



Royal Commissions Amendment (Protection of Information) Act 2021

No. 103, 2021

**An Act to amend the *Royal Commissions Act 1902*,
and for related purposes**

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

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No. 103, 2021

**An Act to amend the *Royal Commissions Act 1902*,
and for related purposes**

[Assented to 10 September 2021]

The Parliament of Australia enacts:

1 Short title

This Act is the *Royal Commissions Amendment (Protection of Information) Act 2021*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	11 September 2021

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Royal Commissions Act 1902

1 Subsection 6D(3)

After “Commission may”, insert “, in accordance with subsection (3A),”.

2 At the end of paragraph 6D(3)(a)

Add “or”.

3 Subsection 6D(3)

Omit “shall” (wherever occurring), substitute “must”.

4 After subsection 6D(3)

Insert:

(3A) A direction under subsection (3) may be given:

- (a) if the direction is given at an authorised member hearing of the Commission—either by:
 - (i) the President or Chair of the Commission (unless the President or Chair is not the member, or one of the members, of the Commission holding the hearing); or
 - (ii) the member, or all of the members, of the Commission holding the hearing; or
- (b) if the Commission is constituted by 2 or more members and the direction is not given at an authorised member hearing of the Commission—either by:
 - (i) the President or Chair of the Commission; or
 - (ii) a majority of the members of the Commission; or
- (c) if the Commission is constituted by a sole Commissioner—by the sole Commissioner.

5 Section 6OA

Insert:

Disability Royal Commission means the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, issued by the Governor-General by Letters Patent on 4 April 2019 (and including any later variations of those Letters Patent).

5A After section 6OE(1)

Insert:

- (1A) The following are also not admissible in evidence against a natural person in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory:
- (a) a statement or disclosure made on behalf of the person at a private session;
 - (b) the production of a document or other thing on behalf of the person at a private session;
 - (c) a statement or disclosure made on behalf of the person to a member, or member of the staff, of a Royal Commission for the purposes of a private session (whether or not a private session was, or is to be, held for the Commission).

5B Subsection 6OE(2)

Omit “Subsection (1) does not”, substitute “Subsections (1) and (1A) do not”.

6 At the end of Division 3 of Part 4

Add:

6OP Protection of certain information given to the Disability Royal Commission

- (1) This section applies to information if:
- (a) the information was given by, or on behalf of, a natural person to the Disability Royal Commission other than for the purposes of a private session; and
 - (b) the information contains any of the following:
 - (i) an account of the natural person’s, or another person’s, experiences of violence, abuse, neglect or exploitation;

- (ii) an account of the natural person's, or another person's, experiences of systemic violence, abuse, neglect or exploitation; and
 - (c) the information directly or indirectly identifies the natural person who gave the information, or on whose behalf the information was given; and
 - (d) the information was treated as confidential by the Commission at all times after being given to the Commission.
- (2) Section 6OE applies:
 - (a) in all cases—in relation to the natural person who gave the information to the Commission, as if the information were a statement or disclosure made by that person at a private session for the Commission; and
 - (b) if the information was given to the Commission on behalf of another natural person—in relation to the other natural person as if the information were a statement or disclosure made on behalf of that other person at a private session for the Commission.
- (3) Sections 6OH, 6OK and 6OL apply in relation to the information as if it were information given by the natural person at a private session for the Commission.
- (3A) Section 6OJ applies in relation to the information as if it were information obtained at a private session for the Commission.
- (4) Section 6OM applies in relation to the information as if it were a record that contains information obtained at a private session for the Commission.
- (5) A reference in subparagraph (1)(b)(ii) to experiences of systemic violence, abuse, neglect or exploitation is a reference to experiences, or an awareness, of a policy, procedure, practice, act or omission that contributed, or may have contributed, to a natural person experiencing violence, abuse, neglect or exploitation.

7 After subsection 6P(2C)

Insert:

- (2D) A reference in subsection (2) to another Commission includes a reference to:
- (a) a Royal Commission of a State or Territory; and
 - (b) a commission of inquiry of a State or Territory.

8 Application provisions

- (1) The amendments of section 6D of the *Royal Commissions Act 1902* made by this Schedule apply in relation to a direction given by a Royal Commission on or after the commencement of this item, whether the Royal Commission is established before, on or after that commencement.
- (1A) Section 6OE of the *Royal Commissions Act 1902*, as amended by this Schedule, applies in relation to a statement or disclosure made, or a document or other thing produced:
 - (a) on or after the commencement of this item, at, or for the purposes of, a private session for a Royal Commission that is established on or after that commencement; or
 - (b) before, on or after the commencement of this item, at, or for the purposes of, a private session for a Royal Commission that:
 - (i) is established before that commencement; and
 - (ii) conducts all or part of an inquiry after that commencement.
- (2) Section 6OP of the *Royal Commissions Act 1902*, as added by this Schedule, applies in relation to information given before, on or after the commencement of this item.
- (3) The amendment of section 6P of the *Royal Commissions Act 1902* made by this Schedule applies in relation to information obtained, evidence taken and documents and things received by a Royal Commission before, on or after the commencement of this item, whether the Royal Commission is established before, on or after that commencement.

Part 2—Other amendments

Freedom of Information Act 1982

9 At the end of paragraph 7(2E)(a)

Add:

- or (v) that contains information to which section 6OP of that Act (which deals with certain information given to the Disability Royal Commission) applies;

10 Application provision

The amendment of section 7 of the *Freedom of Information Act 1982* made by this Schedule applies in relation to the following:

- (a) a request for access, made under section 15 of that Act, that is received on or after the day the final report of the Disability Royal Commission is submitted to the Governor-General;
- (b) an application, made under section 48 of that Act, that is received on or after the day the final report of the Disability Royal Commission is submitted to the Governor-General.

*[Minister's second reading speech made in—
Senate on 17 March 2021
House of Representatives on 30 August 2021]*

(29/21)
