

Version
as at 28 October 2021



Independent Police Conduct Authority Act 1988

Public Act	1988 No 2
Date of assent	10 March 1988
Commencement	see section 1(2)

Act name: substituted, on 29 November 2007, by section 5(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

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The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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An Act to make better provision for the investigation and resolution of complaints against the Police by establishing the Independent Police Conduct Authority

Title: amended, on 29 November 2007, by section 4 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

1 Short Title and commencement

- (1) This Act may be cited as the Independent Police Conduct Authority Act 1988.
- (2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): this Act brought into force, on 1 April 1989, by the Police Complaints Authority Act Commencement Order 1988 (SR 1988/309).

Section 1(1): amended, on 29 November 2007, by section 5(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Interpretation

In this Act, unless the context otherwise requires,—

Authority means the Independent Police Conduct Authority established under section 4

chairperson means the chairperson of the Authority appointed under section 5A(1)

Commissioner means the Commissioner of Police appointed under the Policing Act 2008

member means a member of the Authority appointed under section 5(1); and includes the chairperson.

Section 2 **Authority**: substituted, on 29 November 2007, by section 6(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 2 **chairperson**: inserted, on 29 November 2007, by section 6(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 2 **Commissioner**: amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 2 **Deputy Authority**: repealed, on 29 November 2007, by section 6(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 2 **member**: added, on 29 November 2007, by section 6(3) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

3 Act to bind the Crown

This Act shall bind the Crown.

Independent Police Conduct Authority

Heading: substituted, on 29 November 2007, by section 7 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

4 Independent Police Conduct Authority established

There is an authority known as the Independent Police Conduct Authority.

Section 4: substituted, on 29 November 2007, by section 7 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

4A Crown entity

- (1) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.
- (3) The members of the Authority are the board for the purposes of the Crown Entities Act 2004.
- (4) *[Repealed]*

Section 4A: inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 4A(2): amended, on 29 November 2007, by section 8(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 4A(3): substituted, on 29 November 2007, by section 8(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 4A(4): repealed, on 29 November 2007, by section 8(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

4AB Independence

Except as expressly provided in this or any other Act, the Authority must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

- (a) this Act; and
- (b) any other Act that expressly provides for the functions, powers, or duties of the Authority (other than the Crown Entities Act 2004).

Section 4AB: inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

5 Membership of Authority

- (1) The Authority consists of up to 5 members appointed by the Governor-General on the recommendation of the House of Representatives.
- (2) Subsection (1) applies despite section 28(1)(b) of the Crown Entities Act 2004.

Section 5: substituted, on 29 November 2007, by section 9 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

5A Chairperson of Authority

- (1) The Governor-General, on the recommendation of the House of Representatives, must appoint 1 member as the chairperson of the Authority.
- (2) A person appointed as the chairperson of the Authority must be a Judge or a retired Judge.
- (3) Subsection (1) applies despite clause 1(2) of Schedule 5 of the Crown Entities Act 2004.

Section 5A: inserted, on 29 November 2007, by section 9 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

5B Appointment of Judge as member of Authority

- (1) The appointment of a Judge as a member of the Authority does not affect his or her judicial office, rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges that he or she has as a Judge, including matters relating to superannuation.
- (2) The time a Judge serves as a member of the Authority must be taken as service as a Judge.

Section 5B: inserted, on 29 November 2007, by section 9 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

5C Resignation of member

- (1) A member may resign from office by written notice to the Governor-General (with a copy to the Authority) signed by the member.
- (2) The resignation is effective on receipt by the Governor-General of the notice or at any later time specified in the notice.
- (3) This section applies despite section 44 of the Crown Entities Act 2004.

Section 5C: inserted, on 29 November 2007, by section 9 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

6 Power to remove or suspend members

- (1) Section 42 of the Crown Entities Act 2004 applies to any member who is a Judge.
- (2) Section 39(1) of the Crown Entities Act 2004 does not apply to any member.
- (3) Instead, any member who is not a Judge may be removed for just cause by the Governor-General acting upon an address from the House of Representatives.
- (4) **Just cause** has the same meaning as in section 40 of the Crown Entities Act 2004.

Section 6: substituted, on 29 November 2007, by section 10 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

7 Filling of vacancy

- (1) If a vacancy occurs in the membership of the Authority, the Governor-General, on the recommendation of the House of Representatives, may appoint a successor.
- (2) Despite subsection (1), if the vacancy exists at the close of a session, or the vacancy occurs while Parliament is not in session, and the House of Representatives has not recommended an appointment to fill the vacancy, the Governor-General in Council may appoint a successor at any time before the commencement of the next ensuing session of Parliament.
- (3) An appointment made under subsection (2) lapses, and the office again becomes vacant, unless the appointment is confirmed by the House of Representatives before the end of the 24th sitting day following the date of the appointment.

Section 7: substituted, on 29 November 2007, by section 10 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

8 Deputy Police Complaints Authority

[Repealed]

Section 8: repealed, on 29 November 2007, by section 11 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

9 Salaries and allowances

[Repealed]

Section 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Staff

[Repealed]

Section 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Superannuation or retiring allowances

For the purpose of providing a superannuation fund or retiring allowance for members of the Authority, sums by way of subsidy may from time to time be paid into any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).

Section 11: substituted (with effect on 1 July 1992), on 18 December 1992, by section 4 of the Higher Salaries Commission Amendment Act (No 2) 1992 (1992 No 130).

Section 11: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 11: amended, on 29 November 2007, by section 12 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

11A Funds of Authority

[Repealed]

Section 11A: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11B Bank accounts

[Repealed]

Section 11B: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11C Accounts and audit

[Repealed]

Section 11C: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11CA Crown entity

[Repealed]

Section 11CA: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11D Investment of money

[Repealed]

Section 11D: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11E Exemption from income tax

The income of the Authority shall be exempt from income tax.

Section 11E: inserted, on 1 April 1989, by section 2 of the Police Complaints Authority Amendment Act 1988 (1988 No 207).

*Functions of Authority***12 Functions of Authority**

- (1) The functions of the Authority shall be—
- (a) to receive complaints—
 - (i) alleging any misconduct or neglect of duty by any Police employee; or
 - (ii) concerning any practice, policy, or procedure of the Police affecting the person or body of persons making the complaint in a personal capacity:
 - (b) to investigate of its own motion, where it is satisfied that there are reasonable grounds to carry out an investigation in the public interest, any incident involving death or serious bodily harm notified to the Authority by the Commissioner under section 13:
 - (c) to take such action in respect of complaints, incidents, and other matters as is contemplated by this Act.
- (2) In the course of taking action in respect of any complaint the Authority may investigate any apparent misconduct or neglect of duty by a Police employee, or any Police practice, policy, or procedure, which appears to the Authority to relate to the complaint, notwithstanding that the complaint itself does not refer to that misconduct, neglect, practice, policy, or procedure.
- (2A) The Authority may receive complaints relating to a matter specified in subsection (1)(a) that occurred before, on, or after 1 April 1989.
- (3) Nothing in subsection (1) shall authorise the Authority to investigate any matter relating to the terms and conditions of service of any person as a Police employee.

Section 12(1)(a)(i): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 12(2): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 12(2A): inserted, on 29 November 2007, by section 13 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 12(3): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

13 Duty of Commissioner to notify Authority of certain incidents involving death or serious bodily harm

Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused.

Section 13: amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 13: amended, on 29 November 2007, by section 14 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

14 Mode of complaint

- (1) A complaint may be made either orally or in writing.
- (2) A complaint made orally shall be reduced to writing as soon as practicable.
- (3) A complaint may be made to the Authority, to any Police employee, to an Ombudsman, or, where the complaint is in writing, to a Registrar or Deputy Registrar of the District Court.
- (4) Any Ombudsman or Registrar or Deputy Registrar to whom a complaint is made shall forward it to the Authority as soon as practicable.
- (5) Notwithstanding any provision in any enactment, where any letter appearing to be written by or on behalf of—
 - (a) a person in custody on a charge or after conviction of any offence; or
 - (b) a patient of any hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992,—

is addressed to the Authority, the person for the time being in charge of the place or institution where the person is in custody or is a patient shall immediately forward the letter, unopened, to the Authority.

Section 14(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(3): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 14(5)(b): amended, on 29 November 2007, by section 15 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

15 Duty of Commissioner to notify Authority of complaints

- (1) The Commissioner shall notify the Authority of every complaint received by the Police, other than a complaint notified to the Commissioner by the Authority.
- (2) Notification must be given as soon as practicable, but no later than 5 working days after receipt of the complaint.

Section 15(1): amended, on 29 November 2007, by section 16(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 15(2): added, on 29 November 2007, by section 16(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

16 Duty of Authority to notify Commissioner of complaints

The Authority shall notify the Commissioner as soon as practicable of every complaint received by it, other than a complaint notified to it by the Commissioner.

17 Action upon receipt of complaint

- (1) On receiving or being notified of a complaint under this Act, the Authority may do all or any of the following:
 - (a) investigate the complaint itself, whether or not the Police have commenced a Police investigation:
 - (ab) refer the complaint to the Police for investigation by the Police:
 - (b) defer action until the receipt of a report from the Commissioner on a Police investigation of the complaint undertaken on behalf of the Authority:
 - (c) oversee a Police investigation of the complaint:
 - (ca) defer action until the receipt of a report from the Commissioner following a criminal investigation or a disciplinary investigation, or both, initiated and undertaken by the Police:
 - (d) decide, in accordance with section 18, to take no action on the complaint.
- (2) Subject to subsection (2A), the Authority shall, as soon as practicable, advise the Commissioner and the complainant of the procedure it proposes to adopt under subsection (1).
- (2A) Where—
 - (a) a complaint is made to the Police; and
 - (b) the Authority decides to adopt the procedure provided for in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (ca) of subsection (1); and
 - (c) the Authority is satisfied that the Police will inform the complainant of the procedure to be followed,—the Authority is not required to inform the complainant in accordance with subsection (2) of the procedure it proposes to follow.
- (3) Where any complaint appears to the Authority to be capable of resolution by conciliation, it may indicate that view to the Commissioner.

Section 17(1)(ab): inserted, on 29 November 2007, by section 17(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 17(1)(b): amended, on 29 November 2007, by section 17(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 17(1)(ca): inserted, on 29 November 2007, by section 17(3) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 17(2): substituted, on 1 July 1994, by section 2 of the Police Complaints Authority Amendment Act 1994 (1994 No 53).

Section 17(2A): inserted, on 1 July 1994, by section 2 of the Police Complaints Authority Amendment Act 1994 (1994 No 53).

Section 17(2A)(b): amended, on 29 November 2007, by section 17(4) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 17(3): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

18 Authority may decide to take no action on complaint

- (1) The Authority may in its discretion decide to take no action, or, as the case may require, no further action, on any complaint if—
 - (a) the complaint relates to a matter of which the person alleged to be aggrieved has had knowledge for more than 12 months before the complaint was made; or
 - (b) in the opinion of the Authority—
 - (i) the subject matter of the complaint is minor; or
 - (ii) the complaint is frivolous or vexatious or is not made in good faith; or
 - (iii) the person alleged to be aggrieved does not desire that action be taken or, as the case may be, continued; or
 - (iv) the identity of the complainant is unknown and investigation of the complaint would thereby be substantially impeded; or
 - (v) there is, or was, in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives, that it would be reasonable, or would have been reasonable, for the person alleged to be aggrieved to exercise.
- (2) The Authority may decide not to take any further action on a complaint if, in the course of the investigation of the complaint by the Authority or the Police, or as a result of the Commissioner's report on a Police investigation, it appears to the Authority that, having regard to all the circumstances of the case, any further action is unnecessary or inappropriate.
- (3) In any case where the Authority decides to take no action, or no further action, on a complaint, it shall inform the complainant of that decision and the reasons for it.

Section 18(1)(b)(i): amended, on 29 November 2007, by section 18(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 18(1)(b)(v): substituted, on 29 November 2007, by section 18(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

19 Subsequent powers in relation to complaint

The Authority may at any time—

- (a) review a Police investigation of a complaint:
- (b) decide to investigate a complaint itself:
- (c) where it oversees a Police investigation, give such directions to the Police concerning the investigation as it thinks fit:
- (d) direct the Police to reopen an investigation, and thereafter oversee the investigation:
- (e) direct the Police to reconsider their proposals for action on a complaint:
- (f) decide, in accordance with section 18, to take no further action on the complaint:
- (g) decide that no action by the Authority is required on the ground that it considers that the outcome of a Police investigation is satisfactory.

20 Duty of Commissioner to report to Authority on Police investigation of complaint

- (1) The Commissioner shall as soon as practicable, and in no case later than 2 months, after the completion of a Police investigation of a complaint, report to the Authority—
 - (a) whether the complaint has been upheld and, if so, what action has been taken or is proposed to be taken to rectify the matter:
 - (b) whether the complaint has been settled by conciliation.
- (2) When reporting to the Authority under this section, the Commissioner shall supply to the Authority accompanying material sufficient to enable the Authority to assess the adequacy of the Police investigation.
- (3) The Commissioner may consult the Authority on any Police proposals for action on a complaint before reporting to the Authority under this section.

21 Commissioner to provide information and assistance at request of Authority

- (1) The Commissioner shall, whenever the Authority so requests, provide to the Authority all such information and assistance as is necessary for the proper performance by the Authority of its functions in relation to its investigation of any complaint, incident, or other matter under this Act.
- (2) Where the Authority oversees a Police investigation of a complaint, the Commissioner shall, whenever the Authority so requests, provide to the Authority—

- (a) any or all information in the possession or under the control of the Police that is relevant to the complaint:
- (b) a report on the progress of the investigation.

22 Power of Police to investigate complaints and other matters

- (1) Nothing in this Act shall prevent the Commissioner from commencing or continuing a Police investigation into any complaint, incident, or other matter.
- (2) If, either before or after the commencement of a Police investigation, the Commissioner forms a view that the complaint, incident, or other matter should be investigated by the Authority, the Commissioner may request the Authority to do so.

Proceedings of Authority

23 Proceedings of Authority

- (1) Before proceeding to investigate any matter under this Act the Authority shall inform the Commissioner, the complainant (if any), and, unless the interests of justice otherwise require, any person alleged to be aggrieved (if not the complainant) of its intentions to make the investigation.
- (2) Every investigation by the Authority under this Act shall be conducted in private.
- (3) Subject to section 31,—
 - (a) the Authority may hear or obtain information from such persons as it thinks fit, including, where it considers that cultural matters are a factor relevant to a complaint or investigation, information from such persons as the Authority thinks have knowledge or experience in those matters:
 - (b) it shall not be necessary for the Authority to hold any hearing:
 - (ba) the Authority may, in deciding whether to hold a hearing, have regard to whether any of the following are pending or are reasonably in contemplation:
 - (i) civil, criminal, or disciplinary proceedings:
 - (ii) a coroner's inquest:
 - (c) no person shall be entitled as of right to be heard by the Authority.
- (4) Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.
- (5) The Authority has, for the purposes of any hearing under subsection (3), the same powers as are conferred on commissions of inquiry by sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908, with all necessary modifications.
- (6) Sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908 apply to all persons involved in any capacity in a hearing under subsection (3) as if the inquiry were being conducted by a Commission under that Act.

- (7) If there is any inconsistency between a provision of this Act and a provision of the Commissions of Inquiry Act 1908 referred to in subsection (5) or (6), the provision of this Act prevails.

Section 23(3)(ba): inserted, on 29 November 2007, by section 19(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 23(4): added, on 1 July 1994, by section 3 of the Police Complaints Authority Amendment Act 1994 (1994 No 53).

Section 23(5): added, on 29 November 2007, by section 19(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 23(6): added, on 29 November 2007, by section 19(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 23(7): added, on 29 November 2007, by section 19(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

24 Powers of Authority in relation to investigations

- (1) The Authority may require any person who in its opinion is able to give information relating to any matter under investigation by the Authority to furnish such information, and to produce such documents or things in the possession or under the control of that person, as in the opinion of the Authority are relevant to the subject matter of the investigation.
- (2) The Authority may summon before it and examine on oath any person who in its opinion is able to give any information relating to the matter under investigation, and may for the purpose administer an oath to any person so summoned.
- (3) Every such examination by the Authority shall be deemed to be a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

25 Protection and privileges of witnesses, etc

- (1) Except as provided in subsection (2) and in section 26(2), every person shall have the same privileges in relation to the giving of information to the Authority, the answering of questions put by the Authority, and the production of documents and things to the Authority, as witnesses have in any court.
- (2) Where the Authority requires any person to give any information or produce any document or thing, and compliance with that requirement would breach an obligation of secrecy or non-disclosure imposed on that person by or under any enactment,—
- (a) the existence of the obligation shall not constitute a ground for refusal or failure to give the information or produce the document or thing, as the case may be; and
 - (b) compliance with any such requirement is not a breach of the relevant obligation of secrecy or non-disclosure, or of the enactment or provision by which that obligation is imposed.

- (3) No person shall be liable to prosecution for an offence against any enactment, other than section 37, by reason of that person's compliance with any requirement of the Authority under section 24.
- (4) Except in proceedings for perjury within the meaning of the Crimes Act 1961 in respect of sworn testimony given before the Authority, or for an offence against section 37,—
 - (a) no statement made or answer given by any person in the course of any investigation by or proceedings before the Authority shall be admissible in evidence against that or any other person in any court or in any inquiry or other proceeding; and
 - (b) no evidence in respect of proceedings before the Authority shall be given against any person.
- (5) Where the attendance of any person is required by the Authority under section 24, the person shall be entitled to the same fees, allowances, and expenses as if the person were a witness in a court and, for the purpose,—
 - (a) the provisions of any regulations in that behalf under the Criminal Procedure Act 2011 shall apply accordingly; and
 - (b) the Authority shall have the powers of a court under any such regulations to fix or disallow, in whole or in part, or to increase, any amounts payable under the regulations.

Section 25(5): amended, on 29 November 2007, by section 20 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 25(5)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

26 Disclosure of certain matters not to be required

- (1) Where—
 - (a) the Prime Minister certifies that the giving of any information or the production of any document or thing might prejudice—
 - (i) the security or defence of New Zealand, or the international relations of the Government of New Zealand; or
 - (ii) any interest protected by section 7 of the Official Information Act 1982 (which relates to the Cook Islands, Niue, Tokelau, and the Ross Dependency); or
 - (b) the Attorney-General certifies that the giving of any information or the production of any document or thing—
 - (i) might prejudice the prevention, investigation, or detection of offences; or
 - (ii) might involve the disclosure of proceedings of Cabinet, or any committee of Cabinet, relating to matters of a secret or confiden-

tial nature, and such disclosure would be injurious to the public interest,—

the Authority shall not require the information to be given, or, as the case may be, the document or thing to be produced.

- (2) Except as provided in subsection (1), the rule of law which authorises or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest, shall not apply in respect of any investigation by or proceedings before the Authority.

Procedure on completion of investigation

27 Procedure after investigation by Authority

- (1) Where the Authority itself undertakes an investigation under this Act it shall form an opinion on whether or not any decision, recommendation, act, omission, conduct, policy, practice, or procedure which was the subject matter of the investigation was contrary to law, unreasonable, unjustified, unfair, or undesirable.
- (2) The Authority shall convey its opinion, with reasons, to the Commissioner, and may make such recommendations as it thinks fit, including a recommendation that disciplinary or criminal proceedings be considered or instituted against any Police employee.

Section 27(2): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

28 Procedure after investigation by Police

- (1) Where the Commissioner reports to the Authority, pursuant to section 20, on a Police investigation of a complaint, the Authority shall form an opinion on whether or not any decision, recommendation, act, omission, conduct, policy, practice, or procedure which was the subject matter of the investigation was contrary to law, unreasonable, unjustified, unfair, or undesirable.
- (2) After considering the Commissioner's report and forming its opinion, the Authority—
- (a) shall indicate to the Commissioner whether or not it agrees with the Commissioner's decision or proposed decision in respect of the complaint:
 - (b) may, where it disagrees with the Commissioner's decision or proposed decision, make such recommendations, supported by reasons, as it thinks fit, including a recommendation that disciplinary or criminal proceedings be considered or instituted against any Police employee.

Section 28(2)(b): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

29 Implementation of recommendations of Authority

- (1) The Commissioner shall, as soon as reasonably practicable after receiving any recommendation of the Authority under section 27(2) or section 28(2),—
 - (a) notify the Authority of the action (if any) proposed to be taken to give effect to the recommendation; and
 - (b) give reasons for any proposal to depart from, or not to implement, any such recommendation.
- (2) If, within a reasonable time after a recommendation is made, no action is taken which seems to the Authority to be adequate and appropriate, the Authority must, after considering any comments made by the Commissioner,—
 - (a) send a copy of its opinion and recommendations on the matter, together with the comments of the Commissioner, to the Attorney-General and the Minister of Police; and
 - (b) where it considers it appropriate, transmit to the Attorney-General for tabling in the House of Representatives such report on the matter as it thinks fit.
- (3) The Attorney-General shall, as soon as practicable after receiving a report under subsection (2)(b), lay the report before the House of Representatives.

Section 29(2): amended, on 29 November 2007, by section 21 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

30 Parties to be informed of progress and result of investigation

Where the Authority investigates a complaint, it shall—

- (a) conduct the investigation with due expedition; and
- (b) if it seems appropriate, inform the complainant and the Commissioner of the progress of the investigation; and
- (c) in every case inform the parties concerned, as soon as reasonably practicable after the conclusion of the investigation, and in such manner as it thinks proper, of the result of the investigation.

31 Adverse comment

The Authority shall not, in any opinion or recommendation given under section 27 or section 28, or in any report made or published under section 29 or section 34, make any comment that is adverse to any person unless that person has been given a reasonable opportunity to be heard.

Miscellaneous provisions

32 Authority and staff to maintain secrecy

- (1) The Authority, every member of the Authority, and every person holding any office or appointment under the Authority, shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions, and

shall not communicate any such matter to any person except for the purpose of carrying out their functions under or giving effect to this Act.

- (2) Notwithstanding subsection (1), the Authority may disclose such matters as in the opinion of the Authority ought to be disclosed—
- (a) for the purposes of carrying out an investigation or other duty of the Authority under this Act; or
 - (b) in order to establish grounds for the Authority’s conclusions and recommendations,—

other than any matter which is likely to prejudice any of the interests described in subsection (1) of section 26, whether or not any certificate has been given under that subsection.

- (3) *[Repealed]*
- (4) Subsection (1) applies to a person employed in the department responsible for the administration of the Public Records Act 2005 or to a person employed by or in a repository approved under section 26 of the Public Records Act 2005, and who has access to public records in respect of which the Authority is subject to an obligation of secrecy under this section.

Section 32(1): amended, on 29 November 2007, by section 22(1) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 32(3): repealed, on 29 November 2007, by section 22(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 32(4): added, on 21 April 2005, by section 67(1) of the Public Records Act 2005 (2005 No 40).

Section 32(4): amended, on 1 February 2011, by section 19 of the Public Records Amendment Act (No 2) 2010 (2010 No 133).

33 Proceedings privileged

- (1) Subject to subsection (2),—
- (a) no proceedings, whether civil or criminal, may lie against the Authority, any member of the Authority, or any person holding any office or appointment under the Authority, for anything done or said by them in the course of the exercise or intended exercise of their functions under this Act, unless it is shown that they acted in bad faith;
 - (b) the Authority, members of the Authority, and any person holding office or appointment under the Authority must not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to their knowledge in the exercise of their functions under this Act.
- (2) Nothing in subsection (1) applies in respect of proceedings for—
- (a) an offence against section 78, 78AA(1), 78A(1), 105, or 105A of the Crimes Act 1961; or

- (b) the offence of conspiring to commit an offence against section 78, 78AA(1), 78A(1), 105, or 105A of the Crimes Act 1961; or
 - (c) the offence of attempting to commit an offence against section 78, 78AA(1), 78A(1), 105, or 105A of the Crimes Act 1961; or
 - (d) an offence against section 37.
- (3) Anything said or any information given or any document or thing produced by any person in the course of any investigation by or proceedings before the Authority under this Act shall be privileged in the same manner as if the investigation or proceedings were proceedings in a court.
- (4) For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992,—
- (a) any report, opinion, or recommendation given by the Authority under section 27 or section 28 or section 29; and
 - (b) any report published by the Authority or the Commissioner under section 34,—

shall be deemed to be an official report made by a person holding an inquiry under the authority of the Government of New Zealand.

- (5) This section applies despite section 121 of the Crown Entities Act 2004.
- (6) Sections 59(3) and 60 of the Crown Entities Act 2004 do not apply unless the entity bringing the action, or the person making the application, shows that the member, employee, or office holder of the Authority acted in bad faith.

Section 33(1)(a): substituted, on 29 November 2007, by section 23 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 33(1)(b): substituted, on 29 November 2007, by section 23 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 33(2)(a): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 33(2)(b): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 33(2)(c): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 33(4): amended, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).

Section 33(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 33(6): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

34 Publication of reports by Authority and by Commissioner

- (1) The Authority may from time to time, in the public interest or in the interests of any person, publish reports relating to—
- (a) the general exercise of its functions under this Act; or

- (b) any particular case or cases in relation to which it has exercised its functions under this Act,—

whether or not the matters dealt with in the report have been the subject of a report to the Attorney-General and the Minister of Police, or to the House of Representatives, under section 29.

- (2) The Commissioner may, after receiving from the Authority any opinion or recommendation given under section 27 or section 28, publish all or any part of the opinion or recommendation.
- (3) In determining the desirability or extent of publication under subsection (2), the Commissioner shall take into account any recommendation of the Authority concerning publication.
- (4) Neither the Authority nor the Commissioner shall, in any report published under this section, disclose any matter which is likely to prejudice any of the interests described in subsection (1) of section 26, whether or not any certificate has been given under that subsection.

35 Annual report

[Repealed]

Section 35: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

36 Delegation of powers by Authority

[Repealed]

Section 36: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

37 Offences

Every person commits an offence under this Act and is liable on conviction to a fine not exceeding \$2,000 who,—

- (a) without reasonable excuse, obstructs, hinders, or resists the Authority or any person in the exercise of their powers under this Act:
- (b) without reasonable excuse, refuses or fails to comply with any requirement of the Authority or any person under this Act:
- (c) makes any statement or gives any information to the Authority, or to any person exercising powers under this Act, knowing that the statement or information is false or misleading.

Section 37: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 37(a): amended, on 29 November 2007, by section 24 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 37(b): amended, on 29 November 2007, by section 24 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Section 37(c): amended, on 29 November 2007, by section 24 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

38 Money to be appropriated by Parliament for purposes of this Act

[Repealed]

Section 38: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

38A Crimes of Torture Act 1989 not limited

Nothing in this Act limits the operation of Part 2 of the Crimes of Torture Act 1989.

Section 38A: inserted, on 5 December 2006, by section 14 of the Crimes of Torture Amendment Act 2006 (2006 No 68).

39 Amendments to other Acts

[Repealed]

Section 39: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Transitional provisions

Heading: inserted, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

40 Complaints made to Police Complaints Authority

Any complaint made to the Police Complaints Authority before the commencement of the Independent Police Conduct Authority Amendment Act 2007 that had not been finally dealt with before the commencement of that Act must be dealt with by the Authority under this Act (as amended by the Independent Police Conduct Authority Amendment Act 2007), whether or not any action was taken in relation to the complaint before the commencement of the Independent Police Conduct Authority Amendment Act 2007.

Section 40: substituted, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

41 Police Complaints Authority is chairperson

- (1) The person who, immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007, held office as the Police Complaints Authority under section 4(2) of this Act (as it read immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007) is taken to have been appointed to the office of chairperson of the Authority under section 5A(1) of this Act (as substituted by section 9 of the Independent Police Conduct Authority Amendment Act 2007).
- (2) The person who is taken to have been appointed as the chairperson of the Authority under this section is appointed on the same terms and conditions on which, and for the remainder of the term for which, the person was appointed

under section 4(2) of this Act (as it read immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007).

Section 41: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

42 Deputy Police Complaints Authority is member of Authority

- (1) The person who, immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007, held office as a Deputy Police Complaints Authority under section 8 of this Act (as it read immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007) is taken to have been appointed as a member of the Authority under section 5(1) of this Act (as substituted by section 9 of the Independent Police Conduct Authority Amendment Act 2007).
- (2) The person who is taken to have been appointed as a member of the Authority under this section is appointed on the same terms and conditions on which, and for the remainder of the term for which, the person was appointed under section 8 of this Act (as it read immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007).

Section 42: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

43 Employees and officers transferred to Authority

- (1) Every employee or officer appointed by the Police Complaints Authority immediately before the commencement of the Independent Police Conduct Authority Amendment Act 2007 is, on and from that date, an employee or officer of the Authority on the same terms and conditions that applied to the employee or officer immediately before that date.
- (2) For the purposes of every enactment, law, contract, and agreement relating to the employment of the employee or officer,—
 - (a) the contract of employment of that employee or officer is taken to be unbroken; and
 - (b) the employee's or officer's period of service with the Police Complaints Authority and every other period of service of that employee or officer that was recognised by the Police Complaints Authority as continuous service is taken to have been a period of service with the Authority.
- (3) A person to whom subsection (1) applies is not entitled to any compensation just because the person has ceased to be an employee or officer of the Police Complaints Authority.

Section 43: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

44 References to Police Complaints Authority

On the commencement of the Independent Police Conduct Authority Amendment Act 2007, unless the context otherwise requires, every reference to the Police Complaints Authority in any contract or other instrument, document, or notice must be read as a reference to the Independent Police Conduct Authority.

Section 44: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

45 Proceedings to which Police Complaints Authority party

Any proceedings to which the Police Complaints Authority was a party or that the Police Complaints Authority was considering bringing before the commencement of the Independent Police Conduct Authority Amendment Act 2007 may be brought, continued, completed, and enforced by or against the Authority.

Section 45: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

46 Assets and liabilities vest in Authority

On the commencement of the Independent Police Conduct Authority Amendment Act 2007, the assets and liabilities of the Police Complaints Authority vest in the Authority.

Section 46: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

47 Authority must arrange annual report and accounts

The Authority must perform the reporting requirements, and comply with the reporting obligations, relating to annual financial statements, annual reports, and audits that the Police Complaints Authority would have performed and complied with under the Police Complaints Authority Act 1988, the Crown Entities Act 2004, the Public Finance Act 1989, and any other enactment.

Section 47: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

48 Obligations and rights concerning Commission of Inquiry into Police Conduct unchanged

On the commencement of the Independent Police Conduct Authority Amendment Act 2007, the obligations, duties, rights, and powers of the Police Complaints Authority under the Police Complaints Authority (Commission of Inquiry into Police Conduct) Amendment Act 2004 must be performed by, may be exercised by, or apply to, the Authority.

Section 48: added, on 29 November 2007, by section 25 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

Notes

1 *General*

This is a consolidation of the Independent Police Conduct Authority Act 1988 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3
Intelligence and Security Act 2017 (2017 No 10): section 335
District Court Act 2016 (2016 No 49): section 261
Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150
Criminal Procedure Act 2011 (2011 No 81): section 413
Public Records Amendment Act (No 2) 2010 (2010 No 133): section 19
Policing Act 2008 (2008 No 72): section 130(1)
Independent Police Conduct Authority Amendment Act 2007 (2007 No 38)
Crimes of Torture Amendment Act 2006 (2006 No 68): section 14
Public Records Act 2005 (2005 No 40): section 67(1)
Crown Entities Act 2004 (2004 No 115): section 200
Police Complaints Authority Amendment Act 1994 (1994 No 53)
Higher Salaries Commission Amendment Act (No 2) 1992 (1992 No 130): section 4
Defamation Act 1992 (1992 No 105): section 56(1)
Police Complaints Authority Amendment Act 1988 (1988 No 207)
Police Complaints Authority Act Commencement Order 1988 (SR 1988/309)