



New South Wales

Police Integrity Commission Amendment Bill 2012

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 *Police Integrity Commission Act 1996*:

- (a) to give equal prominence to the functions of the Police Integrity Commission (*the PIC*) of preventing corrupt conduct of administrative officers of the NSW Police Force and misconduct of NSW Crime Commission officers as is given to the function of preventing police misconduct, and
- (b) to give guidance to the PIC in relation to the factors that are to be taken into account when it determines whether to conduct a hearing into a matter in private or in public, and
- (c) to ensure that certain senior officers are under a duty to report all of the types of conduct referred to in paragraph (a) to the PIC, and
- (d) to clarify the way in which the Inspector of the PIC is to carry out certain functions, and
- (e) to ensure that a person about whom an adverse comment is to be made in a report prepared by the PIC or the Inspector of the PIC is given the grounds on which the comment is made and an opportunity to make submissions before the comment is included in the report.

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 Police Integrity Commission Act 1996 No 28

Investigative functions of the PIC

Schedule 1 [1] amends section 3 of the Act to ensure that the objects of the Act give equal prominence to the functions of the PIC of preventing corrupt conduct of administrative officers of the NSW Police Force and misconduct of NSW Crime Commission officers as is given to the function of preventing police misconduct.

Schedule 1 [2] amends section 4 of the Act to define the term *officer misconduct* as meaning police misconduct, corrupt conduct of an administrative officer of the NSW Police Force or misconduct of a NSW Crime Commission officer.

Schedule 1 [5] substitutes section 13 of the Act and repeals sections 13A and 13B of the Act to combine the current provisions relating to preventing police misconduct (current section 13), preventing corrupt conduct of administrative officers of the NSW Police Force (current section 13A) and preventing misconduct of NSW Crime Commission officers (current section 13B) into one section dealing with officer misconduct.

Section 13C of the Act which enables the allocation of the PIC's functions in relation to NSW Crime Commission officers by the Commissioner of the PIC to other staff of the PIC is also repealed. Those functions will be the subject of delegations made in accordance with section 11 of the Act in line with the PIC's functions in relation to police officers and administrative officers of the NSW Police Force.

Schedule 1 [3] and [4] make consequential amendments.

Duty of senior officers to report misconduct

Currently, sections 75B and 75D of the Act contain requirements for specified senior officers (such as the Commissioner of Police and principal officers of public authorities) to notify the PIC of corrupt conduct of administrative officers of the NSW Police Force and misconduct of NSW Crime Commission officers. No such duty is imposed in relation to the notification of police misconduct.

Schedule 1 [7]–[9] repeal sections 75B and 75D and insert proposed Part 4C into the Act. The new Part will impose a duty on specified senior officers to notify all officer misconduct to the PIC.

Functions of Inspector of the PIC

Schedule 1 [10] amends section 89 of the Act to include as a function of the Inspector of the PIC dealing with conduct amounting to maladministration by the PIC or officers of the PIC, including (without limitation) delay in the conduct of investigations and unreasonable invasions of privacy.

Schedule 1 [11] and [13] amend sections 89 and 101, respectively, to clarify the powers of the Inspector of the PIC to make recommendations and reports so that those powers are in line with powers conferred on the Inspector of the Independent Commission Against Corruption under the *Independent Commission Against Corruption Act 1988*.

Schedule 1 [12] makes a consequential amendment.

Other amendments

Schedule 1 [6] amends section 33 to specify certain criteria that the PIC is to consider when determining whether to conduct a hearing wholly or partly in public.

Schedule 1 [14] inserts section 137A into the Act to require the PIC and the Inspector of the PIC, before including an adverse comment about a person in a report, to give the person an opportunity to make submissions.

Schedule 1 [15] and [16] amend section 146 of the Act to require a review of the Act to be undertaken within 5 years after the date of assent to the proposed Act.

Schedule 1 [17] and [18] contain savings and transitional provisions.