



New South Wales

# Independent Commission Against Corruption and Other Legislation Amendment Bill 2013

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to enable certain information, including criminal intelligence, to be requested, disclosed and used for vetting applicants for positions with the Independent Commission Against Corruption (the *ICAC*) and the Inspector of that Commission, the NSW Crime Commission and the Inspector of that Commission, the NSW Police Force and the Police Integrity Commission (the *PIC*) and the Inspector of that Commission,
- (b) to enable former Judges of the District Court of New South Wales to be appointed as Chairperson of the New South Wales Crime Commission Management Committee,
- (c) to enable a public authority to disclose information to the Ombudsman without having to comply with certain information protection principles,
- (d) to exempt appropriately trained officers of the PIC from the requirement to have licences or permits for certain firearms and weapons while performing PIC duties,

- (e) to enable records relating to young offenders to be disclosed to, and kept by, the Ombudsman,
- (f) to make other amendments, and provide for savings and transitional matters, of a consequential nature.

## 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 Independent Commission Against Corruption Act 1988 No 35**

### **Disclosure and use of information to vet staff**

**Schedule 1 [1]** authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as officers of the Inspector of the ICAC or the ICAC. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the ICAC, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.

The amendment also requires records to be kept of occasions when vetting information about an associate or relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on at the end of that period by a person appointed by the Attorney General. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.

**Schedule 1 [2]** applies the secrecy provisions that are applicable to ICAC staff to the person conducting the review relating to the use of vetting information and records.

**Schedule 1 [4]** validates the previous collection, use and disclosure of vetting information.

### **Savings and transitional provisions**

**Schedule 1 [3]** enables regulations containing savings or transitional provisions to be made consequent on the enactment of Acts that amend the *Independent Commission Against Corruption Act 1988*.

## **Schedule 2      Amendment of Crime Commission Act 2012 No 66**

### **Disclosure and use of information to vet staff**

**Schedule 2 [1]** authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as officers of the Inspector of the NSW Crime Commission or the NSW Crime Commission. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the Commission, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.

The amendment also requires records to be kept by the Inspector or the Commission of occasions when vetting information about an associate or a relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of the period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.

**Schedule 2 [2]** applies the secrecy provisions that are applicable to staff of the NSW Crime Commission to the person conducting the review relating to the use of vetting information and records.

**Schedule 2 [4]** validates the previous collection, use and disclosure of vetting information.

### **New South Wales Crime Commission Management Committee appointments**

**Schedule 2 [3]** enables a former Judge of the District Court of New South Wales to be appointed to the position of Chairperson of the New South Wales Crime Commission Management Committee.

**Schedule 2 [4]** validates, from the time of appointment, the appointment to the Management Committee of a person who would have been validly appointed if appointed after the commencement of Schedule 2 [3].

## **Schedule 3      Amendment of Ombudsman Act 1974 No 68**

**Schedule 3** enables information to be provided to the Ombudsman when preliminary inquiries are made by the Ombudsman, despite restrictions under the *Privacy and*

*Personal Information Protection Act 1998*. The amendment reflects the current exemption given to the Ombudsman by the Privacy Commissioner.

## **Schedule 4      Amendment of Police Act 1990 No 47**

**Schedule 4 [1]** authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as members of the NSW Police Force or as consultants to the NSW Police Force. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Commissioner of Police, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.

The amendment also requires records to be kept by the Commissioner of occasions when vetting information about an associate or a relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of that period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures. The person conducting the review will be subject to secrecy provisions.

**Schedule 4 [2]** validates the previous collection, use and disclosure of vetting information.

## **Schedule 5      Amendment of Police Integrity Commission Act 1996 No 28**

### **Exemption from weapons requirements**

**Schedule 5 [2]** extends to appropriately trained officers of the PIC the current exemption from requirements to hold licences or permits for semi-automatic pistols and other prohibited weapons that is given to officers who are former or seconded police officers. **Schedule 5 [4]** provides that an appropriately trained officer is an officer certified by the Commissioner of the PIC to be such an officer.

**Schedule 5 [3]** adds anti-personnel spray, batons and magazines for semi-automatic pistols to the prohibited weapons that may be used or possessed by officers of the Police Integrity Commission without a permit.

### **Disclosure and use of information to vet staff**

**Schedule 5 [5]** authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants

as officers of the Inspector of the PIC or the PIC. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the PIC, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.

The amendment also requires records to be kept by the Inspector or the PIC of occasions when vetting information about an associate or a relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of that period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.

**Schedule 5 [1]** applies the secrecy provisions that are applicable to PIC staff to the person conducting the review relating to the use of vetting information and records.

**Schedule 5 [6]** validates the previous collection, use and disclosure of vetting information.

## **Schedule 6      Amendment of Young Offenders Act 1997 No 54**

**Schedule 6 [3]** enables information relating to matters under the *Young Offenders Act 1997* (including information such as information about cautions, warnings and conferences) to be divulged to the Ombudsman for the purposes of the exercise of the Ombudsman's functions. **Schedule 6 [4]** makes a consequential amendment.

**Schedule 6 [1]** removes the requirement for a record of a warning to be expunged, if the record is divulged to and held by the Ombudsman. **Schedule 6 [2]** makes a consequential amendment.