, renewing on 1 January each year. This leave does not accrue, however, an Agency Head has the discretion to grant additional volunteer basis for relevant activities such as emergency services training.</p> <p>Permissible activities whilst on volunteer leave include:</p> <ul style="list-style-type: none"> • deployment for emergency services response • reasonably travel and recovery associated with deployment 	<p>The ACQSC should ensure relevant HR policies and procedures are aligned with the Direction and accompanying guidance information published by the Australian Public Service Commission.</p> <p>These policies and procedures should align with provisions for community services leave for engaging in voluntary emergency management activities under the Fair Work Act 2009. Where the ACQSC’s employment arrangements provide for paid community service leave or similar, that should be used in the first instance. This emergency service response leave cannot be cashed in by an employer.</p> <p>The ACQSC’s leave policies should enable emergency response leave to be requested on planned or unplanned basis, and require employees to notify their ACQSC supervisor of their membership of an emergency volunteer organisation, and how they will make contact if unexpectedly deployed. Employees are required to provide the following documents to support their emergency service response leave request:</p> <ul style="list-style-type: none"> • confirmation of membership of recognised volunteer service • details of the nature of the emergency service activity and period of deployment <p>For the purpose of this Direction, emergency means ‘an event, actual or imminent, which endangers or threatens to endanger life, property or the environment, and which requires a significant and coordinated response’ as defined in the Australian Emergency Management Arrangement Handbook 2019.</p> <p>The ACQSC should ensure it complies with reporting requirements for paid emergency response leave granted in accordance with the Direction, including the number of employees granted leave and the total number of days.</p>	<p>Failure to comply with any direction issued by the Prime Minister under section 21(1) of the PSA constitutes a breach with the APS Code of Conduct under section 13(4)(a), as such directions are an instrument under the PSA.</p> <p>Section 15 of the PSA states that the Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> • termination of employment; • reduction in classification; • re-assignment of duties; • reduction in salary; • deductions from salary, by way of fine; • a reprimand. <p>Where there has been an alleged breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth), the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p>

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			<p>Non-compliance, including alleged and perceived non-compliance has the potential to undermine public faith of the ACQSC, and the negatively impact the reputation and integrity of the agency and the Australian Public Service generally.</p>
<p>Prime Minister’s direction under subsection 21(1) – 2020 (No. 1)</p>			
<p>Direction</p>	<p>To meet the exceptional challenge posed by COVID 19, Agency Heads are directed to urgently identify any employees whose duties do not relate to agency functions which are critical to continued delivery of services to Australia (taking into consideration the consequences of the COVID-19 pandemic) no later than 30 March 2020 and provide these details to the APS Commissioner.</p> <p>The Commissioner may notify the Agency Head which and where these employees may be directed on a temporary basis, including to other APS agencies, State or Territory government agencies, or community organisations to deliver functions that are critical to services to the Australian public or the operation of the organisation as a whole</p>	<p>This Direction, initially in response to the COVID-19 pandemic has led to the establishment of the APS Surge Reserve.</p> <p>The Agency Head should ensure relevant HR policies and procedures are aligned with the Direction and accompanying guidance information published by the Australian Public Service ACQSC. Policies should facilitate an option to join the APS Surge Reserve for ACQSC employees at APS1-EL2 level classifications (including part-time employees) who meet the following eligibility criteria:</p> <ul style="list-style-type: none"> • flexible and adaptable • a quick learner, or willing to learn • resilient and able to cope well with change • located across Australia. <p>APS employees who are members of the APS Surge Reserve are required notify their supervisor, and seek their agreement for release if requested to be deployed. The ACQSC must ensure employees’ entitlements remain unchanged during deployment unless acting in a higher duties capacity.</p>	<p>Failure to comply with any direction issued by the Prime Minister under section 21(1) of the PSA constitutes a breach with the APS Code of Conduct under section 13(4)(a), as such directions are an instrument under the PSA.</p> <p>Section 15 of the PSA states that the Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> • termination of employment; • reduction in classification; • re-assignment of duties; • reduction in salary; • deductions from salary, by way of fine; • a reprimand. <p>Where there has been an alleged breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth), the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p> <p>Non-compliance, including alleged and perceived non-compliance has the potential to undermine public faith of the ACQSC, and the negatively impact the reputation and integrity of the agency and the Australian Public Service generally.</p>

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Public Service Classification Rules 2000			
Rule 6	An Agency Head must allocate an approved classification to each APS employee in the Agency.	<p>The Agency Head must determine groups of duties performed by each classification across the agency and determine the relevant classification for each employee in accordance with the duties to be performed by that employee.</p> <p>Approved classifications are as listed at Schedule 1, with training classifications listed at Schedule 2.</p>	<p>Failure to uphold an obligation under this Rule constitutes a breach with the APS Code of Conduct under subsections 13(2) and 13(4)(a).</p> <p>Section 15 of the PSA states that the Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> • termination of employment; • reduction in classification; • re-assignment of duties; • reduction in salary; • deductions from salary, by way of fine; • a reprimand. <p>Where there has been an alleged breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth), the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p> <p>Non-compliance, including alleged and perceived non-compliance has the potential to undermine public faith of the ACQSC, and the negatively impact the reputation and integrity of the agency and the Australian Public Service generally.</p>
Rule 7	Where an APS employee has transferred to an Agency under an agreement under section 26 of the PSA, an Agency Head must allocate to that employee the classification held by the employee prior to their move, or another classification in that group.	The Agency Head must ensure all relevant requirements and obligations under section 26 of the PSA are met, and the relevant APS employee receives their pay and entitlements at the approved classification from the date they are effectively an employee of the ACQSC.	As above.
Rule 9, 10	An Agency Head must allocation an approved classification to each group of duties to be	Agency Head should ensure the groups of duties listed (and where necessary work level standards) for each classification are clearly	As above.

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	<p>performed in the Agency, as based on work value as described in the work level standards issued by the APS Commissioner.</p> <p>Where a training classification is allocated to a group of duties, the Agency Head must ensure the duties include a requirement to undergo training.</p> <p>For classifications other than APS Level, Executive Level or SES classifications, an Agency Head must issue in writing, work level standards for each classification, describing the work value of the group of duties for those classifications.</p>	<p>documented and reviewed periodically to ensure they remain accurate and fit-for-purpose of the ACQSC’s functions.</p> <p>The ACQSC should facilitate the availability of training programs and courses where the Agency Head identifies training as a relevant requirement to a group of duties.</p>	
<p>Rule 11</p>	<p>An Agency Head must allocate employees who are employed at a training classification, an appropriate classification (as per column 3 Schedule 2) upon satisfactory completion of each training requirement.</p> <p>This does not apply where the employee is engaged for a specified period or duration of task, for training purposes only (see subregulation 3.5(4) of the <i>Public Service Regulations 1999</i> for more detail)</p>	<p>The ACQSC should ensure there is a system in place for the documentation of training undertaken and completed by employees, and notification to the Agency Head for classification allocations upon satisfactory completion.</p>	<p>As above.</p>
<p>Public Service Regulations 2023</p>			
<p>Regulation 7</p>	<p>An APS employee must not disclose information that the APS employee obtains or generates in connection with the APS employee’s employment, if reasonably foreseeable that disclosure could be prejudicial to the effective working of the government.</p> <p>Information which must not be disclosed includes information obtained or generated in connection with the APS employee’s employee that:</p> <ul style="list-style-type: none"> was, or is to be communicated in confidence internally within government; or was received in confidence by the government from any external party <p>This duty excludes:</p> <ul style="list-style-type: none"> information which is disclosed in the course of the APS employee’s duties; or the information is disclosed in accordance with authorisation by the Agency Head; or 	<p>The ACQSC should ensure there are comprehensive fit-for-purpose policies on the security and confidentiality of information including authorise disclosure, use and storage. These should provide clear guidance on what information is considered confidential – including different categories of confidential information and their appropriate treatment as well as consideration of relevant government classification frameworks for information including the Protective Security Policy Framework (PSPF). Similarly, the ACQSC’s information policies should also consider practical security requirements such as storage, handling and destruction. This may take the form of a secure file management platform which is password protected, and limiting disclosure of information to those with a ‘need to know’ and ‘need to hold’</p> <p>The ACQSC’s onboarding process should include training relating to this duty to ensure all employees are aware of their obligations under this regulation, and ongoing employees should be required to undertake refresher training</p>	<p>Non-compliance with the APS Values, APS Employment Principles, APS Code of Conduct may be deemed as misconduct under the PSA. Section 15 of the PSA states that the Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> termination of employment; reduction in classification; re-assignment of duties; reduction in salary; deductions from salary, by way of fine; a reprimand. <p>Where there has been an allegation of misconduct or breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime</p>

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	<ul style="list-style-type: none"> disclosure is otherwise authorised by law; or the information is already in the public domain as a result of lawful disclosure 	<p>This provision provides guidance to the requirement to conduct and compliance requirements under s13(13) of the <i>Public Service Act</i>.</p>	<p>Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth), the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p>
<p>Regulation 14-15</p>	<p>An Agency Head may suspend or terminate an APS employee for breach of the Code of Conduct, or it is in the Agency’s interest to do so.</p> <p>Suspension may be with or without remuneration, however if without the period without must not exceed 30 days unless exceptional circumstances apply. The Agency Head must review the suspension at regular intervals and maintain the suspension if they are satisfied they continue to believe on reasonable grounds a breach has occurred, or the suspension is in the public or Agency’s interest. Where a sanction has been imposed on the APS employee, the suspension must end.</p>	<p>The ACQSC should have policies and procedures in place to identify, notify and investigate allegations of misconduct and breaches against the Code of Conduct, which extends to any conduct that may be against the public interest. The ACQSC must handle suspected breaches of the Code of Conduct in accordance with Part 7 of the APS Commissioner’s Directions 2022.</p> <p>The ACQSC may consider the guidance published by the Australian Public Service Commission: ‘Handling Misconduct: A human resource manager’s guide’ when considering or updating its current human resources policies.</p> <p>This includes those responsible as first point of contact – for all levels of APS employees, and an investigation process which is readily accessible to all ACQSC employees. Where the Agency Head determines there is a need to suspend or terminate an APS employee, they should ensure there is a legitimate and documented basis for this.</p> <p>These policies and procedures must have due regard to procedural fairness—provide the APS employee subject to the allegation a right of reply, and an impartial investigation.</p> <p>This provision provides guidance in relation to s28 of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>
<p>Regulation 16</p>	<p>APS employees must inform themselves about the Act, this instrument and the Commissioner’s Directions.</p>	<p>The ACQSC should facilitate the availability of training on its employees’ obligations under the <i>PSA</i>, Public Service Regulations 2023, and the Australian Public Service Commissioner’s Directions 2022. This may take the form of onboarding training modules which comprehensively cover all relevant obligations, and compulsory refresher courses which must be undertaken at regular intervals (i.e. annually) to ensure all employees’ knowledge remains complete, current and accurate.</p>	<p>As above.</p>

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		The ACQSC should satisfy itself that its employee’s obligations are clearly documented and readily accessible policies and procedures are up-to-date and aligned with legal obligations.	
Regulation 17	Agencies should achieve and maintain workplaces that encourage productive and harmonious working environments. Provides for a system of review of APS employees’ concerns.	The ACQSC must ensure there is a process in place to facilitate the review of employees concerns in a way which is quickly, impartially, and fairly, including how and when applications for review will be referred externally. Processes should be consistent with alternative dispute resolution principles (where appropriate), and indicate how and when review should be referred to the Merit Protection Commissioner.	As above.
Regulation 24	ACQSC employees who have applied for a promotion for a role at a higher classification, are entitled to apply for review of this decision made in regard to this promotion, on the basis of merit. Applications for review must be made in writing to the Merit Protection Commissioner prior to the end of the period notifying the promotion or engagement specified in the Public Service Gazette, unless otherwise extended by the Merit Protection Commissioner.	The ACQSC should ensure its employees (including prospective employees) are aware of their review rights of promotion and engagement decisions. The ACQSC may do this by attaching its review policy (including rights of candidates) for these decisions in the notification of outcome letter.	As above.
Regulation 35	The Agency’s obligations to implement or consider decisions and recommendations of the Promotion Review Committee (PRC).	Where an application for review has been made, the ACQSC must consider the promotion or engagement decision ‘stayed’ until it takes effect in accordance with Part 4 of the Australian Public Service Commissioner’s Directions. Where the PRC decides that the applicant under review should be promoted, the decision is binding, and the ACQSC must take the applicant as being promoted to the relevant role. Where the PRC provides a recommendation that the applicant should be engaged or promoted, the Agency Head must consider this recommendation and make a decision, then notify the following in writing of the decision: <ul style="list-style-type: none"> the applicant the Merit Protection Commission If the Agency Head makes a decision other than in accordance with the recommendation of the Merit Protection Commission, the applicant’s views must be sought.	As above.
Regulation 38-42	Affected APS employees may apply for primary review of an APS action by Agency Head, or in	The ACQSC’s internal review policies should clearly identify what actions fall within the scope of a primary review by the Agency	As above.

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	<p>particular circumstances, the Merit Protection Commission</p> <p>The application must state briefly:</p> <ul style="list-style-type: none"> • why the review is sought; and • if a particular outcome is sought—the outcome sought. <p>Following review of the relevant action, the Agency Head must attempt to resolve the employee’s concerns. The Agency Head may confirm, vary or set side and substitute the action. The Agency must notify the employee in writing of the decision made, reasons, and any action resulting from the review, and the applicant’s right for a secondary review by the Merit Protection Commissioner under section 43 of the <i>PSA</i>.</p> <p>Applications which relate to the listed APS actions must be referred to the Merit Protection Commissioner Agency Head. The Agency Head may refer any other application, with the agreement of the Merit Protection Commissioner.</p>	<p>head. The policy should include details of relevant factors for consideration in the review process and potential available outcomes and resolution procedures. The ACQSC may consider engaging external dispute resolution practitioners where required, if the Agency Head considers this would assist in resolving the employee’s concerns.</p> <p>The ACQSC must notify the affected employee/applicant the outcome of the review and of their secondary review rights – such as via an attachment of the ACQSC’s review policy to their primary review outcome notice.</p> <p>The ACQSC should clearly and accessibly document all review decisions, to provide a clear audit trail, particularly if subject to secondary review.</p>	
<p>Regulation 43-45</p>	<p>Circumstances when an affected employee may apply for secondary review process.</p> <p>The Agency head must facilitate secondary review by the Merit Protection Commissioner of APS actions where the primary review where the outcome is that the Agency Head determines the action is not reviewable, or the employee is otherwise dissatisfied. The ACQSC’s review policies must reflect this, and all primary review applicants must notified of their eligibility to this review right. The application must briefly state why the review is sought.</p> <p>The Agency Head must consider the recommendations provided by the Merit Protection Commissioner and make a decision, then notify the following in writing of the decision and the reasons for the decision:</p> <ul style="list-style-type: none"> • the applicant • the Merit Protection Commission 	<p>The Agency Head assist Merit Protection Commissioner to conduct secondary review by the APS actions where the primary review where the outcome is that the Agency Head determines the action is not reviewable, or the applicant is otherwise dissatisfied. The ACQSC’s review policies should facilitate this and clearly detail the review rights and processes. All primary review applicants must notified of their entitlement to secondary review, upon receipt of their primary review outcome.</p> <p>Applicants making a secondary review application must briefly state why the review is sought.</p>	<p>As above.</p>

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	<p>The Agency Head may confirm, vary or set side and substitute the action.</p> <p>If the Agency Head makes a decision other than in accordance with the recommendation of the Merit Protection Commission, the applicant’s views must be sought.</p> <p>Where the Agency Head considers making a finding of a breach of Code of Conduct and/or impose a sanction, and the Agency Head had not made the finding before the recommendation was made and the finding was not mentioned in the recommendation, the Agency Head comply with subsection 15(3) prior to making the finding.</p>		
<p>Regulation 46</p>	<p>An Agency Head must consider a recommendation under section 42 or 45 following a review of an APS action, and make a decision as soon as reasonably practicable after receiving the recommendation.</p>	<p>The Agency Head must consider the recommendations provided by the Merit Protection Commissioner and make a decision, then notify the following in writing of the decision and the reasons for the decision:</p> <ul style="list-style-type: none"> • the applicant • the Merit Protection Commission <p>The Agency Head may confirm, vary or set side and substitute the action.</p> <p>If the Agency Head makes a decision other than in accordance with the recommendation of the Merit Protection Commission, the applicant’s views must be sought.</p> <p>Where the Agency Head considers making a finding of a breach of Code of Conduct and/or impose a sanction, and the Agency Head had not made the finding before the recommendation was made and the finding was not mentioned in the recommendation, the Agency Head comply with subsection 15(3) prior to making the finding.</p>	<p>As above.</p>
<p>Regulation 47-49</p>	<p>Provides the minimum requirements for review procedures</p>	<p>The ACQSC must have regard for due procedural fairness when undertaking a review, and ensure review processes completed as quickly as possible whilst ensuring proper consideration of the matter is maintained. The Agency Head must ensure the review is conducted in private.</p> <p>Where required by the Merit Protection Commissioner to provide information or documents relevant to a review, the ACQSC must</p>	<p>As above.</p>

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		provide this information and/or documents in the form and timeframe requested in the notice.	
Australian Public Service Commissioner’s Directions 2022			
Section 12	APS to incorporate and uphold APS values.	The ACQSC should ensure its organisational statement of values as provided in directions 12-17 and the code of conduct must incorporate the APS values and require all employees to uphold these values in the course of their duties.	<p>Non-compliance with the APS Values, APS Employment Principles, APS Code of Conduct may be deemed as misconduct under the PSA. Section 15 of the PSA states that the Commissioner may impose the following sanctions on APS employees who are found to have breached the Code of Conduct:</p> <ul style="list-style-type: none"> • termination of employment; • reduction in classification; • re-assignment of duties; • reduction in salary; • deductions from salary, by way of fine; • a reprimand. <p>Where there has been an allegation of misconduct or breach of the Code of Conduct by the Commissioner or ACQSC staff (including former staff), the Australian Public Service Commissioner (APS Commissioner) may conduct an inquiry into the alleged breaches. The APS Commissioner must report on the results of the inquiry and may recommend sanctions (for inquiries into APS employees, sanctions set out in s15 may be recommended upon request from the Commissioner or the Prime Minister). It is also within the APS Commissioner’s functions to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.</p> <p>For criminal conduct, processes and consequences in the <i>Criminal Code 1995</i> and <i>Crimes Act 1914</i> apply.</p> <p>Where non-compliance with the PSA amounts to corrupt conduct as defined under the <i>National Anti-Corruption Commission Act 2022</i> (Cth), the Commissioner and ACQSC staff can be subject to investigation by the National Anti-Corruption Commission.</p> <p>Where the Agency Head has failed to notify a promotion decision on the Public Service Gazette, it takes effect on the day agreed, unless subject to PRC review—then 4 weeks after the PRC decision if there is a variation, or as agreed.</p> <p>Non-compliance, including alleged and perceived non-compliance has the potential to undermine public faith of the ACQSC, and the negatively impact the reputation and integrity of the agency and the Australian Public Service generally.</p>

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<p>Section 13</p>	<p>The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government. This includes:</p> <ul style="list-style-type: none"> engaging effectively with the community and providing responsive, client-focussed service delivery providing appropriate and accessible information to clients and the community about rights and entitlements and the process for gaining access to them ensuring that decisions and interactions with clients are objective, impartial and in accordance with Government policy encouraging innovative thought and supporting innovative solutions management data to enhance evidence-based policy advice, ensuring information is readily available to the community supporting collaboration and teamwork, both with the Agency and wider community promoting continuous improvement and managing change efficiently pursuing and supporting training and development to improve capability; being responsive to Ministers, including being knowledgeable about the Government’s policies and understanding the relevant issues and options, the Government’s objectives and the environment in which it operates. 	<p>The ACQSC should ensure its organisational statement of values and guidance material includes the value of commitment to service and its application in the context of the ACQSC’s functions. The organisational statement of values and guidance material may provide examples specifying how commitment in service should be embodied in the line areas throughout the ACQSC.</p> <p>The ACQSC should have readily accessible procedures on reporting, notification, investigation and escalation procedures in the event a potential breach is identified.</p> <p>This provision provides guidance in relation to s10(1) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>
<p>Section 14</p>	<p>The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does. This includes:</p> <ul style="list-style-type: none"> acting in a way that models and promotes the highest standard of ethical behaviour following through on commitments made having the courage to address difficult issues complying with all relevant laws, appropriate professional standards and the APS Code of Conduct acting in a way that is right and proper, as well as technically and legally correct or preferable 	<p>The ACQSC should ensure its organisational statement of values and guidance material includes the value of ethical leadership, trust and integrity and its application in the context of the ACQSC’s functions. The organisational statement of values and guidance material may provide examples specifying how ethical leadership, trust and integrity should be embodied in all line areas throughout the ACQSC.</p> <p>The ACQSC should have readily accessible procedures on reporting, notification, investigation and escalation procedures in the event a potential breach is identified.</p> <p>This provision provides guidance in relation to s10(2) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>

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	<ul style="list-style-type: none"> reporting and addressing misconduct and other unacceptable behaviour by public servants in a fair, timely and effective way providing leadership in policy development, implementation, program management and regulation supporting systems that give APS employees appropriate opportunities to develop and demonstrate leadership qualities 		
<p>Section 15</p>	<p>The APS respects all people, including their rights and their heritage. This includes:</p> <ul style="list-style-type: none"> treating all people with dignity and recognising that all people have value dealing with all people honestly and with integrity recognising the importance of human rights and understanding Australia’s human rights obligations recognising and fostering diversity; contributing to an inclusive workplace culture collaborating and being open to ideas in policy development, implementation, program management and regulation complying with all relevant anti-discrimination laws. 	<p>The ACQSC should ensure its organisational statement of values and guidance material includes the value of respecting all people, including their rights and heritage and its application in the context of the ACQSC’s functions. The organisational statement of values and guidance material may provide examples specifying how respecting all people, including their rights and heritage should be embodied in all line areas throughout the ACQSC.</p> <p>The ACQSC should have readily accessible procedures on reporting, notification, investigation and escalation procedures in the event a potential breach is identified.</p> <p>This provision provides guidance in relation to s10(3) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>
<p>Section 16</p>	<p>The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility</p> <ul style="list-style-type: none"> being answerable to Ministers for the exercise of delegated authority, and, through them, to Parliament; being open to scrutiny and being transparent in decision making; being able to demonstrate that actions and decisions have been made with appropriate consideration; being able to explain actions and decisions to the people affected by them; being accountable for actions and decisions through statutory and administrative reporting systems; 	<p>The ACQSC should ensure its organisational statement of values and guidance material includes the value of openness and accountability to the Australian community under the law and within the framework of Ministerial responsibility and its application in the context of the ACQSC’s functions. The organisational statement of values and guidance material may provide examples specifying how openness and accountability to the Australian community under the law and within the framework of Ministerial responsibility should be embodied in all line areas throughout the ACQSC.</p> <p>The ACQSC should have readily accessible procedures on reporting, notification, investigation and escalation procedures in the event a potential breach is identified.</p> <p>This provision provides guidance in relation to s10(4) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>

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	<ul style="list-style-type: none"> • being able to demonstrate clearly that resources have been used efficiently, effectively, economically and ethically; • being answerable for individual performance. 		
<p>Section 17</p>	<p>The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence</p> <ul style="list-style-type: none"> • serving the Government of the day with high quality professional support, irrespective of which political party is in power and of personal political beliefs; • ensuring that the individual’s actions do not provide grounds for a reasonable person to conclude that the individual could not serve the Government of the day impartially; • ensuring that management and staffing decisions are made on a basis that is independent of the political party system, free from political bias and not influenced by the individual’s political beliefs; • understanding the needs of the Government and providing it with the best objective, non-partisan advice based on the best evidence available; • providing advice that is relevant and comprehensive, is not affected by fear of consequences, and does not withhold important facts or bad news; • providing advice that takes account of the context in which policy needs to be implemented, the broader policy directions set by Government and, where appropriate, implications for the longer term; • implementing Government policies in a way that is free from bias, and in accordance with the law 	<p>The ACQSC should ensure its organisational statement of values and guidance material includes the value of impartiality to the Australian community under the law and within the framework of Ministerial responsibility and its application in the context of the ACQSC’s functions. The organisational statement of values and guidance material may provide examples specifying how impartiality should be embodied in all line areas throughout the ACQSC.</p> <p>The ACQSC should have readily accessible procedures on reporting, notification, investigation and escalation procedures in the event a potential breach is identified.</p> <p>This provision provides guidance in relation to s10(5) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>
<p>Section 19</p>	<p>Mandatory integrity training for all ongoing APS employees within 6 months of their engagement.</p> <p>Mandatory integrity training for all non-ongoing APS employees as soon as practicable after being engaged.</p>	<p>Unless the individual has been previously engaged as an APS employee or has completed a program of training about integrity previously, the Agency Head must ensure an ongoing APS employee undergoes integrity training within 6 months of their start date at the ACQSC.</p> <p>For non-ongoing APS employees, integrity training should occur as soon as practicable after their start date at the ACQSC.</p>	<p>As above.</p>

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		To ensure all ACQSC employees receive this mandatory training, a program on integrity should be included as a mandatory component of onboarding processes, and also made available to all employees as a refresher module to be completed on a periodic basis to ensure awareness is maintained.	
Section 20	Requirement to notify and consult the APS Commissioner prior to the Agency Head entering into a settlement agreement which includes limitations of the person’s freedom to disclose information about the matter, the dispute or its settlement -- where at least one party is or was an APS employee and the issue in dispute relates to the person’s APS employment and sexual harassment	<p>Prior to entering a settlement agreement relating to sexual harassment involving a ACQSC employee or former employee, where any condition of the settlement imposes limitations on the disclosure of information, the Agency Head must consult the APS Commissioner.</p> <p>The ACQSC should ensure detailed records are kept of all disputes involving its employees about their APS employment (particularly if involving allegations of sexual harassment). Documentation should commence at the point of notification and continue until both parties consider the dispute resolved, and include records of any investigations, mediations, or any other dispute resolution processes undertaken.</p>	As above.
Section 21	<p>Agency Head to notify APS Commissioner of any settlement agreement entered into by the Agency Head which includes limitations of the person’s freedom to disclose information about the matter, the dispute or its settlement -- where at least one party is or was an APS employee and the issue in dispute relates to the person’s APS employment.</p> <p>The notification must be given within 31 days after the end of the financial year during which the agreement was entered into, unless a longer period is allowed by the ACQSC.</p>	The ACQSC should ensure detailed records are kept of all disputes involving its employees about their APS employment. Documentation should commence at the point of notification and continue until both parties consider the dispute resolved and include records of any investigations, mediations, or any other dispute resolution processes undertaken.	As above.
Section 23	Agency Head decisions about whether to engage or promote a person in the ACQSC must be based on a merit-based selection process (unless circumstances as set out in Subdivision C are modified or do not apply)	<p>The ACQSC should ensure all hiring processes including for both prospective new ACQSC employees, or the promotion of existing ACQSC employees are based on merit-based eligibility criteria. The evaluation and decision-making process for these processes must consider only these pre-determined eligibility criteria which has been communicated consistently to all employees, and no irrelevant factors are taken into consideration. Reasons for any engagement or promotion decision should be thoroughly documented to ensure defensibility.</p> <p>This provision provides guidance in relation to s10A(1)(c) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	As above.

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<p>Section 24</p>	<p>A merit-based selection process for engagement or promotion consists of the following elements:</p> <ul style="list-style-type: none"> • aim and purpose of the selection process is readily available to candidates • information about the selection process is readily available to all candidates • the selection process is applied fairly in relation to each eligible candidate • the selection process is appropriately documented. <p>When making a decision in relation to an eligible candidate:</p> <ul style="list-style-type: none"> • merit is the primary consideration; and • if the candidate is otherwise equal on merit with another candidate – secondary considerations may be taken into account if they related to matters in the control of the candidate. 	<p>As above.</p>	<p>As above.</p>
<p>Section 25</p>	<p>All vacancies must be notified in the Public Service Gazette the ACQSC must notify all vacancies within 18 months before the written decision is made to engage or promote the successful candidate.</p> <p>The vacancy notice must:</p> <ul style="list-style-type: none"> • Be open to all eligible members of the community • Include a closing date for applications which must be: <ul style="list-style-type: none"> ○ At least 7 calendar days after the closing date of the application, unless the Agency Head is satisfied special circumstances apply and approves a shorter period <p>Have relevant approval (where required) obtained from the Commissioner</p>	<p>The ACQSC should ensure notification of vacancy in the Public Service Gazette is a mandatory step in its standard hiring process and complies with legislated timeframe requirements.</p>	<p>As above.</p>
<p>Section 26</p>	<p>Additional to direction 24 and 25, SES engagement or promotion decisions must involve the APS Commissioner.</p> <p>The ACQSC must consult the APS Commissioner and ensure their (or their representative) is a full participant in the selection process for an SES role.</p>	<p>The ACQSC should ensure consultation of the APS Commissioner is a mandatory step in its standard hiring process for SES engagement and promotion decisions, and where required written certification is received from the APS Commissioner prior to formally issuing an offer of engagement or promotion to the successful SES candidate.</p>	<p>As above.</p>

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	<p>In the case of a representative of the APS Commissioner is participating, the Commissioner must seek written certification from the representative that the process complies with the PSA and the APS Commissioner’s Directions.</p>		
<p>Section 27</p>	<p>The Agency Head may engage non-ongoing APS employees, or extend non-ongoing engagement.</p> <p>The Agency Head may engage non-going APS employees where the engagement is for a specified term or duration of a specified task for a period of 12 months or less, or the engagement is for duties that are irregular and intermittent. Such engagements may be extended by the Agency Head if:</p> <ul style="list-style-type: none"> • There is a continuing need for the duties to be performance; • The person is performing the duties satisfactorily or better • The Agency Head is satisfied that: <ul style="list-style-type: none"> ○ It is still appropriate for the duties to be performed on a non-going basis; ○ Any extension will contribute to efficient and effective organisational performance <p>Total periods of non-going APS engagements must not exceed 18 months.</p> <p>The Agency Head must ensure as far as practicable that such a vacancy is brought to the notice of the community in a way that gives eligible members of the community a reasonable opportunity to apply for it.</p> <p>The Agency Head must be satisfied the person engaged has the relevant qualities genuinely required to perform the relevant duties.</p>	<p>The ACQSC should ensure legislated requirements for engagement of non-ongoing APS employees are reflected in its hiring processes and policies.</p> <p>All recruitment process and decisions should be thoroughly and accessibly documented, particularly as they may be subject to review under the <i>Public Service Act Regulations 1999</i>.</p> <p>A vacancy could be brought to the notice of the community by being advertised or access being provided to non-ongoing APS employment registers.</p>	<p>As above.</p>
<p>Section 31</p>	<p>The Agency Head may identify a vacancy as open only to Aboriginal persons and/or Torres Strait Islander persons, consistent with Commonwealth law.</p>	<p>The ACQSC must ensure all selection processes for vacancies which are identified for Aboriginal and/or Torres Strait Islander persons are clearly labelled as such in the listing notification. The ACQSC should have a procedure for verifying the Aboriginal and Torres Strait Islander identify and acceptance of that identity by the candidate’s community.</p>	<p>As above.</p>

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	<p>The Agency Head must ensure that for any vacancy which is earmarked for only Aboriginal Persons and/or Torres Strait Islander persons:</p> <ul style="list-style-type: none"> • all eligible applicants are Aboriginal or Torres Strait Islander persons and identifies as such; and • is accepted by the person’s community as an Aboriginal and/or Torres Strait Islander person • and either: <ul style="list-style-type: none"> ○ the selection process for the vacancy complies with Subdivision B requirements; or ○ section 27 requirements for engagements on a short-term, irregular, or intermittent basis is satisfied. 	<p>All recruitment processes and decisions should be thoroughly and accessibly documented.</p>	
<p>Section 33</p>	<p>The Agency Head may identify a vacancy as open only to persons with a disability or a particular type of disability.</p> <p>The Agency Head must be satisfied for vacancies open only to persons with a disability or a particular type of disability:</p> <ul style="list-style-type: none"> • the selection process otherwise complies with Subdivision B; • section 27 is satisfied; and <p>a disability employment service provider has assessed candidates as likely to be unable to compete successfully on merit in a competitive selection process.</p>	<p>The ACQSC must ensure all selection processes for vacancies which are identified for persons which a disability are clearly labelled as such in the listing notification. The ACQSC should ensure a registered disability employment service provider has been engaged or consulted to provide an assessment on whether candidates satisfy the likelihood of competing successfully on merit in a competitive selection process, as an initial screening process.</p> <p>All recruitment processes and decisions should be thoroughly and accessibly documented.</p>	<p>As above.</p>
<p>Section 37</p>	<p>The Agency Head may re-engage a former APS employee if the reason the former APS employment ended is because the person resigned to contest an election for any of the following:</p> <ul style="list-style-type: none"> • House of the Parliament of the Commonwealth or of a State; • Legislation Assembly of a Territory • Torres Strait Regional Authority <p>The Agency Head must be satisfied that the re-engagement is compliant with section 32 of the <i>PSA</i> and the personal applies to the Agency Head to be re-engaged within 2 months after the declaration of the result of the relevant election (or within 2</p>	<p>The Agency Head should ensure its human resources policies and processes in place which provide for former employees who resigned to contest elections seeking re-engagement of their employment.</p> <p>The ACQSC should maintain accurate and up-to-date records of the reasons employees have resigned. This allows an accurate assessment of whether a former employee was an election candidate and is eligible to be re-engaged, in corroboration with records from electorate offices.</p> <p>For the purposes of employment arrangements and the National Employment Standards, the APS employee’s continuity of service is taken not to be broken.</p>	<p>As above.</p>

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	<p>months after a court decides on any petition disputing the result, any such petition is withdrawn or lapses), unless the APS Commissioner has made a declaration, in which case as soon as practicable after the declaration.</p> <p>The Agency Head may re-engage the person as an APS employee:</p> <ul style="list-style-type: none"> • On the same (ongoing or non-going basis) as before; • For the same assigned duties or similar duties as before (if unavailable, duties at the same classification); and • On the same terms, conditions, and remuneration as before 		
<p>Section 38</p>	<p>The Agency Head may re-engage a former APS employee.</p> <p>The person must be engaged:</p> <ul style="list-style-type: none"> • on the same basis (ongoing or non-ongoing) as the person was when formerly employed; and • at the same or a lower classification. 	<p>If the Agency Head is satisfied the former employment should not have ended; or</p> <ul style="list-style-type: none"> • The engagement will settle legal action relating to the termination of the employee’s employment; or • an appropriate authority has recommended reinstatement, the person must be engaged on the same basis as the former employment arrangement and at the same or lower classification. 	<p>As above.</p>
<p>Section 40-41</p>	<p>The following employment decisions must be notified by the Agency Head to the Public Service Gazette:</p> <ul style="list-style-type: none"> • the engagement or promotion of an ongoing APS employee (which has not been otherwise notified) including decisions made in accordance with ISAC recommendations • the termination of the employment of an ongoing APS employee on basis of breach of the Code of Conduct <p>Cancellation of previously notified decisions must be notified by the Agency Head. The Agency Head must notify relevant employment decisions in the Public Service Gazette within 3 months after the decision (or relevant eligibility requirement is satisfied), unless otherwise agreed by the APS Commissioner.</p>	<p>The ACQSC should ensure its human resources policies provides for the notification to the Public Service Gazette as a standard and mandatory step of employment decisions.</p> <p>This provision provides guidance in relation to s11A(1) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>

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	<p>The Agency Head must notify cancellation decisions for promotions, engagements, assignment of duties, and determinations. The cancellation decision must include the date of effect, persons name (unless not included in the original notice) and be notified within 3 months after the decision is made.</p> <p>Where the Agency Head considers the person’s work or personal circumstances requires, or the name is not necessary to ensure public confidence in APS integrity, the notification may exclude the name of the individual. The Merit Protection Commissioner must be provided the name upon request.</p>		
<p>Section 44</p>	<p>APS employees must be engaged on probation unless waived by the Agency Head due to reasonable circumstances.</p>	<p>The Agency Head (and the ACQSC) must ensure all APS employees are engaged on probation (unless engaged for irregular or intermittent duties) unless waived. During the period of probation, the Agency head must ensure processes are implemented to assess the individual’s suitability to perform these duties.</p> <p>The ACQSC should make sure their employment documentation reflects that APS employees will be engaged on probation.</p>	<p>As above.</p>
<p>Section 49 -51</p>	<p>An Agency Head must ensure performance management policies and processes are in place, the Agency has necessary organisational capacity to achieve all outcomes of the Agency properly.</p> <p>The Agency Head should ensure effective performance management policies and processes are in place which:</p> <ul style="list-style-type: none"> • Support high performance culture; • Proactively identifies, fosters and develops APS employees to fulfil potential; • provide for effective performance management; and • are fair, open and effective; and • are clearly communicated to APS employees; • the ACQSC has sufficient organisational capacity • each APS employee is provided clear statement of expected performance and behaviour and opportunities to discuss performance 	<p>The ACQSC should satisfy itself that its performance management policies and procedures comprehensively cover all relevant legislated scope, and if not already notified and accessible to all ACQSC employees – such as being listed or available for download on the staff intranet.</p> <p>This provision provides guidance in relation to s11A(2) of the <i>Public Service Act</i> on the engagement of APS employees.</p>	<p>As above.</p>

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	<ul style="list-style-type: none"> • each APS employee receives feedback from supervision • supervisors are supported to manage performance of APS employees, including with appropriate training on performance management • performance management policies and processes are used to guide salary movement. <p>The Agency Head must ensure</p> <ul style="list-style-type: none"> • the ACQSC’s performance management policies and processes deal with unsatisfactory performance and are made available to all supervisors and employees. These documents should clearly set out <ul style="list-style-type: none"> ○ supervisor responsibilities ○ outcomes of unsatisfactory performance ○ processes to attempt to resolve performance issues and act on performance feedback <p>Effective performance means:</p> <ul style="list-style-type: none"> • performance strives to meet relevant APS classification expectations and is consistent with performance agreement • constructive engagement with supervisor on career and performance management • openness to receiving and implementing feedback • seeking opportunities to improve • cooperation to resolve any performance issues identified • undertaking any training or remedial/corrective measures as directed. 		
<p>Section 50</p>	<p>APS employees who have supervisory responsibilities must:</p> <ul style="list-style-type: none"> • promote and foster effective performance • conduct annual career conversations with responsible employees about performance, 	<p>The Agency Head should ensure that where a classification relates to a group of duties which includes supervisory responsibilities, the relevant performance management obligations align with these regulations.</p>	<p>As above.</p>

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	<p>potential, aspirations, organisational fit and future opportunities</p> <ul style="list-style-type: none"> • ensure performance agreements in place for each employee which are consistent with ACQSC corporate plan, and employee’s APS classification • timely, clear and honest feedback is provided to employees • supervisory capabilities are continually improved and developed • Where identified that a responsible APS employee’s performance is unsatisfactory: <ul style="list-style-type: none"> ○ Appropriate records are maintained, and relevant individuals including the employee and human resourcing area, are engaged to discuss 	<p>Once commencement of a role, ACQSC employees should be notified of their duties and responsibilities by their supervisor, and provided access to resources of where all relevant ACQSC performance management policies and procedures are documented.</p>	
Section 51	<p>APS Employees must strive to perform to the best of their ability, at the work level standard for their classification, and consistent with their performance agreement. This includes:</p> <ul style="list-style-type: none"> • Engaging constructively with their supervisor to set clear work expectations • Participating constructively in performance management processes and career conversations • Demonstrating openness to receiving feedback and implementing in a timely manner • Seeking opportunities to improve own and team’s performance • Cooperating with supervisor and other relevant ACQSC personnel to resolve issues where notified of any unsatisfactory performance in a timely manner – including necessary training or remedial/corrective measures as directed 	As above.	As above.
Section 52	<p>Agency Head must consider any relevant standards for APS employee performance</p>	<p>The Agency Head must have regard to any relevant standards and guidance issued by the APS Commissioner where an employee of the ACQSC may have breached the APS Code of Conduct, there are issues with their performance, or the Agency Head is considering initiating an inquiry under s 15(3) of the <i>PSA</i> relating to a breach of the APS Code of Conduct.</p>	As above.

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<p>Section 54</p>	<p>Agency Head must collect relevant information from each APS employee in the Agency</p>	<p>The Agency Head must ensure there is a process in place for the collection of information from each APS employee as required by the Australian Public Service Employment Database Specifications 2013 and 2021.</p> <p>The ACQSC must ensure the process allows APS employees to opt out of providing information relating to their</p> <ul style="list-style-type: none"> • Disability • Cultural or linguistic background • Educational qualifications • Prior employment 	<p>As above.</p>
<p>Section 55, 56</p>	<p>Agency Head must provide information requested by the APS Commissioner</p>	<p>The Agency Head must provide information or documents about workplace relations relating the APS employees in the ACQSC, upon request of the APS Commissioner other than personal information as defined in the <i>Privacy Act 1988</i>.</p> <p>This ACQSC must provide this information promptly, accurately, and in the requested form.</p>	<p>As above.</p>
<p>Section 59-63</p>	<p>An Agency must ensure procedural fairness requirements are upheld when handling suspected breaches of the APS Code of Conduct.</p>	<p>The Agency Head and ACQSC must ensure the following procedural fairness requirements are upheld:</p> <ul style="list-style-type: none"> • Employee has been informed <ul style="list-style-type: none"> ○ a determination is being considered relating to their suspected breach of the APS Code of Conduct ○ of any sanctions before they are imposed under subsection 15(1) of the <i>PSA</i> ○ and provided a reasonable opportunity to make a statement in relation to the suspected breach • The decision-maker for the determination, and any sanctions to be imposed is (and appears to be) independent and impartial • The determination process is as informal and expedited as proper consideration allows • Written record must be made and provided to the APS employee: <ul style="list-style-type: none"> ○ The suspected breach ○ The determination ○ Any sanctions imposed ○ Statement of reasons 	<p>As above.</p>
<p>64</p>	<p>The Agency Head must consult the APS Commissioner on the process for determining whether an SES employee has breached the Code of Conduct and prior to imposing a sanction.</p>	<p>The Agency Head must notify the APS Commissioner where an SES employee of the ACQSC has been suspected of breaching the APS Code of Conduct, and the ACQSC should ensure a consultation procedure for determining the approach to investigating and determining such scenarios is well documented and accessible to the Agency Head. Where the Agency Head is considering imposing a sanction on the relevant SES employee, the APS Commission’s</p>	<p>As above.</p>

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		<p>written endorsement should be received and recorded prior to implementing the sanction or notifying the SES employee.</p>	
<p>Section 67</p>	<p>An Agency Head must grant leave without pay to an ongoing APS employee in specified circumstances</p>	<p>Upon application by an ongoing APS employee, the Agency Head must grant leave without pay where:</p> <ul style="list-style-type: none"> • the person is employed by the Official Secretary as a member of the Governor-General’s staff (section 13 of the <i>Governor-General Act 1974</i>; or • the person is employed by a Senator or Member of the House of Representatives as a member of staff section 13 or 20 of the <i>Members of Parliament (Staff Act 1984</i> <p>Where the APS employee who has been granted leave without pay requests to return to the Agency to undertake their former duties, the Agency Head must arrange this as soon as practicable and if former classification no longer exists, at an equivalent classification as determined by the Agency Head.</p>	<p>As above.</p>

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Assurance Audit Process – Cover page
Racial Discrimination Act 1975 (Cth)

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Racial Discrimination Act 1975</i>	13 December 2022	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Other guidance material relevant to the Commission			
Australian Human Rights Commission website – Resources for employers	N/A	<i>[For the Commission to fill in]</i>	People and Culture
APS Culturally and Linguistically Diverse Employment Strategy and Action Plan	N/A	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Racial Discrimination Act 1975

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 9(1)	<p>It is unlawful for a person to do any act involving a:</p> <ul style="list-style-type: none"> • distinction • exclusion • restriction; or • preference <p>based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.</p> <p>Where the ACQSC requires another person to comply with a term, condition or requirement which is not reasonable in the circumstances and has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour, descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life, the act of requiring compliance is to be treated as an act involving distinction based on race, colour, descent or national or ethnic origin.</p>	<p>The ACQSC has a duty to ensure its employees understand what constitutes racial discrimination and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of policies and procedures that align with applicable Culturally and Linguistically Diverse (CALD) Employment Strategy and Action Plan for the Australian Public Service • Regular training and information sessions to promote awareness • Education about indirect and direct racial discrimination • The creation of formal groups such as the CALD group to assist with the above. <p>The ACQSC should review the resources on the Australian Public Service Commission website in relation to CALD employees to ensure it is meeting best practice standards.</p>	<p>Potential legal ramifications and the ACQSC reputation could be diminished.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an unlawful under the Act. Thereafter complainants may progress to litigation in the Federal Court or Federal Circuit and Family Court of Australia</p> <p>The ACQSC may be held vicariously liable for the acts of its employees.</p>
Section 15(1)	<p>It is unlawful for the ACQSC to:</p> <ul style="list-style-type: none"> • refuse or fail to employ a person on work of any description which that person is qualified; or • refuse or fail to offer or afford a person the same terms of employment, conditions of work and opportunities for training and promotion as are made available for other persons having the same qualifications and employed in the same circumstances on work of the same description; or • to dismiss a person from their employment 	<p>As above.</p>	<p>As above.</p>

	by reason of the race, colour or national or ethnic origin of that second person or any relative or associate of that second person.		
Section 16	It is unlawful for the ACQSC to publish or display, or cause or permit to be published or displayed, an advertisement or notice that indicates, or could reasonably be understood as indicating, an intention to do an act that is unlawful under this Act.	<p>The ACQSC should ensure a policy or procedure exists that sets out the requirements as to what can be published and advertised having regard to this obligation.</p> <p>Part of the policy or procedure should include a requirement for the Governance and Risk work unit (or another suitable work unit) to conduct a quality assurance check.</p>	As above.
Section 18AA	It is unlawful for the ACQSC or its employees to commit an act of victimisation against another person.	<p>The ACQSC has a duty to ensure its employees understand what constitutes racial discrimination and victimisation and how to prevent it. This can be achieved through:</p> <ul style="list-style-type: none"> • Implementation of policies and procedures that align with applicable Culturally and Linguistically Diverse Employment Strategy and Action Plan for the Australian Public Service • Regular training and information sessions to promote awareness, including the Australian Human Rights Commission Anti-racism training • Education about what conducts constitutes victimisation • The creation of formal groups such as the CALD group to assist with the above. <p>The ACQSC should review the resources on the Australian Public Service Commission website in relation to CALD employees to ensure it is meeting best practice standards.</p>	As above.
Section 18C	<p>It is unlawful for a person to do an act, otherwise than in private, if:</p> <ul style="list-style-type: none"> • the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and • the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group. 	As above.	As above.
Section 27	<p>The ACQSC or its employees shall relevantly not:</p> <ul style="list-style-type: none"> • refuse to employ; • dismiss or threaten to dismiss an employee 	As above.	A failure to comply is an offence and may result in the following:

	<ul style="list-style-type: none"> • prejudice or threaten to prejudice an employee; • or intimidate, coerce or impose any penalty on another person by reason that other person has made a complaint under this Act or the <i>Australian Human Rights Commission Act 1986</i> or has furnished any information or documents to a person exercising any powers under this Act or the <i>Australian Human Rights Commission Act 1986</i> or has attended a conference held under this Act or the <i>Australian Human Rights Commission Act 1986</i>. 		<ul style="list-style-type: none"> • Natural person – 25 penalty units or imprisonment for 3 months or both; or • Body corporate – 100 penalty units.
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Assurance Audit Process – Cover page
Regulatory Powers (Standard Provisions) Act 2014

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Regulatory Powers (Standard Provisions) Act 2014</i>	5 April 2024	5 August 2024	<i>[For the Commission to fill in]</i>	Legal Services

**Assurance Audit Process – Legislative Framework Summary
Regulatory Powers (Standard Provisions) Act 2014**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 18, section 48	<p>If a representative from the Commission is entering premises by consent to exercise monitoring or investigation powers, they must leave the premises if consent ceases.</p> <p>The monitoring powers are set out in sections 19, 20, 21 and 22 of the Act.</p> <p>The investigation powers are set out in sections 49, 50, 51 and 52.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>Commission staff should make it clear to the occupier of premises in situations where entry is obtained by consent that consent can be revoked. If consent is revoked, the Commission’s representative should leave the premises immediately.</p> <p>See also section 74C(2) of the ACQSC Act about additionally requirements in relation to consent.</p>	<p>A failure to follow proper procedure may have evidentiary implications for any information gathered whilst on the premises. For instance, the information may be unable to be used in any subsequent court proceedings.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p>
Section 21, section 51	<p>If a representative of the Commission exercises a power to secure electronic equipment, they must give notice to the occupier of the premises, or the occupier’s representative of:</p> <ul style="list-style-type: none"> • the intention to secure the equipment; and • that the equipment may be secured for up to 48 hours (note: section 74C(3) and 74E(2) of the ACQSC Act). <p>If they intend to extend this period, the representative must give notice of the intention to apply for an extension to extend the period.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>If the Commission secures equipment, they must notify the occupier and state that the equipment may be held for up to 48 hours.</p> <p>If the Commission wishes to secure equipment for more than 48 hours, it must make an application to hold for a longer period and notify the occupier of the proposed application.</p>	As above.
Section 22(3)	<p>Before making an application for an extension of the period for securing evidence of a contravention (48-hour period), the authorised person must give notice to the occupier of the premises, or another person who apparently represents the occupier, of his or her intention to apply for an extension.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p>	As above.

<p>Section 23(2)(d), section 53(2)(d)</p>	<p>Persons assisting the authorised must do so in accordance with a direction given to the person by the authorised person.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p>	
<p>Section 25, section 55</p>	<p>Before obtaining the consent of an occupier to enter premises, the Commission must inform the occupier that they can refuse consent.</p> <p>The Commission’s representative must show their identity card as soon as is reasonably practicable after entering premises.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission must inform an occupier that they can refuse consent to enter premises.</p> <p>If entering premises, the Commission’s representative must show their identity card.</p>	<p>As above.</p>
<p>Section 26, section 56</p>	<p>If an authorised person of the Commission enters a premises under a warrant (i.e. a monitoring or investigation warrant) , they must:</p> <ul style="list-style-type: none"> • announce that they are authorised to enter; • show their identity card to the occupier; and • give any person at the premises the opportunity to allow entry. 	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p>	<p>As above.</p>
<p>Section 27, section 57</p>	<p>When executing a warrant, the authorised person exercising the warrant must have a copy of the warrant.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring powers to ensure they understand their obligations and they have guidance.</p> <p>Take multiple copies of a warrant to any actions to enforce the warrant.</p>	<p>As above.</p>
<p>Section 28, section 58</p>	<p>When executing a warrant, an authorised person must make a copy of the warrant available to the occupier and inform the occupier or other person of the rights and responsibilities of the occupier under Division 4 of the Act.</p>	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>Take multiple copies of a warrant to any actions to enforce the warrant.</p> <p>Ensure that representatives of the Commission are aware of an occupier’s rights and responsibilities under Division 4 – namely that:</p> <ul style="list-style-type: none"> • they may observe the execution of the warrant; and 	<p>As above.</p>

		<ul style="list-style-type: none"> they must provide reasonable facilities and assistance to the Commission. 	
Section 29, section 61	If the Commission causes damage when operating electronic equipment that it has obtained under a warrant, it must pay compensation to the owner or user of the equipment.	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission should exercise caution to avoid damaging seized electronic equipment when attempting to access that equipment. If it does cause damage, it should provide compensation to the owner/user.</p>	As above.
section 32	<p>A monitoring warrant must:</p> <ul style="list-style-type: none"> describe the premises to which the warrant relates; and state that the warrant is issued under this section; and state the purpose for which the warrant is issued; and authorise one or more authorised persons (whether or not named in the warrant) from time to time while the warrant remains in force: <ul style="list-style-type: none"> to enter the premises; and to exercise the powers set out in this Part in relation to the premises; and state whether entry is authorised to be made at any time of the day or during specified hours of the day; and specify the day (not more than 3 months after the issue of the warrant) on which the warrant ceases to be in force. 	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission should consider developing a template, in consultation with Legal Services, for drafting a monitoring warrant.</p>	
Section 35 and section 76	<p>The Commissioner must issue identify cards to authorised persons. This identity card must:</p> <ul style="list-style-type: none"> comply with the regulations; and contain a photo which less than 5 years old. <p>Persons issued with identity cards must carry them at all times when exercising their monitoring powers and these cards must be returned within 14 days of ceasing to be authorised.</p>	The Commissioner must issue identity cards to persons that are ‘authorised persons’ under the ACQSC Act.	As above.

	See also section 73 of the ACQSC Act.		
Section 64	If an authorised person seizes a document, film, computer file, storage device or other thing which can be readily copied, it must make a copy of the thing or information upon request of the occupier or other person.	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission should ensure that it has a process for copying seized material and making copies available upon request.</p>	As above.
Section 65	The authorised person must provide a receipt for things which are seized under Part 3 of the Regulatory Powers Act.	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission should ensure that it provides receipts for anything which it seizes.</p>	As above.
Section 66	<p>The Commissioner must take reasonable steps to return things seized under the Act when;</p> <ul style="list-style-type: none"> the reason for the seizure no longer exists; it is decided the thing is not to be used in evidence; or 60 days after seizing the thing has passed. 	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>The Commission should ensure that it returns seized items in accordance with the requirements of the Act.</p>	In addition to the potential evidentiary consequences outlined above, there may also be financial implications as an impacted person may seek compensation in respect of the seized item.
Section 67	If the Commissioner makes an application to retain a seized thing for a longer period of time, they must (if practicable), take steps to identify persons with an interest in the thing and notify each person with an interest.	<p>The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.</p> <p>If the Commission identifies a requirement to hold a seized item for a longer period of time than is authorised under the Act, it must notify persons with an interest in that object.</p>	As above.
Section 70	<p>An investigation warrant must:</p> <ul style="list-style-type: none"> state the offence provision or offence provisions, or civil penalty provision or civil penalty provisions, to which the warrant relates; and 	The Commission should ensure that a policy or procedure is available for staff exercising monitoring or investigation powers to ensure they understand their obligations and they have guidance.	

	<ul style="list-style-type: none"> • describe the premises to which the warrant relates; and • state that the warrant is issued under this Division; and • specify the kinds of evidential material to be searched for under the warrant; and • state that evidential material of the kind specified may be seized under the warrant; and • state that the person executing the warrant may seize any other thing found in the course of executing the warrant if the person believes on reasonable grounds that: <ul style="list-style-type: none"> ○ the thing is evidential material of a kind not specified in the warrant; or ○ a related provision has been contravened with respect to the thing; or ○ the thing is evidence of the contravention of a related provision; or ○ the thing is intended to be used for the purpose of contravening a related provision; and • name one or more authorised persons; and • authorise the authorised persons named in the warrant: <ul style="list-style-type: none"> ○ to enter the premises; and ○ to exercise the powers set out in this Part in relation to the premises; and ○ state whether entry is authorised to be made at any time of the day or during specified hours of the day; and ○ specify the day (not more than 1 week after the issue of the warrant) on which the warrant ceases to be in force. <p>See also s 71.</p>	<p>The Commission should consider developing a template, in consultation with Legal Services, for drafting a monitoring warrant.</p>	
Section 82(2)	<p>An authorised application applying for a civil penalty order must do so within 6 years of the alleged contravention.</p>	<p>Ensure that the Commission’s policy, procedure and/ or guidance material on civil penalties including a reference to this limitation period.</p>	<p>The Commission may not be able to apply for a civil penalty order if an application is made outside of the 6 year period and/ or will have to seek an extension of time.</p>
Section 103(2)	<p>An infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place.</p>	<p>Ensure that the Commission’s policy, procedure and/ or guidance material on infringement notices including a reference to this limitation period.</p>	<p>The Commission may not be able to apply for an infringement notice if an application is made outside of the 12 month period and/ or will have to seek an extension of time.</p>

Section 103(4)	A single infringement notice must relate only to a single contravention of a single provision unless section 103(4) applies.	Ensure that the Commission’s policy, procedure and/ or guidance material on infringement notices provides guidance on this obligation.	May impact the validity of the infringement notice.
Section 104	Sets out what an infringement notice must contain.	Ensure that the Commission’s policy, procedure and/ or guidance material on infringement notices provides guidance on this obligation.	As above.
Section 114	An undertaking must be expressed to be an undertaking under s 114 of the Act.	Ensure that the Commission’s policy, procedure and/ or guidance material on enforceable undertakings provides guidance on this obligation.	May impact the validity of the undertaking.

Assurance Audit Process – Cover page
Remuneration Tribunal Act 1973
Remuneration Tribunal (Official Travel) Determination 2023

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Remuneration Tribunal Act 1973</i>	1 February 2019	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture
Subordinate legislation				
<i>Remuneration Tribunal (Official Travel) Determination 2023</i>	27 August 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Remuneration Tribunal Act 1973
Remuneration Tribunal (Official Travel) Determination 2023

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 16C(1)	<p>During the applicable publication period for a reporting period, the accountable authority of the relevant Commonwealth entity (the Commissioner) must cause to be published, in such manner as the accountable authority thinks fit, a report that sets out:</p> <p>(a) both:</p> <ul style="list-style-type: none"> (i) the number of payments made under s 16A(1)¹ during the reporting period; and (ii) the total amount of those payments; and <p>(b) both:</p> <ul style="list-style-type: none"> (i) the number of payments made under s 16B(1)² during the reporting period; and (ii) the total amount of those payments. <p>A reporting period is</p> <ul style="list-style-type: none"> • a financial year; or • if a shorter recurring period is prescribed in an instrument under subsection (9)—that period. <p>The applicable publication period is:</p> <ul style="list-style-type: none"> • 4 months; or • if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under s 16C(11)—that number of months; 	<ul style="list-style-type: none"> • Implementing a review process to determine whether any ‘recoverable payments’ or ‘recoverable death payments’ have been made – and if relevant, ensuring a report is published by the Commissioner. • Considering what the appropriate format of publication of the information is – for example, whether the information should be included in an annual report. 	<p>No civil penalty or offence provision linked to this obligation however, there may be consequences under the PGPA Act if the information is not published. There may also be reputational risks associated with any non-compliance by the Commission.</p> <p>Further, a failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>

¹ Relates to recoverable payments.

² Relates to recoverable death payments.

	beginning immediately after the end of the reporting period.		
Section 16C(6)	<p>If one or more payments made under s 16A(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Commissioner must, during the applicable publication period for the later reporting period:</p> <p>(a) prepare a report that sets out:</p> <ul style="list-style-type: none"> (i) the number of those payments; and (ii) the total amount of those payments; and (iii) the reporting period during which the payments were made; and <p>(b) if a report is required under s 16C(1) in relation to the later reporting period—include the paragraph (a) report in the s 16C(1) report; and</p> <p>(c) if paragraph (b) does not apply—publish, in such manner as the Commissioner thinks fit, the paragraph (a) report.</p>	As above.	As above.
Section 16C(7)	<p>If one or more payments made under s 16B(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Commissioner must, during the applicable publication period for the later reporting period:</p> <p>(a) prepare a report that sets out:</p> <ul style="list-style-type: none"> (i) the number of those payments; and (ii) the total amount of those payments; and (iii) the reporting period during which the payments were made; and <p>(b) if a report is required under s 16C(1) in relation to the later reporting period—include the paragraph (a) report in the s 16C(1) report; and</p> <p>(c) if paragraph (b) does not apply—publish, in such manner as the Commissioner thinks fit, the paragraph (a) report.</p>	As above.	As above.

Remuneration Tribunal (Official Travel) Determination 2023			
Section 10(3)	Office holders (the Commissioner) must only incur expenses, or commit the Commonwealth to meet expenses, where funds are lawfully available to do so.	<ul style="list-style-type: none"> Ensuring the Commissioner is aware of the obligations under the determination and the requirements relating to official travel. Developing for example, a statement of procedure for the Commissioner, which outlines the Commissioner’s obligations under the determination. 	There may be reputational risks associated with any non-compliance by the Commissioner. It could also undermine public faith in the integrity of the Commission and ability to undertake its functions.
Section 10(4)	Travel may only be undertaken where its purpose is consistent with the duties of the Commissioner.	As above.	As above.
Section 12(1)	The Commissioner may upgrade the office holder’s class of travel in order to accompany a person travelling at a higher class of travel if it is demonstrably in the interest of the Commonwealth to do so.	As above.	As above.
Section 12(2)	If the Commissioner is entitled to travel economy class, they may upgrade to business class (for domestic and international travel) if the duration of the flight exceeds 5 hours.	As above.	As above.
Section 13(2)	Accompanied travel may occur only if the Commissioner’s employing authority certifies in writing that it is demonstrably in the interest of the Commonwealth, given the purpose of the travel, for the Commissioner to be accompanied by the office holder’s spouse or de facto partner.	As above.	As above.
Section 26(3)	<p>The Commissioner may choose to hire a vehicle or use the Commissioner’s own vehicle to travel on official business where it is demonstrably in the interest of the Commonwealth to do so. In such circumstances the Commonwealth is to:</p> <ul style="list-style-type: none"> meet the cost of a rental vehicle; or pay a motor vehicle allowance at the rate of 85 cents per kilometre where a private vehicle is used for the journey. Any private vehicle used for this purpose must be comprehensively insured. 	As above.	As above.

Assurance Audit Process – Cover page
Safety, Rehabilitation and Compensation Act 1988
Safety, Rehabilitation and Compensation (Guidelines for Rehabilitation Authorities) Instrument 2019

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>	14 June 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture
Subordinate legislation				
<i>Safety, Rehabilitation and Compensation (Guidelines for Rehabilitation Authorities) Instrument 2019</i>	1 August 2019	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Safety, Rehabilitation and Compensation Act 1988 and
Safety, Rehabilitation and Compensation (Guidelines for Rehabilitation Authorities) Instrument 2019

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
S36(1)	ACQSC may at any time, or shall on employee’s written request, arrange for the assessment of employee’s capability of undertaking a rehabilitation program; if that employee suffers an injury resulting in an incapacity for work or an impairment	<p>Develop and maintain a rehabilitation management system to help meet legislative obligations and provide effective rehabilitation services to employees including:</p> <ul style="list-style-type: none"> • developing a policy regarding conduct and processes for rehabilitation of injured employees; • providing training on rehabilitation requirements/obligations; • arranging appropriate assessments for eligible employees; and • maintaining records and/or documentation to support the rehabilitation management system. <p>Notify Comcare if an employee refuses or fails to attend a rehabilitation assessment.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potentially undermine the effective rehabilitation of injured employees.</p>
S36(2)	The assessor conducting the assessment of employee’s capability of undertaking a rehabilitation program shall be nominated by ACQSC. The assessor must be a legally qualified medical practitioner, or, a suitably qualified person, or, a panel comprising such legally qualified medical practitioners or other suitably qualified persons (or both).	As above.	As above.
S36(3A)	When deciding whether to arrange for an assessment (under s36(1)) or to require an assessment (under s36(3), ACQSC must comply with the approved Rehabilitation Assessments and Examinations Guide.	As above.	As above.
S36(4)	If the employee refuses or fails, without reasonable excuse, to undergo an examination or in any way obstructs the examination, the employee’s rights to compensation under the Act and to institute	As above.	As above.

	<p>proceedings under the Act in relation to compensation are suspended until the examination takes place.</p> <p>However, the employee’s entitlement to compensation for the cost of medical treatment won’t be suspended (see: section 26(4A)).</p>		
S37(1) & (3)	<p>ACQSC may determine that an employee who has suffered an injury resulting in an incapacity for work or an impairment should undertake a rehabilitation program.</p> <p>When making the determination, ACQSC shall have regard to:</p> <ul style="list-style-type: none"> • any written assessment under s36(8); • any reduction in the future liability to pay compensation if the program is undertaken; • cost of the program; • any improvement in the employee’s opportunity to be employed after completing the program; • the likely psychological effect on the employee of not providing the program; • the employee’s attitude to the program; • the relative merits of any alternative and appropriate rehabilitation program; and • any other relevant matter. 	<p>Develop and maintain a rehabilitation management system to help meet legislative obligations and provide effective rehabilitation services to staff (see s 36 above).</p> <p>Ensure the rehabilitation program supports the employee’s recovery and rehabilitation and:</p> <ul style="list-style-type: none"> • the employee is consulted on the program; • the development of the program involves discussions with the employee’s supervisor, rehabilitation case manager, treating practitioner and workplace rehabilitation provider, where appropriate; • the program is tailored, outcome-based and sets clear steps to help the employee achieve a safe return to work; • the program is developed using appropriate expertise; • ensure suitable duties are found; and • retraining and redeployment is used when it is not possible for employees to return to pre-injury duties. <p>Notify Comcare if the employee refuses or fails to undertake a rehabilitation program.</p>	As above.
S37(7)	<p>If the employee refuses or fails, without reasonable excuse, to undertake a rehabilitation program, the employee’s rights to compensation under the Act and to institute proceedings under the Act in relation to compensation are suspended until the examination takes place.</p>	<p>As above.</p> <p>Make a determination whether the employee has refused or failed without reasonable excuse to undertake the rehabilitation program.</p>	As above.
S38(1)	<p>Once ACQSC makes a determination under s36 or s37 (i.e. requiring an employee to undergo assessment of the employee’s capability of undertaking a rehabilitation program or to undertake a rehabilitation program), they must, as soon as practicable, cause to</p>	<p>Ensure compliant notice is supplied to employee as soon as practicable after determination is made, including rights of review by Comcare.</p>	<p>Determination could be subject to a request for review by the employee to Comcare and may be revoked or varied.</p>

	<p>be served on that employee a notice in writing setting out:</p> <ul style="list-style-type: none"> • the terms of the determination; • the reasons for the determination; and • a statement to the effect that the employee may, if dissatisfied with the determination, request Comcare for a review of the determination under this section. 		
<p>S40(1)</p>	<p>If an ACQSC is undertaking or has completed a rehabilitation program, they shall take all reasonable steps to provide the employee with suitable employment or to assist the employee to find such employment</p>	<p>Develop and maintain a rehabilitation management system to help meet legislative obligations and provide effective rehabilitation services to staff (see s 36 above).</p> <p>When considering suitable employment:</p> <ul style="list-style-type: none"> • consult with the employee to understand their individual circumstances; • consult with the treating practitioner on the employee’s capacity and any restrictions; and • consider any reasonable adjustments requested by the employee to support their return to work. <p>Consider options for suitable duties including a graduated return to work, internal placement a work trial or a permanent redeployment. For example, employment situations where suitable duties are not available in the short term, the Rehabilitation Case Manager should try to negotiate a work trial with another agency or an alternative job role.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Not providing suitable duties could increase the employee’s incapacity, duration of their illness or injury and/or the associated costs of their claims.</p>
<p>S41(2)</p>	<p>ACQSC must comply with any guidelines issued by Comcare in relation to performance or exercise of powers under Part III of the SRC Act (ss34-41D)</p>	<p>Ensure compliance with any Comcare guidelines (see below).</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p> <p>Potentially undermine the effective rehabilitation of injured employees.</p>

S62(1) & (2)	ACQSC may seek a reconsideration of a determination by Comcare made under the SRC Act in respect of an employee	Develop and maintain a policy which sets out the circumstances in which ACQSC considers reconsideration should be sought of Comcare determinations under the SRC Act.	N/A
S64(1)	If Comcare makes a reviewable decision in respect of an employee ACQSC may seek review of that decision in the Administrative Appeals Tribunal	Develop and maintain a policy which set out the circumstances in which ACQSC considers review of decision should be sought in the Administrative Appeals Tribunal.	
S71(2)	If Comcare provides a notice to ACQSC or the Commissioner under s71(1), then the Commissioner must comply with the notice without delay	- Commissioner comply with any notice from Comcare under s71(1) as soon as possible.	There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.
S97F(1)	By the prescribed day (31 March per <i>Safety, Rehabilitation And Compensation Regulations 2002</i> No. 56 - Reg 19) ACQSC must give Comcare a written estimate of the amount to be paid to all ACQSC employees by way of salary, wages or pay during the next financial year.	Commissioner notify Comcare no later than 31 March each year of the estimated amount of all salary, wages or pay to be paid to employees in the next financial year.	As above.
S97F(2)	On Comcare’s request, ACQSC must give Comcare information as specified in the request to determine the premium or regulatory contribution payable by ACQSC.	Commissioner must provide information to Comcare as requested to assist with determination of premium or regulatory contribution.	As above.
S97H(3)	Commissioner must comply with any directions given relating to the payment of premium or regulatory contributions payable by ACQSC.	Commissioner must comply with any directions relating to this section.	As above.
S97J(2)	Notice of objection to Comcare of determination of premium or regulatory contribution must set out grounds of objection.	If the Commissioner wishes to object to the determination, ensure that the notice of objection sets out the grounds of the objection to determination.	Non-compliant notice of objection. Determination may be confirmed or varied by Comcare.
S97J(5)	If the Commissioner gives notice of objection to a determination of the premium or regulatory contribution payable by ASQSC, ASQSC is still obliged to pay the premium or regulatory contribution in accordance with any directions given under s97H (see above).	Ensure premium or regulatory contribution is paid, even if Commissioner gives notice of objection to Comcare’s determination.	There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.
S97K(2)	Notice of objection to the Commission must set out grounds of objection.	If the Commissioner wishes to object further to the determination, ensure that the notice of	Non-compliant notice of objection. Determination may be confirmed or varied by the Commission.

		objection sets out the grounds of the objection to determination.	
S116(1)	An employee is not entitled to be granted any leave of absence with pay (other than maternity leave) during, or in respect of, any period the employee was on post-determination compensation leave, however sick leave and recreation leave entitlements continue to accrue during each of the first 45 weeks they are on post-determination compensation leave, and long service leave entitlements continue to accrue for the whole period, as if the employee were not absent from work	- Ensure employees on post-determination compensation leave are accruing the correct entitlements, and are not granted leave contrary to this section.	There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. - Potential employee claim to Fair Work Ombudsman.
<i>Safety, Rehabilitation and Compensation (Guidelines for Rehabilitation Authorities) Instrument 2019</i>			
S7	If the rehabilitation authority delegates any or all of its powers and functions to an officer or a person, it must ensure that they have the appropriate skills and capabilities to exercise those powers or perform those functions, and are supported with appropriate resources and training for the exercise or performance of those powers or functions. The rehabilitation authority must monitor the exercise or performance of the delegated powers and functions.	Ensure any person or officer undertaking powers or functions on behalf of ACQSC have the appropriate skills and capabilities and are adequately supported. Ensure the exercise and performance of those powers are monitored.	There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>). Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions. Potentially undermine the effective rehabilitation of injured employees.
S8(1)	If the employee makes a written request under s 36(1), then the rehabilitation authority must arrange a rehabilitation assessment.	If an employee of ACQSC requests for an assessment of employee’s capability of undertaking a rehabilitation program, then ACQSC must arrange that appointment and otherwise comply with s 36(1) (as above).	As above.
S8(4) and S9(6)	If the rehabilitation authority receives a written rehabilitation assessment under section 36 of the Act, it must provide a copy of that written rehabilitation assessment to: <ul style="list-style-type: none"> the employee; the employee’s medical practitioner and/or other health professional, where the employee’s medical condition necessitates the rehabilitation assessment first being released to that person; and the relevant authority (Comcare). 	An assessment should be provided to the employee’s medical and/or health professional when ACQSC has information that indicates that providing the assessment or program to the employee directly would be unhelpful to their recovery or may pose a risk to their health. The employee must still receive a copy of the assessment of the program.	As above.
S8(5)	Requirement for rehabilitation authority to advise the employee of the findings and anticipated next steps	Ensure employee is advised of findings and anticipated next steps following a rehabilitation	

	following rehabilitation assessment, including if they will provide a rehabilitation program.	assessment and that they are advised if ACQSC will provide a rehabilitation program under s 37.	
S8(6)(b) and S9(4)(b)	Requirement for a rehabilitation authority to take an employee’s communications needs into consideration when advising them of the findings and next steps of the rehabilitation assessment and consulting with them on the proposed rehabilitation program.	Where it is identified that an employee has specific communication needs, ACQSC should make reasonable adjustments to ensure clear and effective communication. Areas of specific need that may be considered include: <ul style="list-style-type: none"> • any disability of the employee such as a hearing, vision or cognitive impairment; • the employee’s literacy level; and • the employee’s language background and skills. 	As above.
S9(1)	If making a determination under subsection 37(1) of the Act, the rehabilitation authority must have regard to all matters in subsection 37(3) of the Act.	When the Commissioner or delegate makes a determination under s 37(1), ensure they have regard to all matters in s 37(3).	As above.
S9(2)	The rehabilitation authority must refer to the relevant matters to which it had regard in the determination	When writing the determination, ensure all matters, evidence or other records that were used in coming to the determination are referred to in the determination.	As above.
S9(3)	The rehabilitation authority must consult the employee regarding the proposed rehabilitation program.	Ensure the employee is consulted when formulating the proposed rehabilitation program.	As above.
S9(4)	When consulting the employee regarding the proposed rehabilitation program, the rehabilitation authority must consider the employee’s injury and circumstances and the employee’s communication needs.	Ensure when consulting the employee, the delegate considers the employee’s communication needs, and their injury and circumstances	As above.
S9(5)	The rehabilitation program must include the details of the rehabilitation case manager, and where applicable, the details of the supervisor and the workplace rehabilitation provider, the review dates, and (if applicable) the reasonable steps being undertaken by the relevant employer to provide to the employee, or to assist the employee to find, suitable employment.	When preparing the rehabilitation program ensure it contains the following details (where applicable): <ul style="list-style-type: none"> • the rehabilitation case manager’s details • supervisor’s details • workplace rehabilitation provider’s details • review dates • reasonable steps being taken to assist the employee to provide suitable employment, or otherwise assist the employee find 	As above.
S9(6)	The rehabilitation authority must provide a copy of the written rehabilitation program and determination to the employee, or employee’s medical practitioner and/or health professional, where the employee’s medical condition necessitates the rehabilitation	Ensure a copy of the written rehabilitation program is provided to the employee, or their medical/health professional if necessary, and to Comcare.	As above.

	program first being released to that person; and the relevant authority.		
S9(7)	The rehabilitation authority must monitor the employee’s rehabilitation program where a rehabilitation program has been provided or the employee’s capability to undertake a rehabilitation program where a rehabilitation program has not been provided.	Ensure the employee’s capability to undertake a rehabilitation program is monitored, if one is not already provided, or otherwise monitor the program they are undertaking. Monitoring includes seeking information on the employee’s work capacity, injury and the availability of suitable employment.	As above.
S9(10)	The rehabilitation authority must notify the relevant authority of the outcome at the end of the rehabilitation program	A rehabilitation authority’s obligation to inform Comcare of an employee’s rehabilitation program outcomes can be satisfied through the completion and submission of the Rehabilitation Program Closure form available on Comcare’s website.	As above.
S10	If using a workplace rehabilitation provider, the rehabilitation authority must effectively monitor the performance of the workplace rehabilitation provider and inform Comcare of any concerns regarding the service delivery of the workplace rehabilitation provider.	ACQSC must monitor any workplace rehabilitation provider’s performance and advise Comcare of any concerns regarding the service delivery.	As above.
S11(1)	If the rehabilitation authority requires an employee to undergo an examination or undertake a rehabilitation program, the rehabilitation authority must notify the employee in writing that the employee’s right to compensation under the Act (other than compensation for the cost of medical treatment payable under section 16 of the Act), and to institute or continue any proceedings under the Act in relation to compensation, may be suspended if the employee: refuses or fails without reasonable excuse to undergo, or in any way obstructs, an examination, or refuses or fails, without reasonable excuse to undertake a rehabilitation program.	Ensure the employee is informed of the consequences of not undergoing an examination or undertaking a rehabilitation program without reasonable excuse.	As above.
S11(2)	If the employee refuses or fails to undergo an examination or undertake a rehabilitation program, the rehabilitation authority must request reasons from the employee for the refusal or failure and consider whether the reasons constitute a reasonable excuse.	Ensure that the delegate requests the employee’s reasons for refusal or failure to undergo an examination or undertake a rehabilitation program, and whether those reasons constitute a reasonable excuse.	As above.
S11(3)	If the rehabilitation authority is satisfied that the employee does not have a reasonable excuse for the refusal or failure, or the employee in any way obstructs an examination, and the refusal, failure or obstruction is such that it prevents or interrupts the provision of effective rehabilitation, the rehabilitation authority must notify the employee in writing that the	If the employee does not have a reasonable excuse for their refusal or failure, otherwise obstructs an examination, then ACQSC must advise Comcare of that refusal, failure or obstruction.	As above.

	<p>employee’s rights to compensation, and to institute or continue proceedings under the Act, are suspended until:</p> <ul style="list-style-type: none"> • if it relates to an examination – the employee attends the next available appointment and cooperates with all requirements of the examination; • if it relates to a rehabilitation program – the employee commences the specified activity or next steps in the program <p>The rehabilitation authority must also request that the relevant authority take steps to implement any decision to suspend the employee’s compensation or proceedings under the Act.</p>		
<p>S11(4)</p>	<p>If the employee begins complying with a requirement to undergo an examination or undertake a rehabilitation program, than the rehabilitation authority must immediately notify the employee in writing that the suspension has been lifted and request that the relevant authority take steps to recommence the employee’s compensation and reinstate any proceedings under the Act.</p>	<p>If the employee begins complying, ensure they are immediately notified that the suspension has been lifted and advise Comcare of the change in circumstances.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Sex Discrimination Act 1984

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Sex Discrimination Act 1984</i>	17 October 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Other guidance material relevant to the Commission			
Guidelines for Complying with the Positive Duty under the <i>Sex Discrimination Act 1984</i>	August 2023	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Sex Discrimination Act 1984

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 5A(1)	<p>A person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person’s sexual orientation if, by reason if:</p> <ul style="list-style-type: none"> • the aggrieved person’s sexual orientation; or • a characteristic that appertains generally to persons who have the same sexual orientation as the aggrieved person; or • a characteristic that is generally imputed to persons who have the same sexual orientation as the aggrieved person; <p>the discriminator treats the aggrieved person less favourably than them, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who has a different sexual orientation.</p>	<p>ACQSC employees should ensure they know and understand their positive duty obligations under this legislation and the WHS Act.</p> <p>Regular information awareness sessions should be provided to employees which include legislative and case law updates.</p> <p>A document that explains what constitutes sex discrimination could be developed and having regard to the types of tests that are applied when determining whether someone has engaged in sex discrimination.</p> <p>See also s 47C below.</p>	<p>Potential legal ramifications and the ACQSC reputation could be diminished.</p> <p>Further, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an unlawful discrimination. Complainants may progress unresolved AHRC complaints to the Federal Court or the Federal Circuit and Family Court of Australia.</p>
Section 5B(1)	<p>A person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person’s gender identity if, by reason if:</p> <ul style="list-style-type: none"> • the aggrieved person’s gender identity; or • a characteristic that appertains generally to persons who have the same gender identity as the aggrieved person; or • a characteristic that is generally imputed to persons who have the same gender identity as the aggrieved person; <p>the discriminator treats the aggrieved person less favourably than them, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who has a different gender identity.</p>	As above.	As above.
Section 5C(1)	<p>A person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person’s intersex status if:</p> <ul style="list-style-type: none"> • the aggrieved person’s intersex status; or 	As above.	As above.

	<ul style="list-style-type: none"> • a characteristic that appertains generally to persons who have the same intersex status; or • a characteristic that is generally imputed to persons of intersex status; <p>the discriminator treats the aggrieved person less favourably than them, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who is not of intersex status.</p>		
Section 6(1)	<p>A person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the marital or relationship status of the aggrieved person if, by reason if:</p> <ul style="list-style-type: none"> • the marital or relationship status of the aggrieved person; or • a characteristic that appertains generally to persons marital or relationship status of the aggrieved person; or • a characteristic that is generally imputed to persons of the marital or relationship status of the aggrieved person; <p>the discriminator treats the aggrieved person less favourably than them, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person of a different marital or relationship status.</p>	As above.	As above.
Section 7(1)	<p>For the purposes of this Act, a person (the <i>discriminator</i>) discriminates against a woman (the <i>aggrieved woman</i>) on the ground of the aggrieved woman’s pregnancy or potential pregnancy if, because of:</p> <ul style="list-style-type: none"> • the aggrieved woman’s pregnancy or potential pregnancy; or • a characteristic that appertains generally to women who are pregnant or potentially pregnant; or • a characteristic that is generally imputed to women who are pregnant or potentially pregnant; <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not pregnant or potentially pregnant.</p>	As above.	As above.
Section 7AA(1)	<p>For the purposes of this Act, a person (the <i>discriminator</i>) discriminates against a woman (the</p>	As above.	As above.

	<p><i>aggrieved woman</i>) on the ground of the aggrieved woman’s breastfeeding if, by reason of:</p> <ul style="list-style-type: none"> • the aggrieved woman’s breastfeeding; or • a characteristic that appertains generally to women who are breastfeeding; or • a characteristic that is generally imputed to women who are breastfeeding; <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not breastfeeding.</p>		
Section 7A	<p>For the purposes of this Act, an employer discriminates against an employee on the ground of the employee’s family responsibilities if:</p> <ul style="list-style-type: none"> • the employer treats the employee less favourably than the employer treats, or would treat, a person without family responsibilities in circumstances that are the same or not materially different; and • the less favourable treatment is by reason of: <ul style="list-style-type: none"> ○ the family responsibilities of the employee; or ○ a characteristic that appertains generally to persons with family responsibilities; or ○ a characteristic that is generally imputed to persons with family responsibilities. 	As above.	As above.
Section 14(1)	<p>It is unlawful for an employer (including the Commission) to discriminate against a person on the ground of the person’s sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities:</p> <ul style="list-style-type: none"> • in the arrangements made for the purpose of determining who should be offered employment; • in determining who should be offered employment; or • in the terms or conditions on which employment is offered. 	See s 47C below.	See s 47C below.
Section 14(2)	<p>It is unlawful for an employer to discriminate against an employee on the ground of the employee’s sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities:</p>	See s 47C below.	See s 47C below.

	<ul style="list-style-type: none"> • in the terms or conditions of employment that the employer affords the employee; • by denying the employee access, or limiting the employee’s access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; • by dismissing the employee; or • by subjecting the employee to any other detriment. 		
<p>Section 26</p>	<p>It is unlawful for a person who performs any function or exercises any power under a Commonwealth law or for the purposes of a Commonwealth program, or has any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth program, to discriminate against another person, on the ground of the other person’s sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding, in the performance of that function, the exercise of that power or the fulfilment of that responsibility.</p>	<p>See s 47C below.</p>	<p>See s 47C below.</p>
<p>Section 27(1)</p>	<p>It is unlawful for a person (the first person) to request or require another person (the other person) to provide information (whether by way of completing a form or otherwise) if:</p> <ul style="list-style-type: none"> • the information is requested or required in connection with, or for the purposes of, the first person doing a particular act; and • it would be unlawful in the particular circumstances for the first person, in doing that act, to discriminate against the other person on the ground of the other person’s sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities; • and other persons (see: s 27(1)(c)) would not be requested or required to provide the information in circumstances that are not the same or not materially different. 	<p>See s 47C below.</p>	<p>See s 47C below.</p>

<p>Section 28B(3)</p>	<p>It is unlawful for a person conducting a business or undertaking to sexually harass, or harass on the ground of sex:</p> <ul style="list-style-type: none"> • a worker in the business or undertaking; or • a person who is seeking to become a worker in the business or undertaking. 	<p>See s 47C below.</p>	<p>See s 47C below.</p>
<p>Section 28B(5)</p>	<p>It is unlawful for a person (the <i>first person</i>) who is:</p> <ul style="list-style-type: none"> • a worker; or • a person conducting a business or undertaking; <p>to sexually harass, or harass on the ground of sex, a person if the harassment occurs in connection with the first person being:</p> <ul style="list-style-type: none"> • a worker; or • a person conducting a business or undertaking. 	<p>See s 47C below.</p>	<p>See s 47C below.</p>
<p>Section 28B(6)</p>	<p>It is unlawful for a person to sexually harass, or harass on the ground of sex, a person (the second person) who is:</p> <ul style="list-style-type: none"> • a worker; or • a person conducting a business or undertaking; <p>if the harassment occurs in connection with the second person being:</p> <ul style="list-style-type: none"> • a worker; or • a person conducting a business or undertaking. 	<p>See s 47C below.</p>	<p>See s 47C below.</p>
<p>Section 28B(7)</p>	<p>It is unlawful for a person (the first person) who is:</p> <ul style="list-style-type: none"> • an employee; or • an employer; <p>to sexually harass, or harass on the ground of sex, a person if the harassment occurs in connection with the first person being:</p> <ul style="list-style-type: none"> • an employee; or • an employer. 	<p>See s 47C below.</p>	<p>See s 47C below.</p>
<p>Section 28B(8)</p>	<p>It is unlawful for a person to sexually harass, or harass on the ground of sex, a person (the second person) who is:</p> <ul style="list-style-type: none"> • an employee; or 	<p>See s 47C below.</p>	<p>See s 47C below.</p>

	<ul style="list-style-type: none"> an employer; <p>if the harassment occurs in connection with the second person being:</p> <ul style="list-style-type: none"> an employee; or an employer. 		
Section 28L	<p>It is unlawful for a person:</p> <ul style="list-style-type: none"> in the course of performing any function, or exercising any power, under a Commonwealth law or for the purposes of a Commonwealth program; or in the course of carrying out any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth program; <p>to sexually harass, or harass on the ground of sex, another person.</p>	See s 47C below.	See s 47C below.
Section 28M	It is unlawful for a person to subject another person to a workplace environment that is hostile on the ground of sex.	See s 47C below.	See s 47C below.
Section 47A	It is unlawful for a person to commit an act of victimisation against another person.	See s 47C below.	See s 47C below.
Section 47C	<p>The Commission must take reasonably and proportionate measures to eliminate, so far as possible the following conduct by the Commission, employees, workers and agents:</p> <ul style="list-style-type: none"> discrimination on the ground of a person’s sex that is unlawful; sexual harassment, or harassment on the ground of sex, that is unlawful; conduct that is unlawful (hostile workplace environments); acts of victimisation that relate to complaints, proceedings, assertions or allegations in relation to conduct mentioned above. <p>Additionally, the Commission must take reasonably and proportionate measures to eliminate, so far as possible other conduct towards employees and workers of any person:</p>	<p>The ACQSC should:</p> <ul style="list-style-type: none"> review the Australian Human Rights Commission’s Guidelines for Complying with the Positive Duty (the Guidelines) and in particular, the 4 Guiding Principles for eliminating unlawful conduct; have measures in place to address each of the seven Standards outlined in section 5.2 of the Guidelines for example: <ul style="list-style-type: none"> prepare a Prevention and Response Plan (which sets out the measures that the Commission will take to achieve each of the Standards to eliminate relevant unlawful conduct); review and update existing policies for compliance with the Sex Discrimination Act; 	<p>The positive duty is a legal obligation on the Commission to take proactive action to prevent relevant unlawful conduct from occurring in the workplace or in connection to work.</p> <p>The Commission can be held liable for unlawful conduct committed by their employees and agents in connection with their employment or duties as an agent.</p> <p>From 12 December 2023, the Human Rights Commission has the power to enforce compliance by organisations and businesses with the positive duty.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an unlawful discrimination. Complainants may progress unresolved AHRC complaints to the Federal Court or the Federal Circuit and Family Court of Australia.</p>

	<ul style="list-style-type: none"> sexual harassment, or harassment on the ground of sex, of persons conduct in workplaces that is unlawful (hostile workplace environments); and acts of victimisation against persons that relate to complaints, proceedings, assertions or allegations. <p><u>Note:</u> the following matters are to be taken into account in determining whether a duty holder complies with the positive duty:</p> <ul style="list-style-type: none"> the size, nature and circumstances of the duty holder’s business or undertaking; the duty holder’s resources, whether financial or otherwise; the practicability and the cost of measures to eliminate conduct; and any other relevant matter. 	<ul style="list-style-type: none"> prepare a standalone Sexual Harassment Policy; review complaints handling and incident reporting and response policy and procedures; prepare a Gender Equality Strategy; prepare an organisational risk assessment to identify hazards giving rise to sex discrimination; provide training to Senior Executive Staff and the Human Resource team on the positive duty; provide online education across the Commission on the positive duty, policies and framework; and prepare public leadership statements to be made in internal and external forums (the statement would be a commitment to safe, respectful and inclusive workplaces). 	
Section 86(1)	A person shall not publish or display an advertisement or notice that indicates, or could reasonably be understood as indicating, an intention to do an act that is unlawful by reason of provision of Part II.	If the ACQSC were to advertise or publish material, they would need to ensure a policy/ procedure or guidance document that sets out the requirements as to what they can publish and advertise. The document should have regard to this obligation.	<p>A failure to comply is an offence and the penalty is 10 penalty units.</p> <p>Complaints can also be made to the Australian Human Rights Commission about conduct that is an offence.</p>
Section 94(1)	A person shall not commit an act of victimisation against another person.	See s 47C above.	<p>If the ACQSC or an employee of the ACQSC victimises someone, this could diminish other employees’ confidence in raising concerns around discrimination and may suggest that the ACQSC does not foster an environment that responds to and prevents discrimination.</p> <p>If a natural person is found guilty of victimisation they will incur 25 penalty units, or imprisonment for three months, or both.</p> <p>If a body corporate is found guilty of victimisation they will incur 100 penalty units.</p>

Assurance Audit Process – Cover page
Spam Act 2003

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Spam Act 2003</i>	10 March 2016	28 June 2024	<i>[For the Commission to fill in]</i>	Cyber and IT

Assurance Audit Process – Legislative Framework Summary *Spam Act 2003*

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Section 16(1) and (2)	<p>A person must not send, or cause to be sent, a commercial electronic message that:</p> <ul style="list-style-type: none"> • has an Australian link – an Australian link includes where the message originates in Australia or is authorised to be sent by a person in Australia; and • is not a designated commercial electronic message – this captures electronically written information (i.e. SMS, emails) that contain information that is not purely factual in nature. <p>There is an exception if a person has consented to receive the electronic message, or if the message was sent by mistake.</p>	<p>The ACQSC and its employees have an obligation to ensure that they are not sending ‘commercial’ messages to people that have not otherwise consented to receive the messages.</p> <p>If the message is purely factual (i.e. providing information for how to update contact details held by the Commission), then this type of message is permitted.</p>	<p>Section 16(1) is a civil penalty provision (i.e. financial consequences). There are also reputational risks.</p>
Section 16(6)	<p>A person must not send a commercial electronic message to a non-existent electronic address if:</p> <ul style="list-style-type: none"> • the person did not have reason to believe that the electronic address existed; and • the electronic message: <ul style="list-style-type: none"> ○ has an Australian link; and ○ is not a designated commercial electronic message. 	<p>The ACQSC should ensure that it only sends electronic communications to addresses that it believes exist.</p>	<p>As above.</p>
Section 16(9)	<p>A person must not:</p> <ul style="list-style-type: none"> • aid, abet, counsel or procure a contravention of subsection (1) or (6); or • induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (6); or • be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (6); or • conspire with others to effect a contravention of subsection (1) or (6). 	<p>The ASQSC should ensure that even if it does not directly contravene s16(1) or (6) above, it must also avoid being indirectly involved in contravening these provisions as this is also a breach of the Act.</p>	<p>As above.</p>

<p>Section 17(1)</p>	<p>A person must not send, or cause to be sent, a commercial electronic message with an Australian link unless:</p> <ul style="list-style-type: none"> • it identifies the individual or organisation who authorised the message; and • it tells the recipient how they can contact that individual or organisation; and • the information complies with the regulations; and • that information is reasonably likely to be valid for at least 30 days. 	<p>The ACQSC should ensure that it clearly identifies itself on any electronic communications it sends out and includes contact details on its correspondence.</p>	<p>As above.</p>
<p>Section 18(1)</p>	<p>A person must not send a commercial electronic message with an Australian link unless that message includes a statement that a person can unsubscribe by using an electronic address.</p>	<p>The ACQSC should ensure that it has a valid unsubscribe link on any commercial electronic communications.</p>	<p>As above.</p>
<p>Section 18(6)</p>	<p>A person must not:</p> <ul style="list-style-type: none"> • aid, abet, counsel or procure a contravention of subsection (1); or • induce, whether by threats or promises or otherwise, a contravention of subsection (1); or • be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1); or • conspire with others to effect a contravention of subsection (1). 	<p>The ASQSC should ensure that even if it does not directly contravene s18(1), it must also avoid being indirectly involved in contravening this provision as this is also a breach of the Act.</p>	<p>As above.</p>
<p>Section 20(1), section 21(1), section 22(1)</p>	<p>There is an obligation not to supply, acquire or use address-harvesting software.</p>	<p>The ACQSC should ensure that it only sends electronic communications to people that have provided their contact details to ACQS and should not undertake activities to harvest additional contact details.</p>	<p>As above.</p>
<p>Section 20(5), section 21(3) and section 22(3)</p>	<p>A person must not:</p> <ul style="list-style-type: none"> • abet, counsel or procure a contravention of subsection (1); or • induce, whether by threats or promises or otherwise, a contravention of subsection (1); or • be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1); or • conspire with others to effect a contravention of subsection (1). 	<p>The ASQSC should ensure that even if it does not directly contravene S20(1), S21(1 or S22(1), it must also avoid being indirectly involved in contravening these provisions as this is also a breach of the Act.</p>	<p>As above.</p>

Assurance Audit Process – Cover page
Superannuation Act 2005

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Superannuation Act 2005</i>	28 September 2022	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary *Superannuation Act 2005¹*

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Section 17</p>	<p>This section provides for circumstances in which the ACQSC must make contributions as designated employer to eligible Public Sector Superannuation Accumulation Plan (PSSAP) members.</p> <p>Application of this Act is relevant to the ACQSC employees (including former employees) who:</p> <ul style="list-style-type: none"> • have chosen to be a member of the PSSAP; or • the PSSAP is their mandated fund. <p>The ACQSC must pay contributions to the PSSAP for the benefit of most ordinary employer sponsored PSSAP members.</p>	<p>As a designated employer under the Act, ACQSC must ensure employees who are PSSAP members receive relevant contribution benefits as ordinary employer sponsored member, or in the case of former employees, where PSSAP is their chosen fund under the <i>Superannuation Guarantee (Administration) Act 1992</i>.</p> <p>Persons for whom the ACQSC is A ‘designated employer’ includes all the ACQSC employees employed under the ACQSC enterprise agreement 2024-2025.</p> <p>Eligible PSSAP members means the following:</p> <ul style="list-style-type: none"> • All ACQSC employees, as described in section 3, are eligible to become members of PSSAP; • former members of the Public Service Scheme (PSS) (as provided by the Superannuation Act 1990; and • persons whose deferred benefits are applicable under the Commonwealth Superannuation Scheme (CSS) as provided by the Superannuation Act 1976. <p>Such persons are members of PSSAP until the last of their benefits are paid.</p> <p>Unless an eligible member has notified the ACQSC of another fund of choice, the ACQSC (as a designated employee: see s 19) must make contributions for the relevant member to the PSSAP (administered by the Commonwealth Superannuation Corporation (CSC) in accordance with the <i>Superannuation Guarantee (Administration) Act 1992</i> and any Rules made under the <i>Superannuation Act 2005</i> (there are none currently).</p>	<p>Where superannuation contribution benefits have been paid incorrectly particularly if unpaid or underpaid, then employees, including PSSAP members may report this to the Australian Taxation Office (ATO) who may commence investigations and then seek recovery of unpaid amounts from the ACQSC.</p> <p>As a Commonwealth agency, underpayments of superannuation to employees are likely to result in a high level of negative public interest and scrutiny including from the Commonwealth Government (in the form of Senate enquiries and at Senate estimates) and the media.</p>

¹ There are three pieces of superannuation legislation currently in force: *Superannuation Act 1976* (provides for the Commonwealth Superannuation Scheme), the *Superannuation Act 1990* (provides for the *Public Superannuation Scheme*) and the Act considered in this document. The former two pieces of legislation deal with superannuation schemes which are no longer available to public sector employees, however former members of these schemes may be covered under the *Superannuation Act 2005*, please see s 13-16 and s17.

		<p>The ACQSC must consider the following relevant provisions of the <i>Superannuation Guarantee (Administration) Act 1992</i> in making contributions.</p> <p>Sections 5, 6, 13-16, 19 contain further detail on the definition of a public sector employee, PSSAP membership, and persons for whom the ACQSC is a designated employer for the purposes of the <i>Superannuation Act 2005</i>.</p>	
Section 42	<p>Where the CSC is required to send documents or information prescribed under this Act or any other Act to its members, and the CSC requests the ACQSC give the document or information to the member, the ACQSC must comply with the request.</p>	<p>Unless doing so would breach Chapter 7 of the <i>Corporations Act 2001</i>, the ACQSC must distribute information to PSSAP members upon the request of CSC.</p> <p>In doing so, the ACQSC must ensure it remains compliant with its obligations under contract and the <i>Privacy Act 1988</i> – taking particular care with commercial sensitive and sensitive personal information.</p>	As above.
Section 43	<p>The ACQSC cannot retire a person who is under the age of 60 and a PSSAP member on the grounds of invalidity unless:</p> <ul style="list-style-type: none"> • CSC has approved, under the Rules, the invalidity retirement of the member; and • CSC has certified in writing under this paragraph that, if the member is so retired, the member will be entitled to receive invalidity benefits under PSSAP. 	<p>Prior to facilitating the retirement (including termination) of employees who are PSSAP members under the age of 60 from employment on the ground of invalidity, the ACQSC must ensure it has approval from the CSC in writing, confirming the member is entitled to receive invalidity benefits under the PSSAP.</p> <p>This takes the form of a ‘CSC Certificate’ issued by the CSC</p>	As above.

Assurance Audit Process – Cover page
Superannuation Guarantee (Administration) Act 1992

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Superannuation Guarantee (Administration) Act 1992 (Cth)</i>	23 February 2022	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

**Assurance Audit Process – Legislative Framework Summary
Superannuation Guarantee (Administration) Act 1992**

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Section 23A</p>	<p>A contribution to a complying superannuation fund or a retirement savings account (RSA) made by the ACQSC for the benefit of an employee is offset where:*</p> <ul style="list-style-type: none"> the contribution is made after the end of the period of 28 days after the end of a quarter; and the contribution is made before the ACQSC’s original assessment for that quarter is made; and the ACQSC elects that the contribution be offset in the approved form. <p>The ACQSC must make an election:</p> <ul style="list-style-type: none"> in a statement having effect under s35 of the Act as its assessment for the quarter; or within 4 years after its original assessment for the quarter is made. <p>If the election happens after the ACQSC’s assessment for the quarter is made, then, for the offset to take effect, the assessment must be amended accordingly under s37 of the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> *Under section 23B of the Act, if the ACQSC pays an amount to an approved clearing house for the benefit of an employee and the payment is accepted – the ACQSC is treated to have made a contribution of the same amount to a complying superannuation fund or an RSA for the benefit of the employee. Under section 35 of the Act, a statement has effect under this section where: 	<p>The ACQSC should prepare a guidance document for the team responsible for making payments of superannuation benefits to the ACQSC staff which sets out the ACQSC’s responsibility under this Act. The document should include guidance on:</p> <ul style="list-style-type: none"> when the ACQSC should make an election to offset a contribution to a complying superannuation fund or RSA, and how the ACQSC is able to make that election; the circumstances in which it would be appropriate for the ACQSC to request an amendment to its assessment; the actions to be performed to ensure that the ACQSC is in compliance with the choice of fund requirements (e.g. requesting identification of a stapled fund for an employee in the prescribed manner, passing on the relevant information to an approved clear house); circumstances in which the ACQSC must provide a standard choice form to an ACQSC staff; when the ACQSC is required to lodge a superannuation guarantee statement, and how it should be lodged. <p>The ACQSC should also prepare a standard choice form that contains the content as required under the Act. This can then be used as a standard document which may be provided to ACQSC staff as required. The ACQSC should ensure that it undertakes periodic reviews of the form to ascertain whether the form will need to be updated.</p> <p>The ACQSC should establish a contact point that can be used by ACQSC staff to raise any queries regarding their superannuation benefits. This contact point should be made available to all ACQSC staff.</p> <p>Where there has been any non-compliance with the Act, the ACQSC may consider maintaining a register that records these incidents, any consequences that arose from the non-compliance, and the actions undertaken by the ACQSC to rectify the non-compliance.</p>	<p>Where the ACQSC has failed to make an election, a contribution to a complying superannuation fund or an RSA made by the ACQSC for the benefit of an employee cannot be offset.</p>

	<ul style="list-style-type: none"> ○ the ACQSC lodges a superannuation guarantee statement for a quarter; and ○ a superannuation guarantee statement has not previously been lodged; and ○ an assessment has not previously been made for the quarter. 		
<p>Section 32C(1A), (2), (6), (6AA)</p>	<p>A contribution:</p> <ul style="list-style-type: none"> • to stapled funds; • to certain eligible choice funds; • under certain agreements and workplace determination <p>by the ACQSC for the benefit of an employee is made in compliance with the choice of fund requirements if, at the time the contribution is made:</p> <ul style="list-style-type: none"> • there is no chosen fund for the employee; and • the most recent notification to the ACQSC by the Commissioner, <u>in relation to a request by the ACQSC (or an agent) for the Commissioner to identify any stapled fund for the employee</u> – the Commissioner is satisfied that the fund is the stapled fund for the employee OR there is no stapled fund for the employee. <p>Note:</p> <ul style="list-style-type: none"> • Under section 32C(2) of the Act there are other conditions that must be satisfied before the ACQSC is considered as being compliant with the choice of fund requirements – however these conditions do not impose an obligation on the ACQSC 	<p>As above.</p>	<p>Where the ACQSC has not complied with their choice of fund requirements or is alleged to be non-compliant, this is likely to result in scrutiny from the public and in accountability forums such as the Senate Estimates. It also has the potential to negatively impact the reputation of ACQSC.</p>
<p>Section 32C(2B)</p>	<p>A contribution to a fund by the ACQSC for the benefit of an employee is made in compliance with the choice of fund requirements if –</p> <ul style="list-style-type: none"> • the contribution is through an approved clearing house as per s79A of the Act*; and • the employee or the Commissioner gives the ACQSC notice to the effect that the employee wants the fund to be a chosen fund for the employee; and • the ACQSC <u>passes onto the approved clear house the information included in the notice,</u> and any other prescribed information: <ul style="list-style-type: none"> ○ within 21 days after the ACQSC is given notice, and before/at the time the contribution is made; and 	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> the approved clearing house accepts the information. <p>*Note: section 79A of the Act applies if the ACQSC pays an amount to an approved clearing house for the benefit of an employee, and as a result, the approved clearing house makes a contribution to an RSA, a superannuation fund or a superannuation scheme for the benefit of the employee. The approved clearing house is taken to have make the contribution as the ACQSC’s agent.</p>		
<p>Section 32N</p>	<p>The ACQSC must give a standard choice form to an employee within 28 days of the employee first commencing employment.</p> <p>The ACQSC must also give a standard choice form to an employee within 28 days of the employee giving it a written request to do so (unless the employee has been given a standard choice form within the previous 12 months).</p> <p>The ACQSC must also give a standard choice form to an employee within 28 days of becoming aware that there ceased to be any chosen fund for the employee because:</p> <ul style="list-style-type: none"> the ACQSC is unable to contribute to the fund as per section 32H(3) of the Act; or the fund ceases to be an eligible choice fund as per section 32H(4) of the Act. <p>The ACQSC must also give a standard choice form to an employee if:</p> <ul style="list-style-type: none"> the ACQSC is making contributions to a fund in accordance with section 32C(2) of the Act; and the ACQSC changes the fund it makes contributions to in accordance with the subsection <p>The form must be given within 28 days after the change.</p> <p>The ACQSC must also give a standard choice form to an employee if:</p> <ul style="list-style-type: none"> the ACQSC has specified a fund in a standard choice form as the fund to which it will contribute in the event of the employee failing to make a choice of fund; and 	<p>As above.</p>	<p>As above.</p>

	<ul style="list-style-type: none"> the ACQSC discovers, after giving an employee the standard choice form, that it cannot contribute to the fund. <p>An updated standard choice form must be given within 28 days after the ACQSC first becomes aware that it cannot contribute to the fund.</p> <p>Note:</p> <ul style="list-style-type: none"> The ACQSC will not be required to provide a standard choice form under s32N of the Act in circumstances specified in s32NA of the Act: S32P of the Act sets out the information that should be included in a standard choice form. s32H of the Act explains when a fund ceases to be a chosen fund for an employee. 		
<p>Section 32R</p>	<p>If ACQSC requests the Commissioner identify any stapled fund for one of its employees, the request must be:</p> <ul style="list-style-type: none"> in the approved form; and made in accordance with any requirements prescribed by the regulations for the purposes of this paragraph. 	<p>As above.</p>	<p>Although there is no obligation on the ACQSC to request an identification of an employee’s stapled fund, the ACQSC may make a request to ensure that it is in compliance with its choice of fund requirements.</p> <p>Where a request is not made in accordance with the requirements of this section, the ACQSC may risk being in non-compliance with its choice of fund requirements.</p> <p>Where ACQSC has not complied with their choice of fund requirements or is alleged to be non-compliant, this is likely to result in scrutiny from the public and in accountability forums such as the Senate Estimates. It also has the potential to negatively impact the reputation of ACQSC.</p>
<p>Section 33</p>	<p>If the ACQSC has a superannuation guarantee shortfall for a quarter, it must lodge a superannuation guarantee statement (in the approved form) for the quarter on or before:</p> <ul style="list-style-type: none"> for a quarter beginning on 1 January—28 May in the next quarter; and for a quarter beginning on 1 April—28 August in the next quarter; and for a quarter beginning on 1 July—28 November in the next quarter; and for a quarter beginning on 1 October—28 February in the next quarter. 	<p>As above.</p>	<p>As above.</p>
<p>79 – Records to be kept and retained by employers</p>	<p>The ACQSC must keep records that record and explain all its transactions and other acts engaged in, or required to be engaged in under this Act until the end of the:</p>	<p>The ACQSC should prepare a guidance document on record keeping and file management (if not already available). This document should provide guidance to ACQSC staff on how to file and name documents to ensure that robust records are kept and are easily searchable. As part of</p>	<p>Under s79(6) and (6A) of the Act, the ACQSC would have committed an offence (of strict liability) punishable on conviction by fine not exceeding 30 penalty units, unless the</p>

	<ul style="list-style-type: none"> • 5 years after those records were prepared; or • completion of the transactions/acts to which those records relate; <p>whichever is later (unless notified by the Commissioner that retention of the records is not required). This includes documents relevant to ascertaining the individual superannuation guarantee shortfalls of the ACQSC for a quarter.</p> <p>The records must be kept:</p> <ul style="list-style-type: none"> • in writing in the English language; or • is in a form which is readily accessible and convertible into writing in the English language; and • so that the ACQSC liability under this Act can be readily ascertained. 	<p>this document, or as a separate guidance document, the ACQSC should provide information on the type of records that should be kept in accordance with the requirements under the Act, and set out a record destruction process for documents that no longer need to be kept by the ACQSC (e.g. after 5 years).</p> <p>The ACQSC should have a contact point or team that is responsible for receiving and processing information requests. This contact point should be publicly available to ensure that all information requests are processed effectively, and the ACQSC remains in compliance with the requirements under the Act.</p>	<p>person has a reasonable excuse for complying with this obligation.</p> <p>Under s288-25 of the <i>Taxation Administration Act 1953</i> (Cth), the ACQSC would be liable to an administrative penalty of 20 penalty units.</p> <p>Note: section 4AA of the <i>Crimes Act 1914</i> sets out the current value of a penalty unit.</p>
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Assurance Audit Process – Cover page
Taxation Administration Act 1953

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Taxation Administration Act 1953</i>	18 June 2024	5 August 2024	<i>[For the Commission to fill in]</i>	Governance & Risk, Finance People and Culture

Assurance Audit Process – Legislative Framework Summary
Taxation Administration Act 1953

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Schedule 1 12-35	<p>An entity must withhold an amount (for tax purposes) from the salary, wages, commission, bonuses or allowances it pays to its employees.</p> <p>There is an associated obligation under S16-85 to pay amounts withheld under Division 12 to the Taxation Commissioner. There are also reporting obligations under Division 16.</p>	<p>The ACQSC must ensure that it withholds an amount for tax purposes from any amounts that it pays to its employees.</p> <p>It must also ensure that it pays the withheld amounts to the Taxation Commissioner and keeps appropriate records as required by the Act.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>There is no civil penalty or offence provision associated with non-compliance with this obligation however, all Australian Public Servants are required to comply with all applicable Australian laws under the APS Code of Conduct (s 13 of the <i>Public Service Act 1999</i>).</p> <p>Failure of the Commissioner to carry out their duties could also undermine public faith in the integrity of the Commission and its ability to undertake its functions.</p>
Schedule 1 12-45	<p>An entity must withhold an amount (for tax purposes) from the salary, wages, commission, bonuses or allowances it pays to individuals in certain prescribed government roles, including “a person who is otherwise in the service of the Commonwealth.”</p>	<p>As above – S12-45 applies to certain office holders, whereas S12-35 applies to employees.</p>	<p>As above.</p>
Schedule 1 12-55	<p>If an entity makes a payment to an individual:</p> <ul style="list-style-type: none"> • in circumstances that are not captured by Division; • the payment is made under an arrangement the performance of which, in whole or in part, involves the performance of work or services (whether or not by the individual); and • the parties have a voluntary agreement which states that this section covers payments under an arrangement under this section. <p>Then the entity must withhold an amount from that payment.</p>	<p>The ACQSC should withhold an amount from any payments made in accordance with any voluntary agreements that it has entered into with other parties.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>
Schedule 1 12-80	<p>An entity must withhold an amount from any of the following payments it makes to an individual:</p> <ul style="list-style-type: none"> • a superannuation income stream; • an annuity. 	<p>The ACQSC should withhold tax on any superannuation or annuity payments.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>

<p>Schedule 1 12-85</p>	<p>An entity must withhold an amount from any of the following payments it makes to an individual:</p> <ul style="list-style-type: none"> • A superannuation lump sum; • an employment termination payment or would be one except that it is received more than 12 months after termination of employment. 	<p>If the ACQSC makes a superannuation lump sum payment, or a termination payment, it must withhold tax from that payment.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>
<p>Schedule 1 12-90</p>	<p>An entity must withhold an amount from any of the following payments it makes to an individual:</p> <ul style="list-style-type: none"> • an unused annual leave payment; • an unused long service leave payment, to the extent that the payment is included in the individual’s assessable income. 	<p>If the ACQSC pays out an employee’s leave entitlements, it must withhold tax from that payment.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>
<p>Schedule 1 12-115</p>	<p>An entity must withhold an amount from a Commonwealth education or training payment it makes to an individual.</p> <p>The definition of a Commonwealth education or training payment is set out in s52-145 of the <i>Income Tax Assessment Act 1997</i> to mean a payment by the Commonwealth, or in connection with a payment by the Commonwealth, of an allowance or reimbursement:</p> <ul style="list-style-type: none"> • to or on behalf of a participant in a Commonwealth labour market program; or • to or on behalf of a student under: <ul style="list-style-type: none"> ○ the scheme known as ABSTUDY; ○ the scheme known as the Assistance for Isolated Children Scheme; ○ the scheme known as the Veterans' Children Education Scheme; ○ the scheme under section 258 of the Military Rehabilitation and Compensation Act 2004 to provide education and training; ○ the scheme known as youth allowance; or ○ the scheme known as Austudy payment; • in respect of a period commencing at a time when the student was at least 16 years old. 	<p>If the ACQSC provides an education payment to an individual that falls within one of the categories in the <i>Income Tax Assessment Act 1997</i>, it must withhold tax from this payment.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>

<p>Schedule 1 12-120</p>	<p>An entity must withhold an amount from a payment of compensation, or of sickness or accident pay, it makes to an individual if the payment:</p> <ul style="list-style-type: none"> • is made because of that or another individual’s incapacity for work; and • is calculated at a periodical rate; and • is not a payment made under an insurance policy to the policy owner. 	<p>If the ACQSC makes a payment to an employee that is incapacitated for work, it must withhold tax from that payment.</p> <p>Ensure the ACQSC’s Payroll team is aware of this obligation.</p>	<p>As above.</p>
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Assurance Audit Process – Cover page
Work Health and Safety Act 2011
Work Health and Safety Regulations 2011

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Work Health and Safety Act 2011</i>	15 December 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture
Subordinate legislation				
<i>Work Health and Safety Regulations 2011</i>	24 June 2024	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Guidance material

Name	Version	Linkage to the Commission environment	Work Units/Areas most impacted
Other guidance material relevant to the Commission			
Commonwealth Child Safe Framework	December 2020	<i>[For the Commission to fill in]</i>	Governance & Risk
WHS Code of Practice: First Aid in the Workplace ¹	July 2019	<i>[For the Commission to fill in]</i>	People and Culture
WHS Code of Practice: Hazardous Manual Tasks ²	October 2018	<i>[For the Commission to fill in]</i>	People and Culture
WHS Code of Practice: How to Manage Work Health and Safety Risks ³	1 May 2018	<i>[For the Commission to fill in]</i>	People and Culture

¹ Approved Code of Practice.

² Approved Code of Practice.

³ Approved Code of Practice.

WHS Code of Practice: Managing psychosocial hazards at work	1 August 2022	<i>[For the Commission to fill in]</i>	People and Culture
WHS Code of Practice: Managing the Work Environment and Facilities ⁴	20 March 2020	<i>[For the Commission to fill in]</i>	People and Culture
WHS Code of Practice: Sexual and gender- based harassment	20 December 2023	<i>[For the Commission to fill in]</i>	People and Culture
WHS Code of Practice: Work Health and Safety Consultation, Co-operation and Co-ordination ⁵	10 August 2013	<i>[For the Commission to fill in]</i>	People and Culture
Australian / New Zealand Standard: AS/NZS 1680.1:2006: Interior and workplace lighting - General principles and recommendations	21 February 2006	<i>[For the Commission to fill in]</i>	People and Culture
Australian Standard: AS 1319–1994: Safety Signs for the Occupational Environment	18 April 1994	<i>[For the Commission to fill in]</i>	People and Culture
Australian Standard: AS 3745 – 2010: Planning for Emergencies in facilities	25 November 2010	<i>[For the Commission to fill in]</i>	People and Culture

⁴ Approved Code of Practice.

⁵ Approved Code of Practice.

Assurance Audit Process – Legislative Framework Summary
Work Health and Safety Act 2011
Work Health and Safety Regulations 2011

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Work Health and Safety Act 2011			
Section 16 (2) and (3)	<p>Each duty holder must comply with that duty to the standard required by this Act even if another duty holder has the same duty.</p> <p>The ACQSC must discharge its duty to the extent to which it has capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.</p>	ACQSC must comply with its duties in all cases.	Potential breach of the WHS Act and WHS Regulations.
Section 19	<p>A person conducting a business or undertaking (PCBU) must ensure, so far as reasonably practicable, the health and safety of workers while they are at work in the ACQSC’s undertaking.</p> <p>As a PCBU, the ACQSC must also ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the ACQSC</p> <p>The ACQSC must also, as part of the primary duty, ensure, so far as is reasonably practicable:</p> <ul style="list-style-type: none"> (a) the provision and maintenance of a work environment without risks to health and safety; and (b) the provision and maintenance of safe plant and structures; and (c) the provision and maintenance of safe systems of work; and (d) the safe use, handling and storage of plant, structures and substances; and (e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities; and 	Ensure there is an enterprise WHS management system, which addresses the work performed by the ACQSC, and that this is implemented, and reviewed for currency.	<p>A failure to comply with the overarching primary duty that the Department owes to its workers (relevantly including staff in the Legal Services team) may expose the Commonwealth as represented by the Department to a breach of the WHS Act. A failure to comply with a duty or obligation under s 19 referred to in a ‘WHS Act’ note is an offence to which a penalty applies.</p> <p><u>Legislative change</u> From 1 July 2024, the WHS Act will contain an offence of industrial manslaughter which carries a maximum penalty of \$18 million for the Commonwealth and 25 years’ jail for individuals (officers).</p> <p>Introducing this offence was a recommendation of the 2018 review of the model work health and safety laws and responds to community concern that the WHS framework requires stronger penalties for the most serious breaches that result in workplace fatalities.</p> <p>This seriousness of this offence provision reiterates the importance of the ACQSC ensuring it is complying with its duties under the WHS Act.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	(f) the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and (g) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking		
Section 20	The ACQSC must ensure, so far as is reasonably practicable, that where it has management and control of a workplace, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person	As above.	As above
Section 21	Where the ACQSC has management and control of fixtures, fittings or plant at a workplace must ensure, so far as is reasonably practicable, that the fixtures, fittings and plant are without risks to the health and safety of any person.	As above	As above
Section 26	Where the ACQSC installs, constructs or commissions plant or a structure that is to be used, or could reasonably be expected to be used, as, or at, a workplace, the plant or structure is without risks to the health and safety of persons: (a) who install or construct the plant or structure at a workplace; or (b) who use the plant or structure at a workplace for a purpose for which it was installed, constructed or commissioned; or (c) who carry out any reasonably foreseeable activity at a workplace in relation to the proper use, decommissioning or dismantling of the plant or demolition or disposal of the structure; or (d) who are at or in the vicinity of a workplace and whose health or safety may be affected by a use or activity referred to in paragraph (a), (b) or (c)	As above	As above
Section 27	An officer of the ACQSC must exercise due diligence to ensure that the ACQSC complies with its duties and obligations under the WHS Act.	The ACQSC should consider the development of a WHS officer due diligence framework, which is reviewed for implementation, and compliance.	An officer may be criminally liable for a serious or reckless failure to demonstrate due diligence requirements.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<p>Due diligence requires that officers take reasonable steps including:</p> <ul style="list-style-type: none"> (a) to acquire and keep up-to-date knowledge of work health and safety matters; and (b) to gain an understanding of the nature of the operations of the business or undertaking of the person conducting the business or undertaking and generally of the hazards and risks associated with those operations; and (c) to ensure that the person conducting the business or undertaking has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and (d) to ensure that the person conducting the business or undertaking has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information; and (e) to ensure that the person conducting the business or undertaking has, and implements, processes for complying with any duty or obligation of the person conducting the business or undertaking under this Act; and (f) to verify the provision and use of the resources and processes referred to in paragraphs (c) to (e). 		
<p>Section 28</p>	<p>Workers must take reasonable care for their own safety, take reasonable care that their acts or omissions do not adversely affect the health and safety of others, comply with reasonable instruction from the PCBU and co-operate with any reasonable policy or procedure of the PCBU relating to health or safety.</p>	<p>Encouraging workers to:</p> <ul style="list-style-type: none"> • ask a supervisor if they are not sure how to safely perform their work; • participate in safety training; • wearing personal protective equipment they are given; • reporting hazards or work practices they feel may be unsafe; • follow operational procedures such as safe work method statements; • follow relevant safety manuals and emergency procedures; • comply with relevant codes of conduct; 	<p>A worker can be prosecuted for failing to comply with their duties.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
		<ul style="list-style-type: none"> understand and follow internal incident reporting processes; <p>Ensuring staff are attending compulsory organisational WHS training.</p> <p>Considering whether it is clear/ understood that staff know what policies they must comply with, and whether this is articulated in employment contracts and induction at the ACQSC.</p>	
Section 38	The regulator must be notified immediately after a notifiable incident, arising out of the conduct of the business or undertaking, has occurred.	<p>Documented WHS systems (such as policies and procedures) should require that notice be provided:</p> <ul style="list-style-type: none"> by the fastest possible means, and by telephone or in writing. <p>Adoption of a template for reporting notifiable incidents to Comcare.</p>	This provision relates to a PCBU. Failure to comply with the notification duty is an offence.
Section 38(7)	A record of each notifiable incident must be kept for at least 5 years from the day the notice is given to the regulator.	<p>Having a process in place to document and keep a record of each notification incident for at least 5 years from the date Comcare is notified.</p> <p>Records should include any directions or authorisations given by Comcare inspectors at the time of the notification.</p>	This provision relates to a PCBU. Failure to comply with the notification duty is an offence.
Section 39	So far as reasonably practicable, it must be ensured that the site where a notifiable incident occurs is not disturbed until an inspector arrives at the site or any earlier time that an inspector directs.	Ensuring the site at which a notifiable incident has occurred is not disturbed until a Comcare inspector arrives at the site or any earlier time that an inspector directs. The site includes any plant, substance, structure or thing associated with the notifiable incident.	This provision relates to the person with management and control of a workplace at which a notifiable incident has occurred. Failure to comply with the site preservation duty is an offence.
Section 46	Consultation, co-operation and co-ordination must be conducted with all persons who have a duty in relation to the same matter, so far as reasonably practicable.	<p>The ACQSC must consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter, so far as is reasonably practicable.</p> <p>ACQSC must have consultation policy and procedure and arrangements.</p> <p>Each duty holder should exchange information to find out who is doing what and work together in a cooperative and coordinated way so risks are eliminated or minimised so far as is reasonably practicable.</p>	This provision relates to all duty holders. Failure to comply with the duty to consult with other duty holders is an offence.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
		<p>The consultation process should involve identifying hazards and if necessary, assessing risks, controlling risks and reviewing control measures.</p> <p>The ACQSC should make sure the consultation duty and relevant provisions are captured in procurement processes and contract terms.</p>	
Section 47(1), 48 & 49	Consultation must be conducted with workers, so far as reasonably practicable.	The ACQSC must consult, so far as is reasonably practicable, with workers who are (or are likely to be) directly affected by a health and safety matter.	This provision relates to a PCBU. Failure to comply with the duty to consult workers is an offence.
Section 47(2)	If procedures for consultation have been agreed with the workers, consultation must be conducted in accordance with those procedures.	Undertaking consultation in accordance with agreed procedures, if agreed to by workers.	This provision relates to a PCBU. Failure to comply with the duty to consult workers is an offence.
Section 48	<p>Consultation requires:</p> <ul style="list-style-type: none"> • relevant information about the matter to be shared with workers; • workers are given a reasonable opportunity to express their views and to raise WHS issues in relation to the matter, and to contribute to the decision-making process relating to the matter; • the views of workers are taken into account; • workers consulted are advised of the outcome of the consultation in a timely manner; and • (where workers are represented by a WHS representative) consultation involving that representative. 	<ul style="list-style-type: none"> • Workers should be encouraged to ask questions, raise concerns and report problems and make safety recommendations; • Sharing relevant information with workers and their health and safety representatives; • Providing a suitable time during work hours for consultation with workers; • Allowing opinions about health and safety to be regularly discussed and considered during workplace meetings, • Providing workers with different ways to provide feedback; • Agreeing to respond to concerns and questions raised by workers within a certain timeframe and offer feedback about options raised. 	This provision relates to a PCBU. Failure to comply with the duty to consult workers is an offence.
Section 49	<p>Consultation is to occur when:</p> <ul style="list-style-type: none"> • identifying hazards and assessing risks; • making decisions about ways to eliminate or minimize risks; • making decisions about the adequacy of facilities for the welfare of workers; • proposing changes that may affect the health or safety of workers; • making decisions about the procedures for: <ul style="list-style-type: none"> ○ consulting with workers; 	<ul style="list-style-type: none"> • Consulting with workers who will be affected by a decision, either directly or through their health and safety representative; • Regular walking around the workplace, talking to workers and observing how work is done to identify hazards; and • Conducting a survey of the ACQSC’s workers. 	This provision relates to a PCBU. Failure to comply with the duty to consult workers is an offence.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<ul style="list-style-type: none"> ○ resolving work health or safety issues at the workplace; ○ monitoring the health of workers; ○ monitoring the conditions at any workplace under the management or control of the person conducting the business or undertaking; or, ○ providing information and training for workers, <ul style="list-style-type: none"> ● carrying out activities prescribed by the regulations regarding consultation. 		
<p>Section 50 and 51</p>	<p>A worker may ask for the election of one or more HSRs to represent workers.</p> <p>If a request is made for the election of one or more HSRs, work groups must be determined to facilitate the representation of workers in the work group by one or more health and safety representatives.</p>	<p>If a worker makes this request, a work group or groups must be formed.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.</p>
<p>Section 52 and 56</p>	<p>A work group is to be determined by negotiation and agreement, with such negotiations commencing within 14 days after a request has been made for the election of HSRs.</p>	<p>Taking all reasonable steps to commence negotiations with workers within 14 days after a worker makes the request.</p> <p>Negotiating with a worker's representative if a worker asks you to do so.</p> <p>Notifying workers of the outcome of the negotiations and of any work groups determined by agreement as soon as practicable after negotiations are complete.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with s 52(5) and s 56(2) is an offence.</p>
<p>Section 70 - 72</p>	<p>The ACQSC must:</p> <p>(a) consult, so far as is reasonably practicable, on work health and safety matters with any health and safety representative for a work group of workers carrying out work for the ACQSC's undertaking; and</p> <p>(b) confer with a health and safety representative for a work group, whenever reasonably requested by the representative, for the purpose of ensuring the health and safety of the workers in the work group; and</p>		

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<p>(c) allow any health and safety representative for the work group to have access to information that the person has relating to:</p> <ul style="list-style-type: none"> (i) hazards (including associated risks) at the workplace affecting workers in the work group; and (ii) the health and safety of the workers in the work group; and <p>(d) with the consent of a worker that the health and safety representative represents, allow the health and safety representative to be present at an interview concerning work health and safety between the worker and:</p> <ul style="list-style-type: none"> (i) an inspector; or (ii) the person conducting the business or undertaking at that workplace or the person’s representative; and <p>(e) with the consent of 1 or more workers that the health and safety representative represents, allow the health and safety representative to be present at an interview concerning work health and safety between a group of workers, which includes the workers who gave the consent, and:</p> <ul style="list-style-type: none"> (i) an inspector; or (ii) the person conducting the business or undertaking at that workplace or the person’s representative; and <p>(f) provide any resources, facilities and assistance to a health and safety representative for the work group that are reasonably necessary or prescribed by the regulations to enable the representative to exercise his or her powers or perform his or her functions under this Act; and</p>		

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<p>(g) allow a person assisting a health and safety representative for the work group to have access to the workplace if that is necessary to enable the assistance to be provided; and</p> <p>(h) permit a health and safety representative for the work group to accompany an inspector during an inspection of any part of the workplace where a worker in the work group works; and</p> <p>(i) provide any other assistance to the health and safety representative for the work group that may be required by the regulations.</p> <p>(j) allow a health and safety representative to spend such time as is reasonably necessary to exercise his or her powers and perform his or her functions under this Act.</p> <p>There is an obligation to train health and safety representatives.</p>		
<p>Section 104</p>	<p>A person must not engage in discriminatory conduct for a prohibited reason (based on WHS roles or activities).</p> <p><i>Discriminatory conduct</i> includes where a person:</p> <ul style="list-style-type: none"> • terminates a contract for services with a worker; or • puts a worker to his or her detriment in the engagement of the worker; or • alters the position of a worker to the worker’s detriment; or • treats a prospective worker less favourably than another prospective worker would be treated in offering terms of engagement. <p><i>A prohibited reason</i> includes:</p> <ul style="list-style-type: none"> • proposes to be an HSR or a member of a WHS Committee • exercises a power or performs a function as an HSR • proposes to raise a WHS issue or concern. 	<ul style="list-style-type: none"> • Allowing workers to perform legitimate safety-related functions or activities; • Allowing workers to raise health and safety issues or concerns without fear of reprisal; and • Considering whether supervisors within Legal Services are or should be briefed on discriminatory conduct (for the purposes of the WHS Act) in the context of any leadership training. 	<p>Civil proceedings may be brought against a person in relation to discriminatory conduct engaged in for a prohibited reason.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Schedule 2 – Section 4</p>	<p>A non-corporate Commonwealth entity within the meaning of the <i>Public Governance, Performance and Accountability Act 2013</i> (PGPA Act) must include the following matters in their annual report for a financial year:</p> <ul style="list-style-type: none"> initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity; and health and safety outcomes (including the impact on injury rates of workers) achieved as a result of those initiatives or previous initiatives; and statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity; and any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of the WHS Act; and such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit. 	<p>Ensure that the ACQSC include the content required in the annual report by the <i>Public Governance, Performance and Accountability Rule 2014</i> and other legislation including the WHS Act.</p>	<p>May need to report non-compliance with the PGPA Act to the Finance Minister if the obligation in section 46 of the PGPA Act to prepare annual report has not been complied with.</p>
<p>Work Health and Safety Regulations 2011</p>			
<p>Regulation 16</p>	<p>Negotiations for and the determination of work groups and variations of work groups are to be directed at ensuring that the workers are grouped in a way that:</p> <ul style="list-style-type: none"> most effectively and conveniently enables the interests of the workers, in relation to work health and safety, to be represented; and has regard to the need for a health and safety representative for the work group to be readily accessible to each worker in the work group. 	<p>Ensuring the ACQSC is committed to the negotiation or determination of work groups that:</p> <ul style="list-style-type: none"> most effectively and conveniently enables the interests of the workers, in relation to work health and safety, to be represented; and has regard to the need for a health and safety representative for the work group to be readily accessible to each worker in the work group. 	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with s 52(5) and s 56(2) of the WHS Act is an offence.</p>
<p>Regulation 34</p>	<p>Reasonably foreseeable hazards that could give rise to risks are identified.</p>	<p>Ensuring the ACQSC’s risk management policies and procedures provides guidance on when risks should be identified and how risks are systemically identified.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
		Implementing ongoing hazard and risk identification to review for currency and effectiveness.	
Regulation 35(a)	Risks to health and safety are eliminated, so far as reasonably practicable.	Ensuring the ACQSC’s WHS policies and procedures commit to the elimination of risks to health and safety so far as reasonably practicable.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 35(b)	If it is not reasonably practicable to eliminate a risk to health and safety, the risk is minimised so far as reasonably practicable.	Ensuring the ACQSC’s WHS policies and procedures set out the prescribed hierarchy of controls for minimising risks so far as reasonably practicable, if a single control is not sufficient for the purpose, and how these may be used in practice.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 36(3)	Risks must be minimised, so far as reasonably practicable, by doing one or more of the following: <ul style="list-style-type: none"> • substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk • isolating the hazard from any person exposed to it, and/or • implementing engineering controls. 	As above.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 36(4)	Remaining risks that cannot be eliminated, substituted, isolated or engineered must be minimised so far as reasonably practicable by implementing administrative controls.	As above.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 36(5)	Remaining risks that cannot be eliminated, substituted, isolated or engineered, or managed by administrative controls) must be minimised so far as reasonably practicable by ensuring the provision and use of suitable personal protective equipment (PPE).	As above.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 37	Control measures must be maintained to remain effective, so far as reasonably practicable, including by ensuring the control is and remains: <ul style="list-style-type: none"> • fit for purpose • suitable for the nature and duration of the work, and • installed, set up and used correctly. 	Ensuring the ACQSC’s WHS policies and procedures contain guidance or a commitment to control measures being maintained to remain effective so far as reasonably practicable. Ensuring the ACQSC’s WHS policies and procedures require the review and maintenance of control measures so far as reasonably practicable to ensure they are fit for purpose, suitable for the nature and duration of work and installed, set up and used correctly.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Regulation 38	Implemented control measures must be reviewed and revised, so far as is reasonably practicable, so as to maintain a work environment that is without risks to health and safety.	Ensuring the ACQSC’s WHS policies and procedures contain guidance or a commitment to implemented control measures being reviewed and revised so far as reasonably practicable to maintain a work environment that is without risks to health and safety.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 39(2)	The ACQSC must ensure that information, training and instruction is: <ul style="list-style-type: none"> • provided to workers, and • suitable and adequate. 	<p>Ensuring the ACQSC’s orientation for new starters program and/ or e-learning module provides information for developing knowledge of the ACQSC’s operations, key corporate information, people management and working in the office.</p> <p>Ensuring the ACQSC’s WHS policies and procedures include an organisational level commitment to induction, training and development.</p> <p>Notifying workers who are due for refresher training (for example, by keeping and maintaining training records).</p>	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with the duty in relation to the provision of information, training and instruction and in turn, their primary duty under s 19.
Regulation 39(3)	It must be ensured, so far as is reasonably practicable, that the information, training and instruction provided is readily understandable by any person to whom it is provided.	Regularly review the information, training and instruction provided to identify any potential indicators that it may not have been understood or effective.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 40	General workplace facilities are, so far as reasonably practicable, safe and without risks to health and safety in that: <ul style="list-style-type: none"> • the layout of the workplace allows persons to enter and exit and to move both under normal working conditions and in an emergency • work areas have space for work to be carried out • floors and other surfaces are designed, installed and maintained to allow work • lighting enables: <ul style="list-style-type: none"> ○ each worker to carry out work ○ persons to move within the workplace, and ○ safe evacuation in an emergency • ventilation enables workers to carry out work • workers carrying out work in extremes of heat or cold are able to carry out work, and 	<p>Providing guidance to staff on general workplace facilities.</p> <p>Ensuring new staff at the ACQSC are inducted on WHS and Emergency Management, which includes a working from home self-assessment and workstation ergonomics/ self-assessment and set up.</p> <p>Developing a checklist addressing the general workplace environment and workplace facilities, for quick reference and/or use by staff who are working from home.</p>	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<ul style="list-style-type: none"> work in relation to or near essential services does not give rise to a risk to the health and safety of persons at the workplace. 		
Regulation 41	<p>The ACQSC must ensure facilities for workers, including toilets, drinking water, washing facilities and eating facilities are:</p> <ul style="list-style-type: none"> provided and maintained in good working order, and clean, safe and accessible. 	<p>Ensuring the ACQSC’s WHS policies and procedures include a commitment to the WHS duty to provide adequate facilities and what types of facilities are being referred to.</p> <p>Providing information (for example, on induction) where facilities are located.</p> <p>Ensuring there is a process in place to review and maintain whether facilities provided are in good working order and are clean, safe and accessible.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with the duty to provide and maintain adequate and accessible facilities.</p>
Regulation 42(1)	<p>The ACQSC must ensure:</p> <ul style="list-style-type: none"> the provision of first aid equipment each worker has access to first aid equipment, and access to facilities for the administration of first aid. 	<p>Consider the matters in r 42(3) when determining the adequacy of first aid facilities and equipment under r 42(1) and 42(2).</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to provide first aid is an offence.</p>
Regulation 42(2)	<p>An adequate number of workers must be trained to administer first aid or workers must otherwise have access to other persons trained to administer first aid.</p>	<ul style="list-style-type: none"> Ensuring the provision of first aid training so there is an adequate number of workers who can administer first aid. Reviewing the current list of first aid officers at the ACQSC. 	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to ensure that an adequate number of workers are trained to administer first aid at the workplace is an offence.</p>
Regulation 43	<p>An emergency plan must be prepared for the workplace.</p>	<ul style="list-style-type: none"> Ensuring the ACQSC has a single source document outlining the Department’s complete emergency management plan; Ensuring the ACQSC has clear guidance for staff on compliance with emergency plans, attendance in emergency evacuation drills, attendance at WHS training (mandatory and other); and Considering where and how this information is delivered, including the Induction Guide, ACQSC onboarding and induction processes and or employment and contract arrangements. 	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to prepare, maintain and implement an emergency plan is an offence.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
Regulation 43(2) & 43(4)	The emergency plan must be implemented, maintained and verified to ensure it remains effective.	Ensuring the ACQSC’s emergency related materials are reviewed and monitored for currency, responsiveness and WHS legal compliance.	This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to prepare, maintain and implement an emergency plan is an offence.
Regulation 44(2)	PPE must be provided to workers.	Ensuring the ACQSC has a policy or procedure dealing specifically with PPE which includes: <ul style="list-style-type: none"> • who is responsible for the provision of PPE; • selection, supply, maintenance and repair of PPE; and • provision of directions, instructions and information to workers on the use, wearing, storage and maintenance of PPE. 	This provision relates to the PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to provide the PPE at the workplace is an offence.
Regulation 44(3)	PPE must be: <ul style="list-style-type: none"> • selected to minimise risks to health and safety • maintained, repaired or replaced so that it continues to minimise risk to the worker who uses it, and • used or worn by the worker, so far as reasonably practicable. 	As above.	This provision relates to the PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to provide the PPE at the workplace is an offence.
Regulation 44(4)	Workers must be given information, training and instructions on the: <ul style="list-style-type: none"> • proper use and wearing of PPE, and • storage and maintenance of PPE. 	Ensure information, training and instruction is provided to staff on the proper use, wearing of, storage and maintenance of PPE – for example, as part of induction for new staff.	This provision relates to the PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to ensure information, training and instruction is provided is an offence.
Regulation 45	It must be ensured, so far as reasonably practicable, that PPE is given to any other persons (non-workers) at a workplace and that this PPE must be: <ul style="list-style-type: none"> • capable of minimising risks to their health and safety, and • used or worn by the person. 	As above – ensuring the ACQSC’s policy or procedure dealing with PPE addresses how PPE will be provided to non-workers attending the ACQSC.	This provision relates to the PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to provide the PPE to non-workers at the workplace is an offence.
Regulation 48	The health and safety of workers performing remote or isolated work must be managed so far as reasonably practicable (including the provision of a system of effective communication).	Ensuring the ACQSC has a policy for remote or isolated work. Maintaining a working from home risk register which indicates completion of a WHS self-assessment tool.	This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with the requirement to manage risks to health and safety of a worker associated with remote or isolated work is an offence.

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
<p>Regulation 55C</p>	<p>A person conducting a business or undertaking must manage psychosocial risks in accordance with Part 3.1.</p>	<p>Ensuring the ACQSC has identified the psychosocial hazards that could cause psychological harm (for example, consider undertaking a psychosocial hazard risk assessment).</p> <p>Ensuring the ACQSC’s WHS policies and procedures contain a commitment to eliminate psychosocial risks, or if that is not reasonably practicable, minimise them so far as reasonably practicable.</p> <p>Ensuring the ACQSC’s WHS policies and procedures contain guidance or a commitment to control measures being maintained to remain effective so far as reasonably practicable.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. Failure to comply with the duty to manage psychosocial risks is an offence.</p>
<p>Regulation 60(1)</p>	<p>Hazardous manual tasks (which may cause musculoskeletal disorders) are identified.</p> <p>A hazardous manual task, means a task that requires a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing involving one or more of the following:</p> <ul style="list-style-type: none"> • repetitive or sustained force • high or sudden force • repetitive movement • sustained or awkward posture, and • exposure to vibration. <p>Musculoskeletal disorders may include:</p> <ul style="list-style-type: none"> • sprains and strains of muscles, ligaments and tendons • back injuries, including damage to the muscles, tendons, ligaments, spinal discs, nerves, joints and bones • joint and bone injuries or degeneration, including injuries to the shoulder, elbow, wrist, hip, knee, ankle, hands and feet • nerve injuries or compression (e.g. carpal tunnel syndrome) • muscular and vascular disorders as a result of hand-arm vibration 	<p>Ensuring there is a ACQSC policy or procedure that addresses manual handling or hazardous manual tasks – which includes a description of the definition for a hazardous manual task and a musculoskeletal disorder and how these may arise within the ACQSC’s operations.</p> <p>Prompting consideration of hazardous manual tasks in the ACQSC’s WHS risk assessment templates.</p> <p>Providing training on hazardous manual tasks.</p>	<p>This provision relates to a PCBU who has a duty to manage risks to health and safety. r 60 sets out the way in which the duty in s 19 of the WHS Act is to be performed. A failure to comply with the primary duty of care in s 19 is an offence.</p>

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
	<ul style="list-style-type: none"> soft tissue hernias, and chronic pain. 		
Regulation 60(1) and 35(a)	Risks to health and safety arising from hazardous manual tasks must be eliminated, so far as reasonably practicable.	Ensuring the ACQSC’s WHS policies and procedures commit to the elimination of risks to health and safety so far as reasonably practicable.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 60(1), 35(b) and 36	Risks to health and safety arising from hazardous manual tasks that cannot be eliminated must be minimised, so far as reasonably practicable.	As above.	This provision relates to a PCBU who has a duty to manage risks to health and safety. It is an offence if a PCBU fails to comply with their primary duty under s 19.
Regulation 60 and 37	All measures implemented to control the risk of a musculoskeletal disorder associated with a hazardous manual task are maintained to ensure they are: <ul style="list-style-type: none"> fit for purpose suitable for the nature and duration of the work, and installed, set up and used correctly. 	Ensuring the ACQSC’s WHS policies and procedures require the review and maintenance of control measures so far as reasonably practicable to ensure they are fit for purpose, suitable for the nature and duration of work and installed, set up and used correctly.	This provision relates to a PCBU who has a duty to manage risks to health and safety. r 60 sets out the way in which the duty in s 19 of the WHS Act is to be performed. A failure to comply with the primary duty of care in s 19 is an offence.
Regulation 60 and 38	All measures implemented to control the risk of a musculoskeletal disorder associated with a hazardous manual task are reviewed and revised as required.	As above	As above
Regulation 147	The ACQSC must manage risks to health and safety associated with electrical risks at the workplace, in accordance with Part 3.1.	Ensuring the ACQSC’s WHS policies and procedures address electrical hazards and risks and that implemented control measures are reviewed and revised so far as reasonably practicable to maintain a work environment that is without risks to health and safety.	This provision relates to a PCBU who has a duty to manage risks to health and safety. R147 sets out the way in which the duty in s 19 of the WHS Act is to be performed. A failure to comply with the primary duty of care in s 19 is an offence.
Regulation 149	The ACQSC must ensure that any unsafe electrical equipment at the workplace: <ul style="list-style-type: none"> (a) is disconnected (or isolated) from its electricity supply; and (b) once disconnected (or isolated): <ul style="list-style-type: none"> (i) is not reconnected until it is repaired or tested and found to be safe; or (ii) is replaced or permanently removed from use. 	As above	As above
Regulation 150	The ACQSC must ensure that electrical equipment is regularly inspected and tested by a competent person.	As above	As above

Assurance Audit Process – Cover page
Workplace Gender Equality Act 2012

Version control

Legislation	Version	Last reviewed	Linkage to the Commission environment	Work Units/Areas most impacted
Primary legislation				
<i>Workplace Gender Equality Act 2012</i>	12 April 2023	5 August 2024	<i>[For the Commission to fill in]</i>	People and Culture

Assurance Audit Process – Legislative Framework Summary
Workplace Gender Equality Act 2012

Clause references	Summary of obligations	Tasks or activities required to comply with the obligations	Consequences of non-compliance
S13(1)	<p>Relevant employer must prepare a public report in writing containing information relating to the employer and to the gender equality indicators.</p> <p>(Note: Relevant employer is a Commonwealth entity that is an employer of 100 or more employees in Australia).</p>	<p>ACQSC must prepare a written report containing the relevant information.</p>	<p>s19D sets out the consequences of non-compliance with Act including for example:</p> <ul style="list-style-type: none"> • ACQSC may be named in a report setting out details of non-compliance to the Minister; • ACQSC may be named in other ways for having failed to comply with the Act (for example, on the Workplace Gender Equality Agency’s website); • If this occurs, the Workplace Gender Equality Agency will notify ACQSC in writing of the intention and will invite ACQSC to make written representations within 28 days. <p>The Workplace Gender Equality Agency must offer the ACQSC advice and assistance in relation to improving their performance against the standard, if they fail to meet the gender equality standard.</p>
S13(2)	<p>The report must specify matters in relation to each gender equality indicator.</p>	<p>ACQSC must prepare a written report which specifies matters in relation to each gender equality indicator.</p> <p>The gender equality indicators are contained section 6 of the in the <i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023</i>.</p> <ul style="list-style-type: none"> • gender composition of the workforce; • gender composition of governing bodies; • equal remuneration; • employment conditions relating to flexible work and support for employees with family or caring responsibilities; • employee consultation; and 	<p>As above.</p>

		<ul style="list-style-type: none"> sexual harassment, harassment on the ground of sex or discrimination. <p>Ensure the ACQSC has individual policies and strategies that individually address each of the gender equality indicators or one policy which addresses all for example:</p> <ul style="list-style-type: none"> Develop a gender equality strategy or policy that address the 6 gender equality indicators. 	
S13(5)	The report must be signed by the accountable authority.	The Commissioner must sign the report.	As above.
S13A(1)	A relevant employer (including a Commonwealth entity) must lodge with the Agency public reports in respect of each of the periods set out in s 13A.	See s 13A(2A) below.	As above.
S13A(2A)	Commonwealth entities must prepare a public report in respect of the period of 12 months commencing on 1 January 2022 and after that, in respect of each consecutive period of 12 months.	ACQSC must prepare a public report for the period 1 January – 31 December each year	As above.
S13B(a)	Commonwealth entities must lodge a public report under s13A within 2 months after the day determined by the Agency for the purposes of this paragraph.	Ensure the public report is prepared on time and there is a clear QA process in place.	As above.
S13C(1)	When lodging the public report, the relevant employer must inform the Agency in writing of the information included in the report that is personal information.	<p>When lodging the report, ACQSC must inform the Workplace Gender Equality Agency in writing of any personal information included in the report.</p> <p>Consult the ACQSC’s Privacy team in relation to identifying any personal information.</p>	As above.
S14(1)	Any information relating to remuneration that is included in a public report lodged under s 13A must not be published under s 15 or used in a report under s 12 or s 46 of the <i>Public Governance, Performance and Accountability Act 2013</i> .	Ensure that information about remuneration in a public report is not used for these purposes.	As above.
S14A(3)	Information specified under instrument by the Minister may be published or used if the information is in an aggregated form that does not disclose, either directly or indirectly, information about a specific relevant employer or another specific person.	<ul style="list-style-type: none"> If the report contains specific information as specified under instrument, consider including that information in aggregate form. (Presently no such instrument) 	As above
S16(1) – (4)	<p>Relevant employer must, as soon as practicable after lodging the report under s13A, inform employees that the employer has lodged the report and how the report can be accessed.</p> <p>They must also provide access (whether electronic or otherwise) to the public report (excluding any</p>	<p>After lodging the report, ACQSC must advise all employees that the report was lodged and how to access that report.</p> <p>ACQSC should provide a copy of the public report as soon as practical.</p>	As above.

	<p>information in s16(3): personal information, remuneration information that the relevant employer considers should not be subject to the requirement for access, any information specified in an instrument under s14A).</p> <p>Personal information can be included if the person to whom the information relates consents to the information being included in the report.</p>		
S16B	<p>Relevant employer must advise employees when distributing the report that comments on the report may be given to the employer or to the agency.</p>	<p>When distributing the report, ACQSC must advise employees that comments may be given to them or to the Workplace Gender Equality Agency about the report.</p>	As above
S16C(1) and (2)	<p>After receiving from the Agency an executive summary or industry benchmark report for the employer for a reporting period, the relevant employer must cause a copy of the report to be given to each member of the employer’s governing body (if any).</p>	<p>Once ACQSC receives an executive summary report from the Workplace Gender Equality Agency, they must give a copy to the governing body.</p> <p>The governing body means the body, or group of members of the employer, with primary responsibility for the governance of the employer.</p>	As above