

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

(a) to amend the Police Integrity Commission Act 1996:

(i) to provide for a system of investigation, referral and oversight of complaints about certain members of NSW Police who are not police officers, and

(ii) to enable criminal proceedings in respect of certain summary offences under that Act to be brought within the period of 3 years of their commission, and

(iii) to confirm that the conduct of former officers of the Police Integrity Commission may be investigated by the Inspector of the Commission, and

(b) to make consequential amendments to the Independent Commission Against Corruption Act 1988.

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Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Police Integrity Commission Act 1996 set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Independent Commission Against Corruption Act 1988 set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Police Integrity Commission Act 1996

Dealing with corrupt conduct of administrative officers

Schedule 1 [3] inserts a new section 13A in the Police Integrity Commission Act 1996 (the PIC Act) to confer on the Police Integrity Commission (the PIC) the following additional functions:

(a) to prevent corrupt conduct of administrative officers,

(b) to detect or investigate, or oversee other agencies in the detection or investigation of, corrupt conduct of administrative officers.

Schedule 1 [1] amends section 4 of the PIC Act to insert definitions of terms used in provisions to be inserted by the proposed Act. In particular, an administrative officer is defined to mean any member of NSW Police other than a police officer. Schedule 1 [2] inserts a new section 5A in the PIC Act which defines corrupt conduct of an administrative officer to mean any conduct of an administrative officer that is corrupt conduct for the purposes of the Independent Commission Against Corruption Act 1988. The proposed section also makes it clear that conduct of a former administrative officer may be dealt with by the PIC.

Schedule 1 [12] inserts a new Part 4A in the PIC Act dealing with the making of complaints to the PIC concerning corrupt conduct of administrative officers and the duty to report such conduct to the PIC.

Schedule 1 [21] amends section 135 of the PIC Act to enable certain public officials to make complaints to PIC about the conduct of administrative officers.

Schedule 1 [4]–[11] and [14]–[19] make consequential amendments to the PIC Act.

Schedule 1 [20] makes an amendment to section 132 of the PIC Act that is

consequential on the amendment made to section 13 of the Independent Commission Against Corruption Act 1988 by Schedule 2 [2] to the proposed Act.

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Investigations concerning former officers of PIC

Schedule 1 [13] inserts a new section 93A in the PIC Act to confirm that the conduct of former officers of the PIC may be investigated by the Inspector of the PIC.

Time for instituting certain criminal proceedings

Schedule 1 [22] amends section 141 of the PIC Act to enable criminal proceedings for alleged offences under the following provisions of the Act to be brought within the period of 3 years after their commission:

(a) section 25 (Failure to provide information to the PIC, or providing false information, when requested to do so by notice),

(b) section 52 (Publication of evidence etc despite a direction not to do so given by the PIC),

(c) section 53 (Publication of evidence given at private hearing of the PIC without authorisation),

(d) section 54 (Disclosures prejudicing investigations being made by the PIC),

(e) section 56 (Unauthorised divulging of information acquired by reason of, or in the course of, exercising functions under the Act),

(f) section 106 (Failure to comply with a summons issued by the PIC).

Currently, section 141 of the PIC Act is limited to alleged offences under section 104 (c) of that Act (which prohibits a person from wilfully make any false statement to or mislead, or attempt to mislead, the PIC or an officer of PIC, or the Inspector of PIC or an officer of the Inspector, in the exercise of functions under the Act).

These offences are all summary offences. Accordingly, in the absence of the provisions of section 141, criminal proceedings in respect of these offences would need to be commenced within 6 months from when they are alleged to have been committed. See section 179 of the Criminal Procedure Act 1986.

Savings and transitional provisions

Schedule 1 [23] amends clause 1 of Schedule 3 to the PIC Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [24] inserts a new Part in Schedule 3 to the PIC Act containing savings and transitional provisions consequent on the enactment of the proposed Act. In particular, the new Part provides that:

(a) the amendments concerning the detection and investigation of corrupt conduct of administrative officers or former administrative officers extend to conduct that occurred (or is alleged to have occurred) before the commencement of the amendments unless the conduct has already been the subject of a complaint made before that commencement, and

(b) the amendment made to section 141 only applies to offences committed (or alleged to have been committed) after the commencement of the amendment.

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Schedule 2 Amendment of Independent

Commission Against Corruption Act

1988

Schedule 2 [1] amends section 11 of the Independent Commission Against Corruption Act 1988 (the ICAC Act) to provide that the Commissioner of Police is not under a duty to report to the Independent Commission Against Corruption (ICAC) any matter that concerns or may concern corrupt conduct of a police officer

or administrative officer unless the Commissioner suspects on reasonable grounds that the matter also concerns or may concern corrupt conduct of another public official.

Schedule 2 [2] amends section 13 of the ICAC Act to limit the functions of ICAC in relation to the conduct of police officers and administrative officers.