



New South Wales

ICAC and LECC Legislation Amendment Bill 2023

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Independent Commission Against Corruption Act 1988* and the *Law Enforcement Conduct Commission Act 2016* to implement responses to recommendations of the Joint Committee on the Independent Commission Against Corruption.

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.

Schedule 1 **Amendment of Independent Commission Against Corruption Act 1988 No 35**

Schedule 1[1] provides that the Inspector of the Independent Commission Against Corruption (the *Inspector*) may require the Independent Commission Against Corruption (the *Commission*) to advise the Inspector, within a reasonable time, whether the Commission intends to implement the recommendation or report and, if not, the reasons for not doing so. If the Inspector is not satisfied the Commission has duly and properly taken action, the Inspector may make a report to the Presiding Officer of each House of Parliament.

Schedule 1[2] requires the Commission to publish information about the time within which reports on referred matters will be prepared and given to the Presiding Officer of each House of Parliament. This includes the Commission's standard timeframes for the preparation of the reports, how the Commission monitors progress and what action the Commission takes if the

standard timeframes are not met. The Commission must report on the Commission's performance against the time standards in each report and provide reasons for any failure to comply with the time standards.

Schedule 1[3] requires annual reports by the Commission to include the information on the Commission's performance against time standards mentioned in proposed section 74E(3)(a) and (b).

Schedule 1[4] clarifies that it is not a contravention of a direction under section 112 restricting publication of evidence to publish any evidence to a registered medical practitioner or registered psychologist for the purposes of that health practitioner providing medical or psychiatric care, treatment or counselling to a person who—

- (a) has given or may be about to give evidence at a compulsory examination or public inquiry, or
- (b) has been given a notice requiring the person to produce a statement of information, or
- (c) has been given a notice requiring the person to attend before a person specified in the notice to produce a document or other thing specified in the notice.

Schedule 1[5] clarifies that a disclosure does not contravene section 114 if a disclosure is made to a registered medical practitioner or registered psychologist in relation to the provision by that health practitioner of medical or psychiatric care, treatment or counselling to a person—

- (a) required by a summons to give evidence, or
- (b) required to produce a statement of information, or
- (c) required to attend before a person specified in the notice to produce a document or other thing specified in the notice.

Schedule 1[6] provides that a person may not hold the office of Inspector for terms totalling more than 10 years.

Schedule 1[7] updates references to the Chief Commissioner to reflect the employment arrangements in the Commission.

Schedule 1[8] allows the Governor to extend, by instrument, the term of office of a Commissioner who held office immediately before the commencement of the proposed Act by a period, not more than 12 months, specified in the instrument.

Schedule 2 Amendment of Law Enforcement Conduct Commission Act 2016 No 61

Schedule 2[1] makes a minor change to a provision heading to clarify the content of the provision.

Schedule 2[2] adjusts the period for which the Minister may appoint a person during the illness or absence at short notice of a Chief Commissioner, Commissioner or Assistant Commissioner to 30 days.

Schedule 2[3] provides for the appointment by the Chief Commissioner of the Law Enforcement Conduct Commission of an acting Chief Commissioner or acting Commissioner and the revocation of an appointment.

Schedule 2[4] provides that a person may not hold the office of Inspector of the Law Enforcement Conduct Commission for terms totalling more than 10 years.



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New South Wales

ICAC and LECC Legislation Amendment Bill 2023

No. _____, 2023

A Bill for

An Act to amend the *Independent Commission Against Corruption Act 1988* and the *Law Enforcement Conduct Commission Act 2016* to implement responses to recommendations of the Joint Committee on the Independent Commission Against Corruption.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *ICAC and LECC Legislation Amendment Act 2023*.

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2 Commencement

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This Act commences as follows—

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(a) for Schedule 1[2]—on the day that is 3 months after the date of assent to this Act,

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(b) otherwise—on the date of assent to this Act.

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Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35 1
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[1] Section 57C Powers of Inspector 3

Insert at the end of the section— 4

- (2) If the Inspector makes a recommendation or report to the Commission in exercising functions under section 57B, the Inspector may require the Commission to give the Inspector, within a reasonable time specified by the Inspector—
 - (a) advice about whether the Commission intends to implement the recommendation or report, and 9
 - (b) if the Commission does not intend to implement the recommendation or report—the reasons for not implementing the recommendation or report. 11
- (3) If the Inspector is not satisfied the Commission has duly and properly taken action in relation to the recommendation or report made to the Commission by the Inspector, the Inspector must—
 - (a) inform the Commission of the grounds of the Inspector's dissatisfaction, and 17
 - (b) give the Commission an opportunity to comment within a specified time. 19
- (4) If, after considering any comments received from the Commission within the specified time, the Inspector is still not satisfied, the Inspector may make a report to the Presiding Officer of each House of Parliament setting out—
 - (a) the Inspector's recommendation or report, and 24
 - (b) the grounds of the Inspector's dissatisfaction, and 25
 - (c) any comments from the Commission and the Inspector. 26

[2] Section 74E 27

Insert after section 74D— 28

74E Publication of information about time within which investigations and reports on referred matters to be completed 29
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- (1) The Commission must publish, on a website maintained by the Commission, information (*time standards*) about the time within which reports under section 74 will be prepared and given to the Presiding Officer of each House of Parliament under the section. 31
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- (2) The time standards must include the following—
 - (a) the standard timeframes adopted by the Commission for preparing reports and providing the reports to the Presiding Officer of each House of Parliament under section 74, 36
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 - (b) how the Commission monitors the progress of the preparation of the reports to ensure the reports are dealt with promptly, 39
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 - (c) what action the Commission takes if the standard timeframes for the preparation of a report are not met. 41
42
- (3) The Commission must, in each report prepared under section 74— 43

(a)	report on the Commission’s performance against the time standards in relation to preparing the report and providing the report to the Presiding Officer of each House of Parliament, and	1 2 3
(b)	give reasons for any failure to comply with the time standards in relation to the preparation of the report.	4 5
	Note — The information in this subsection must also be included in the Commission’s annual report under section 76.	6 7
[3]	Section 76 Annual reports	8
	Insert after section 76(2)(ba)—	9
(b)	for each report prepared under section 74—the information referred to in section 74E(3)(a) and (b),	10 11
[4]	Section 112 Restriction on publication of evidence	12
	Omit “to a person who has given or may be about to give evidence at a compulsory examination or public inquiry.” from section 112(3).	13 14
	Insert instead—	15
	to a person who—	16
(a)	has given or may be about to give evidence at a compulsory examination or public inquiry, or	17 18
(b)	has been given a notice under section 21 requiring the person to produce a statement of information, or	19 20
(c)	has been given a notice under section 22 requiring the person to attend before a person specified in the notice to produce a document or other thing specified in the notice.	21 22 23
[5]	Section 114 Disclosures prejudicing investigations	24
	Omit “to a person required to give evidence by a summons under section 35.” from section 114(3)(d).	25 26
	Insert instead—	27
	to a person—	28
(a)	required by a summons under section 35 to give evidence, or	29
(b)	required by a notice under section 21 to produce a statement of information, or	30 31
(c)	required by a notice under section 22 to attend before a person specified in the notice to produce a document or other thing specified in the notice.	32 33 34
[6]	Schedule 1A Provisions relating to Inspector and Assistant Inspector	35
	Omit “5 years” from clause 4(2). Insert instead “10 years”.	36
[7]	Schedule 3 Rights of certain staff of Commission	37
	Omit “Commissioner” in clause 2(4) and (5)(b). Insert instead “Chief Commissioner”.	38
[8]	Schedule 4 Savings, transitional and other provisions	39
	Insert after clause 44—	40

Part 17	Provision consequent on enactment of ICAC and LECC Legislation Amendment Act 2023	1 2
45	Extension of term of office for Commissioners	3
(1)	This clause applies in relation to a Commissioner who held office immediately before the commencement of this clause.	4 5
(2)	The Governor may, by instrument, extend the term of office of the Commissioner by a period, not more than 12 months, specified in the instrument.	6 7 8

Schedule 2	Amendment of Law Enforcement Conduct Commission Act 2016 No 61	1
		2
[1]	Schedule 1 Provisions relating to members of the Commission, Assistant Commissioners and alternate Commissioners	3
	Omit “Acting” from clause 1, heading.	4
	Insert instead “Appointment by Governor or Minister of acting”.	5
[2]	Schedule 1, clause 1(5)	6
	Omit “4 weeks”.	7
	Insert instead “30 days”.	8
[3]	Schedule 1, clause 1A	9
	Insert after clause 1—	10
	1A Appointment by Chief Commissioner of acting Commissioners	11
	(1) The Chief Commissioner may—	12
	(a) from time to time, appoint—	13
	(i) a Commissioner to act as Chief Commissioner during the absence of the Chief Commissioner for a period of not more than 30 days, or	14
	(ii) appoint an officer of the Commission with special legal qualifications to act as a Commissioner, other than the Chief Commissioner, for a period of not more than 30 days, and	15
	(b) revoke an appointment under paragraph (a)(i) or (ii).	16
	(2) An appointment of an acting Commissioner is revoked—	17
	(a) if the appointment is revoked under subclause (1)(b), or	18
	(b) on the appointment of an acting Commissioner to the office by the Governor or Minister.	19
	(3) An acting Commissioner appointed by the Chief Commissioner to act in an office is entitled to be paid the remuneration, including any allowances, to which a person who holds the office is entitled.	20
[4]	Schedule 2 Provisions relating to Inspector and Assistant Inspectors	21
	Omit “5 years” from clause 5(2). Insert instead “10 years”.	22
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