



New South Wales

ICAC and Other Independent Commissions Legislation Amendment (Independent Funding) Bill 2020

Explanatory note

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

Overview of Bill

The object of this Bill is to make amendments to various Acts—

- (a) to facilitate the administrative independence of the Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the New South Wales Electoral Commission and the Ombudsman's Office (*the relevant GSF agencies*), and
- (b) to require the annual appropriation for each relevant GSF agency, including a contingency fund, to be paid directly to the agency, and
- (c) to require the Treasurer to authorise payments out of each relevant GSF agency's contingency fund with the approval of the relevant Joint Committee for the agency and if certain other requirements are met.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Government Sector Employment Act 2013 No 40

The proposed amendment amends Schedule 1 to the *Government Sector Employment Act 2013* to specify, as a separate Public Service agency, the Office of the Independent Commission Against Corruption (*ICAC*).

Schedule 2 Amendment of Government Sector Finance Act 2018 No 55

Schedule 2[2] specifies the Law Enforcement Conduct Commission as a separate GSF agency. **Schedule 2[1]** makes a consequential amendment.

Schedule 2[3] inserts proposed section 4.6A, which—

- (a) specifies that an appropriation made by the annual Appropriation Act to each relevant GSF agency is taken to include, as a contingency fund for the annual reporting period, an amount equal to 25% of the appropriation made (the *contingency fund*), and
- (b) requires an appropriation made by the annual Appropriation Act to each relevant GSF agency to be paid directly out of the Consolidated Fund to the agency, and
- (c) requires the Treasurer to authorise the payment of a requested sum out of the contingency fund for a relevant GSF agency if the appropriation has otherwise been exhausted, the total payments authorised will not exceed the contingency fund, the Joint Committee for the agency has approved the payment and any other requirements prescribed by the regulations have been met.

Amendments to other Acts

Schedules 3–6 amend the *Electoral Act 2017*, the *Independent Commission Against Corruption Act 1988*, the *Law Enforcement Conduct Commission Act 2016* and the *Ombudsman Act 1974* respectively, with the effect that—

- (a) the Joint Committee for each relevant GSF agency is required to review the information for use in Budget preparations prepared by ICAC for the purpose of section 4.5 of the *Government Sector Finance Act 2018* and to make recommendations to the Treasurer on priorities for funding having regard to the information, and
- (b) the relevant GSF agency is required to refer to the Joint Committee a request for payment of a sum out of the agency's contingency fund.

The Joint Committee may approve the request if the sum is no more than is necessary in the public interest to fund expenditure to meet the purpose for which the sum is required and if any other requirements prescribed by the regulations have been met.