

LEGISLATIVE COUNCIL

Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021

First print

Proposed amendments

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No. 1 **Definition of “Commissioner”**

Page 3, Schedule 1[1], line 5. Insert “, First Nations Commissioner” after “Chief Commissioner”.

No. 2 **Definitions of “Aboriginal person”, “First Nations Commissioner” and “other Commissioner”**

Page 3, Schedule 1. Insert after line 6—

**[1A] Section 4(1)**

Insert in alphabetical order—

*Aboriginal person* means a person who—

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

*First Nations Commissioner* means the First Nations Commissioner appointed under section 18.

*other Commissioner*—see section 18.

No. 3 **First Nations Commissioner—appointment**

Page 3, Schedule 1[3], lines 12–15. Omit all words on those lines. Insert instead—

- (1) The Commission consists of the following members appointed by the Governor—
  - (a) a Chief Commissioner,
  - (b) a Commissioner (the *other Commissioner*),
  - (c) a First Nations Commissioner.
- (2) The other Commissioner and the First Nations Commissioner may only be appointed with the concurrence of the Chief Commissioner.

No. 4 **First Nations Commissioner—police officers not eligible**

Page 3, Schedule 1[4], lines 18 and 19. Omit “or to act in that office”. Insert instead “or the First Nations Commissioner, or to act in those offices.”.

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No. 5 **First Nations Commissioner may authorise certain decisions**  
Page 3, Schedule 1[5], line 22. Insert “or the First Nations Commissioner” after “Commissioner”.

No. 6 **First Nations Commissioner—functions**  
Page 3, Schedule 1. Insert after line 29—

**[7A] Section 25A**

Insert after section 25—

**25A Functions of First Nations Commissioner**

- (1) Without limiting the functions conferred or imposed on the Commission by or under this or another Act, the functions of the First Nations Commissioner are as follows—
  - (a) to assist the Commission in providing independent oversight, monitoring, investigation and review of all matters involving Aboriginal people, including general policy matters,
  - (b) to make the Commission culturally safe for Aboriginal people.
- (2) Any act, matter or thing done under this section in the name of, or on behalf of, the Commission by the First Nations Commissioner is taken to have been done by the Commission.

No. 7 **Commission’s investigation powers—deaths in custody**  
Page 3, Schedule 1. Insert after line 36—

**[8A] Section 51A**

Insert after section 51—

**51A Exercise of investigation powers concerning deaths in custody**

- (1) The Commission may exercise its investigation powers under this Part in relation to the death or suspected death of a person in custody in the circumstances referred to in the *Coroners Act 2009*, section 23(1) (a ***death in custody***).
- (2) Powers may be exercised under this section whether or not an inquest is held under the *Coroners Act 2009*, Part 3.2 in relation to the death in custody.
- (3) Nothing in this section modifies or otherwise affects the exercise of the Commission’s functions under Part 8 in relation to the oversight of critical incident investigations.